STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 24 DHC 13
THE NORTH CAROLINA STATE BAR, Plaintiff v. PATRICK M. MEGARO and JAIME T. HALSCOTT, Attorneys, Defendants	COMPLAINT

Plaintiff, complaining of Defendants, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Patrick M. Megaro ("Megaro"), was admitted to the North Carolina State Bar in December 2013 by comity and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the State Bar and the Rules of Professional Conduct.

3. Defendant, Jaime T. Halscott ("Halscott"), was admitted to the Florida Bar in 2013 and is, and was at all times referred to herein, an attorney at law licensed to practice in the state of Florida. Pursuant to N.C. Gen. Stat. § 84-23(a) (2023) and Chapter 2 of Title 27 of the North Carolina Administrative Code, Rule 8.5(a), for the conduct alleged herein, Defendant is subject to the Rules and Regulations of the State Bar and the North Carolina Rules of Professional Conduct.

4. At all times relevant to this Complaint, Megaro was licensed to practice law in the state of North Carolina and the state of Florida, Halscott was licensed in the state of Florida, and both Defendants maintained a principal place of business in Winter Park, Florida, with the law firm Halscott Megaro, P.A.

On information and belief:

Interstate and International Law Firm Registration Statement

5. On June 3, 2015, Megaro signed and filed with the North Carolina State Bar an Interstate and International Law Firm Registration Statement ("ILFRS") on behalf of his and Halscott's firm, Halscott Megaro, P.A.

6. Megaro identified his status with the firm as director and officer, and listed Halscott as the only other officer, director, shareholder, partner, member, manager, or employee of the firm.

7. Halscott was identified as an officer and director of the firm but was not listed as being licensed in North Carolina.

8. In paragraph 12 of the ILFRS, Megaro certified "that each lawyer identified in paragraph 9 . . . [Halscott] who is not licensed to practice in North Carolina will govern his or her personal and professional conduct with respect to legal matters arising in North Carolina in accordance with the Rules of Professional Conduct of the North Carolina State Bar."

9. In paragraph 14 of the ILFRS, Megaro certified "that the law firm shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the North Carolina State Bar."

10. Halscott thereafter engaged in conduct with respect to legal matters arising in North Carolina as a member of Halcott Megaro, P.A.

Representation of H. McCollum and L. Brown

11. In 1983, H. McCollum ("McCollum") and L. Brown ("'Brown"), who are brothers, were wrongfully convicted in Robeson County, North Carolina, of first-degree rape and first-degree murder of an 11-year-old girl, and sentenced to death.

12. On appeal, McCollum and Brown were granted new trials. *State v. McCollum*, 321 N.C. 557, 364 S.E.2d 112 (1988).

13. On retrial, McCollum was again convicted of first-degree rape and murder and was sentenced to death. Brown was convicted of first-degree rape and sentenced to life in prison.

14. On September 2, 2014, the Robeson County Superior Court granted motions for appropriate relief of McCollum and Brown and set aside their convictions based in part on DNA testing of a cigarette butt found at the scene of the 11-year-old's murder. DNA on the cigarette butt was consistent with the DNA of an inmate serving a life sentence for a murder committed a month after, and in the same area as, the 11-year-old's murder.

15. On or about March 1, 2015, Megaro entered into agreements on behalf of himself and Halscott Megaro, P.A., to represent McCollum and Brown in civil claims the brothers had against state and local agencies for their wrongful convictions.

16. Though Magaro was the lead attorney for McCollum and Brown, Halscott, by *pro hac vice* admission, also represented McCollum and Brown in North Carolina proceedings pursuant to the representation agreement.

17. Before entering representation agreements with McCollum and Brown, Megaro read news accounts of their case, reviewed transcripts of their MAR hearings and did preliminary research on their case.

18. Minimal research on the cases of McCollum and Brown would have disclosed their significant intellectual disabilities.

19. On June 4, 2015, the Governor of North Carolina granted pardons of innocence to McCollum and Brown.

20. In August 2015, after a hearing on a petition filed by Megaro, Brown was declared incompetent, and a guardian of the estate was appointed for Brown.

21. In August 2015, Megaro filed a lawsuit in the United States District Court for the Eastern District of North Carolina ("EDNC") on behalf of McCollum and Brown against various parties alleged to be responsible for their wrongful conviction and incarceration. *McCollum v. Robeson County, et. al,* 5:15-CV-451-BO ("civil case").

22. In October 2015, the North Carolina Industrial Commission conducted a brief hearing on the brothers' claim for statutory compensation. The State of North Carolina did not oppose the petition and the Industrial Commission awarded McCollum and Brown the maximum amount allowed by statute—$750,000 each—as compensation for their wrongful convictions.

23. Megaro took a $500,000 fee from the Industrial Commission awards.

24. In April 2017, Megaro negotiated a settlement with one of the defendants in the EDNC civil case with terms that would award McCollum and Brown $500,000 each.

25. On May 5, 2017, United States District Court Judge Terrance Boyle held a hearing to approve the proposed settlement.

26. Due to concerns about McCollum's competency, the Court continued the hearing and later appointed Raleigh attorney Ray Tarlton ("Tarlton") as guardian ad litem ("GAL") for McCollum.

27. On July 26, 2017, Tarlton filed a motion asking the Court to determine whether the representation agreement between McCollum and Megaro was valid based on McCollum's incapacity to enter into a representation agreement with Megaro.

28. On August 10, 2017, the court conducted a hearing on McCollum's competency to make decisions and enter legally binding obligations.

29. Specifically at issue in the hearing was whether or not Megaro's representation agreement with McCollum was invalid due to McCollum's intellectual disabilities.

30. On October 23, 2017, the Court found McCollum was not competent to manage his own affairs and that Megaro's representation agreement with McCollum was invalid due to McCollum's incompetency.

31. The court approved the settlement but expressly held that it would "take up the issue of attorneys' fees for plaintiffs' counsel arising out of the settlement with the Town of Red Springs defendants in a separate order after the filing of a motion by counsel."

32. No motion for attorney fees was filed by Defendants or Halscott Megaro, P.A.

33. Megaro and Halscott's services were terminated by guardians for the brothers a short time after the hearing on the Town of Red Springs settlement.

34. On October 11, 2019, The North Carolina State Bar filed an amended complaint against Megaro alleging that he violated the North Carolina Rules of Professional Conduct in a list of ways while representing McCollum and Brown, including entering into representation agreements with the brothers when Megaro knew McCollum and Brown did not have the capacity to understand the agreements. *The North Carolina State Bar v. Patrick Michael Megaro*, 18 DHC 41.

35. Megaro's case was heard before the Disciplinary Hearing Commission ("DHC") of the North Carolina State Bar in March 2021.

36. On April 27, 2021, the DHC filed an Order of Discipline finding, in part, that:

a. McCollum and Brown did not have the capacity to enter into representation agreements with Megaro; and

b. At the time the representation agreements were entered into, Megaro knew McCollum and Brown did not have the capacity to enter into the agreements. (Findings of Fact ¶¶ 128, 130).

37. The Order of Discipline is attached as Exhibit 1 and incorporated herein by reference.

38. In the Conclusions of Law, the DHC found that by entering into a representation agreement with McCollum and Brown when he knew they did not have the capacity to understand the agreement, Megaro engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c). (Conclusion of Law ¶ 2(b))

39. The DHC suspended Megaro from the practice of law in North Carolina for five years and ordered him to repay $250,000 to McCollum and Brown.

40. In May 2021, McCollum and Brown, while represented by other counsel, were awarded by jury verdict $75 million in compensation and punitive damages in the EDNC civil case, and reached a settlement for $9 million with two of the defendants prior to the verdict.

Lawsuit against McCollum and Brown to Collect Legal Fees

41. Immediately thereafter, on May 25, 2021, Halscott Megaro, P.A., in which the Defendants were senior partners, filed a lawsuit in Florida state court attempting to collect legal fees claimed to be owed by McCollum and Brown on invalid representation agreements. *Halscott Megaro, P.A. v. McCollum, et. al.*, 2021-CA-005364-O (Orange County, Florida) ("fees case").

42. Halscott signed the complaint in the fees case for Halscott Megaro, P.A.

43. The lawsuit alleged claims of breach of contract against Brown and his guardian, and quantum meruit and unjust enrichment claims against McCollum and Brown and their guardians.

44. Prior to filing the lawsuit, Defendants did not notify McCollum and/or Brown that legal proceedings may be initiated regarding disputed legal fees or of the North Carolina State Bar's program for fee dispute resolution as required under Rule 1.5(f) of the North Carolina Rules of Professional Conduct.

45. At the time the fees case was filed, Megaro was a principal in Halscott Megaro, P.A. and had comparable managerial authority in the firm as Halscott.

46. The lawsuit was initiated in bad faith by the filing of the lawsuit in Florida state court where none of the defendants resided, based on conduct that occurred in North Carolina.

47. The lawsuit was removed to federal court, venue was transferred to the EDNC, and the case was assigned to Judge Terrance Boyle, who had presided over McCollum and Brown's civil case.

48. Halscott Megaro, P.A. continued to litigate the claims of its fees case in the EDNC.

49. Halscott appeared in the EDNC proceedings in the fees case pursuant to the special counsel provisions of EDNC Local Civil Rule 83.1(d).

50. Halscott Megaro, P.A. filed a motion seeking Judge Boyle's recusal. The motion lacked basis in law and fact, in that it asserted that Judge Boyle had a negative opinion of Megaro. Halscott submitted an affidavit in support of the motion to recuse.

51. Well-settled precedent establishes that a judge's decisions "alone almost never constitute a valid basis for a bias or partiality motion." *Liteky v. United States*, 510 U.S. 540, 551 (1994).

52. The motion to recuse was denied by Judge Boyle and the denial was affirmed on appeal by the Fourth Circuit.

53. In affirming Judge Boyle's denial of the motion to recuse, the Fourth Circuit found that the "allegations of impartiality were not related to any particular facts, sources or statements. A presiding judge is not required to recuse himself simply because of unsupported or highly tenuous speculation."

54. Halscott Megaro, P.A.'s fees case against McCollum and Brown was dismissed by the EDNC on the defendants' Rule 12(b)(6) motion to dismiss.

55. In dismissing the case, the District Court ruled 1) that collateral estoppel barred the breach of contract claim based on the DHC's determination that there was no valid contract between Megaro and the former clients; and 2) the equitable claims were barred by the doctrines of laches and unclean hands (in that Megaro had "engaged in conduct that was dishonest, deceitful, fraudulent, unfair, and overreaching in regard to his representation of McCollum and Brown").

56. The EDNC's dismissal of the case was affirmed by the Fourth Circuit.

57. Halscott Megaro, P.A. did not have a good faith basis in law or fact to assert that it had valid contracts with McCollum or Brown as it did in paragraph 14 of the lawsuit.

58. At the time Halscott Megaro, P.A. pursued its fees case contract claim, well-established North Carolina law held that collateral estoppel barred litigation of the claim. *Sykes v. Blue Cross & Blue Shield of N. Carolina*, 828 S.E.2d 489, 494 (2019).

59. At the time Halscott Megaro, P.A. pursued its claims of unjust enrichment and quantum meruit, well-established North Carolina law held that the clean hands doctrine denies equitable relief to litigants who have acted in bad faith, or whose conduct has been dishonest, deceitful, fraudulent, unfair, or overreaching in regard to the transaction in controversy. *Collins v. Davis*, 68 N.C. App. 588, 315 S.E.2d 759 (1984)

60. The lawsuit contained frivolous claims that consumed substantial resources of the court systems and continued to exploit the former clients.

61. The firm sued its former clients because Megaro and Halscott wanted part of the $75 million jury award.

62. Under the North Carolina Rules of Professional Conduct, Defendants are responsible and subject to discipline for the failure to notify McCollum and Brown of the State Bar's fee dispute procedures and for pursuing a frivolous lawsuit and motion to recuse Judge Boyle in the EDNC.

63. As referenced in paragraph 9 above, Megaro certified, in paragraph 14 of the ILFRS, "that the law firm shall be subject to the applicable rules and regulations adopted by, and all the disciplinary powers of, the North Carolina State Bar."

64. Megaro knew that Halscott Megaro, P.A. intended to file an action to recover fees.

THEREFORE, Plaintiff alleges that Megaro and Halscott's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendants violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

a) By failing to notify McCollum and Brown in writing of the existence of the North Carolina State Bar's program for fee dispute resolution before initiating legal proceedings to collect a fee as required by the Rules of Professional Conduct, Megaro

and Halscott failed to notify the clients in writing of the existence of the North Carolina State Bar's program for fee dispute resolution at least 30 days prior to initiating legal proceedings to collect a disputed fee in violation of Rule 1.5(f)(1);

b) By Halscott Megaro, P.A. filing a lawsuit asserting the firm had a valid contract for legal services with McCollum and Brown, a claim that was barred by collateral estoppel based on the findings of the DHC and EDNC, Megaro and Halscott brought a proceeding, or asserted or controverted an issue therein, without a basis in law and fact that was not frivolous in violation of Rule 3.1;

c) By Halscott Megaro, P.A. filing a baseless Motion to Recuse in the lawsuit, Megaro and Halscott brought a proceeding, or asserted or controverted an issue therein, without a basis in law and fact that was not frivolous in violation of Rule 3.1;

d) By Halscott Megaro, P.A. filing a lawsuit in Florida state court, where none of the defendants resided, based on conduct that occurred in North Carolina, and which contained frivolous claims that consumed substantial resources of the courts, McCollum and Brown's attorneys, and their guardians, Megaro and Halscott engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

e) By failing to make a reasonable effort to ensure Halscott complied with the North Carolina Rules of Professional Conduct with respect to notifying the clients of the fee dispute resolution program and with respect to the filing of a frivolous lawsuit against McCollum and Brown and a frivolous Motion to Recuse Judge Boyle, Megaro, as a principal in a law firm, failed to make reasonable efforts to ensure that the firm had measures in effect giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct in violation of Rule 5.1(a).

WHEREFORE, Plaintiff prays that:

(1) Disciplinary action be taken against Defendants in accordance with N.C. Gen. Stat. § 84-28 as the evidence on hearing may warrant;

(2) Defendants be taxed with the fees and costs permitted by law in connection with this proceeding; and

(3) For such other and further relief as is appropriate.

This the 10th day of July 2024.

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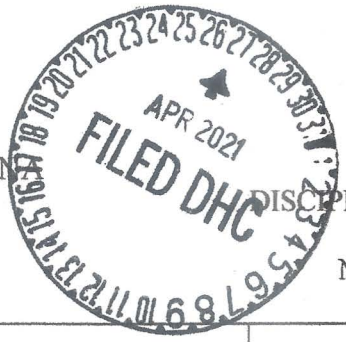
Signed pursuant to 27 N.C. Admin. Code 1B.0113(n) and 1B.0105(a)(10).

Kevin G. Williams, Chair
Grievance Committee

Exhibit A



TATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 18 DHC 41
THE NORTH CAROLINA STATE BAR, Plaintiff v. PATRICK MICHAEL MEGARO, Attorney, Defendant	ORDER OF DISCIPLINE

This matter came on for hearing on March 15 – 19, 2021, by a hearing panel of the Disciplinary Hearing Commission composed of Fred W. DeVore, III, Chair, Richard V. Bennett, and Tyler B. Morris. Joshua T. Walthall and G. Patrick Murphy represented Plaintiff, the North Carolina State Bar. Defendant, Patrick Michael Megaro, was represented by F. Lane Williamson.

Based upon the record proper, the stipulations of the parties, the testimony and exhibits admitted at the hearing, and upon making credibility determinations of the witnesses who testified at the hearing, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("State Bar" or "Plaintiff"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Patrick Michael Megaro ("Megaro"), was admitted to the North Carolina State Bar in 2013 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During all of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Orlando, Florida.

4. In 1983, H. McCollum ("McCollum") and L. Brown ("Brown") were wrongfully convicted of the rape and murder of Sabrina Buie, an 11-year-old girl, and sentenced to death.

5. On direct appeal, McCollum and Brown were granted new trials by the North Carolina Supreme Court. *State v McCollum*, 321 N.C 557, 364 S.E.2d 112 (1988). McCollum

was retried in Cumberland County in 1991 and again convicted of the first-degree rape and first-degree murder of Buie. The court arrested judgment on the rape charge and McCollum was sentenced to death on the murder charge. In the penalty phase of McCollum's retrial, the jury found as mitigating circumstances that he was mentally retarded, that the offense was committed while he was under the influence of mental or emotional disturbance, that he is easily influenced by others, and he has difficulty thinking clearly under stress.

6. At Brown's 1992 retrial in Bladen County, he was convicted of first-degree rape. Brown was sentenced to life in prison. In the court's judgment, it recommended Brown receive psychological treatment in prison. Brown's appeal was denied but the opinion noted the evidence of Brown's subaverage intelligence with an IQ in the 49 to 65 range and limitations of his ability to read and write.

7. On April 3, 1995, McCollum filed a motion for appropriate relief ("MAR") in Robeson County. McCollum was represented in the MAR by Kenneth Rose ("Rose"), an attorney with the Center for Death Penalty Litigation ("CDPL"), and lawyers from the law firm Wilmer Hale.

8. The MAR alleged, among other claims, that McCollum's incriminating statement was unreliable due to his intellectual disabilities. His intellectual disabilities were established by the following mental health professionals:

a. Psychologist Dr. Faye Sultan, Ph. D., concluding, *inter alia*, that McCollum was mentally retarded with intellectual functioning falling in the range of an eight to ten-year-old, had poor reading comprehension, and was highly suggestible and subject to the influence of others, particularly authority figures;

b. Neuropsychologist Dr. Helen Rogers, Ph. D., concluding, *inter alia*, that McCollum was mentally retarded with neuropsychological testing showing he scored in the "impaired" or "seriously impaired" range, his ability to understand verbal communication was severely impaired, he had cognitive impairment beyond that expected for his level of mental retardation, and he was strongly suggestible and generally not capable of understanding and weighing the consequences of his choices;

c. Psychologist Dr. Richard Rumer, Ph. D., concluding, *inter alia*, that McCollum was mentally retarded with severely limited cognitive functioning, was susceptible to the influence of others, and demonstrated weakness in his ability to plan and carry out complex activities; and

d. Dr. George Baroff, Ph. D., Professor of Psychology at the University of North Carolina, concluding, *inter alia*, that McCollum suffered mental retardation – placing him at the bottom 3 percent of the general population - and a neuropsychological impairment, and that he had a reading level of third grade and a listening comprehension level at first grade.

9. In January 2002, Rose represented McCollum in filing an amended MAR seeking relief under N.C. Gen. Stat. §15A-2005 based on his subaverage intellectual functioning and

significant limitations in adaptive functioning. In support of his amended MAR, McCollum submitted a 2002 affidavit of Dr. Helen Rogers. In her affidavit, Dr. Rogers noted that in her 1995 testing McCollum had a full-scale IQ of 68 and significant subaverage intellectual functioning that placed him in the lowest 2-3 percent of the population in overall intellectual functioning. On verbal processing tests administered by Dr. Rogers, McCollum scored in the lowest one-half of one percent of the population. On the Wide Range Achievement Test- Revised, McCollum scored in the lowest .6 percent of the population on the reading and arithmetic portions of the test. Dr. Rogers concluded that her 1995 testing demonstrated McCollum suffered substantial deficits in two or more areas of adaptive functioning including functional academics and communication skills.

10. A 2002 affidavit of Dr. Richard Rumer was submitted in support of McCollum's amended MAR. Dr. Rumer found McCollum had a history of subaverage scores on intellectual testing with full-scale scores of 56, 61 and 69, and adaptive functioning deficits.

11. On August 26, 2014, Rose and Vernetta Alston ("Alston"), both with CDPL, filed a MAR claiming McCollum was innocent based in part on DNA testing on a cigarette butt found at the scene of Buie's murder. The DNA on the cigarette butt was consistent with the DNA of Rosco Artis, an inmate then serving a life sentence for the murder of a woman in the same area as Buie, a month after Buie's murder. Through separate counsel, Brown filed a similar MAR.

12. On September 2, 2014, the superior court granted MARs of McCollum and Brown and vacated their convictions and judgments. Robeson County District Attorney Luther Johnson Britt, III, did not oppose the court granting the MARs. McCollum and Brown were released from prison after serving 31 years for crimes they did not commit.

13. After McCollum and Brown's release from prison, Rose, Alston and attorneys with Wilmer Hale agreed to file pardon petitions with Governor Pat McCrory and seek the statutorily mandated amount of $750,000.00 from the Industrial Commission on a *pro bono* basis for McCollum and Brown.

14. In September 2014, attorneys Mike Lewis, Mark Rabil and Michigan lawyer Tom Howlett ("Howlett"), agreed to represent McCollum and Brown in civil litigation arising from the alleged misconduct of law enforcement officers and their agencies involved in the investigation and prosecution of McCollum and Brown on a contingency fee basis.

15. Rose had known McCollum for over twenty years, had many times visited McCollum on death row, had talked extensively with McCollum about his unwavering claim of innocence, knew the degree of McCollum's mental and emotional suffering while on death row, knew of McCollum's long-standing history of intellectual disabilities, and was personally concerned for McCollum's welfare after his release due to, among other issues, McCollum's vulnerability and suggestibility.

16. On September 11, 2014, Rose and Alston filed petitions for pardons of innocence on behalf of McCollum and Brown with Governor Pat McCrory.

17. On September 15, 2014, Governor McCrory's Clemency Administrator sent a letter to Rose and Alston notifying them: "All necessary documents have been received and this request is now being processed. You will be notified when a decision has been made on this request."

18. On September 23, 2014, Robeson County District Attorney Luther Johnson Britt, III, sent Governor McCrory a letter urging him to grant McCollum and Brown pardons of innocence. The support of the elected District Attorney of the district where the offenses occurred significantly strengthened McCollum and Brown's petitions for pardons of innocence.

19. With the CDPL taking the lead, McCollum and Brown began receiving charitable donations and financial assistance from various sources once they were released from prison, and their situation caught the attention of the media.

20. In January 2015, Kim Weekes ("Weekes") and Deborah Pointer ("Pointer"), who are not lawyers and referred to themselves as "consultant advisors," contacted Geraldine Brown Ransom ("Geraldine"), Brown's sister, and claimed they could help McCollum and Brown.

21. Weekes and Pointer entered into an agreement with Geraldine, who was not a guardian for either McCollum or Brown at that point, to serve McCollum and Brown as "activist/advocate consultants" and to assist with "the pardon process."

22. On February 2, 2015, Weekes and Pointer sent a letter to Rose notifying Rose that Weekes and Pointer were authorized to represent McCollum and Brown "in all and any of the Civil/Litigation of the Pardon/Fundraising of NC matters."

23. In late February 2015, Weekes and Pointer contacted Defendant about representing McCollum and Brown.

24. Following contact by Weekes and Pointer, Defendant read news accounts of McCollum and Brown's cases, reviewed transcripts of their MAR hearings that he found online, and did preliminary research on their cases.

25. Minimal research on the cases of McCollum and Brown would have disclosed their significant intellectual disabilities.

26. Moreover, review of the MAR transcript would have revealed that McCollum and Brown had low IQs and were unable to understand the confessions they were coerced into signing: Sharon Stellato, a staff member of The North Carolina Actual Innocence Commission, testified in extensive detail at the September 2, 2014 MAR hearing about the intellectual disabilities of McCollum and Brown. Consistent with the background of McCollum and Brown, Stellato noted that both had been diagnosed as mentally retarded. Testing in 1983 showed Brown's full-scale IQ was 54. Testing of McCollum at age 15 showed his full-scale IQ was 56 and his reading comprehension at the second-grade level.

27. On February 28, 2015, before Defendant was scheduled to meet with McCollum and Brown, Pointer warned Defendant: "Please make sure you do not discuss monetary amounts

in front of the brothers as per their sister. [McCollum] believes he understands monetary things which he does not. He has a local girlfriend now and is promising her all kinds of things. Geraldine will give her brothers a monthly stipend. In fact [Weekes] and I are recommending a monthly stipend to the family after we have them moved, settled, etc. from cash advance. Let's talk before you meet tmw."

28. On or about March 1, 2015, with knowledge that McCollum and Brown had been consistently diagnosed as mentally retarded with adaptive skills deficits and were unable to understand their confessions, Defendant entered into a representation agreement with them and Geraldine, who though not a guardian for either McCollum or Brown, represented to Megaro that she had power of attorney to act for McCollum and Brown to handle McCollum and Brown's civil claims against Robeson County, Red Springs Police Department, and the State of North Carolina.

29. At the time Defendant had McCollum and Brown execute the retainer agreement, he knew petitions for pardons had already been filed on their behalf.

30. Geraldine signed the representation agreement as attorney-in-fact, but no power of attorney was introduced as an exhibit at Defendant's hearing

31. Defendant's representation agreement with McCollum and Brown noted, *inter alia*, that Defendant would collect a contingency fee of between 27-33% of any monetary recovery or award in connection with McCollum and Brown's claims against Robeson County, the Red Springs Police Department, and the State of North Carolina.

32. Defendant's representation agreement with McCollum and Brown also noted that McCollum and Brown were "conveying an irrevocable interest in the net proceeds arising" from any recovery to Defendant.

33. Defendant's representation agreement with McCollum and Brown provided that if McCollum and Brown elected "to terminate th[e] agreement, it would not terminate [Defendant's] contingency interest in the outcome of" the case and that "under no circumstances [would Defendant's firm be] required to relinquish any part of the contingency fee provided [t]herein in order to" accommodate new counsel.

34. The language in the representation agreement created an impermissible nonrefundable fee.

35. On March 2, 2015, Defendant began working with Multi Funding, Inc., ("MFI") to arrange and obtain immediate funding through loans for McCollum and Brown. On that date, Defendant told representatives of MFI: "This case reads almost like the script to The Green Mile. Leon and Henry moved to Red Springs, NC from NJ with their mother and sister. Both have IQs in the 50s/60s."

36. Defendant knew at the time he entered into representation agreements with McCollum and Brown that both had scored in the 50s and 60s on IQ tests.

37. McCollum and Brown were easily manipulated and were particularly susceptible to manipulation and financial coercion, given their intellectual disabilities, decades in prison, and relative poverty.

38. On March 2, 2015, Defendant gave $1,000.00 cash to McCollum and Brown.

39. On March 4, 2015, Defendant facilitated McCollum and Brown each getting loans from MFI for $100,000.00 at 19% interest, compounded every 6 months.

40. Defendant read and signed at least two pages of the loan documents for the March 2015 loans, including pages wherein he agreed to pay MFI before paying his clients: "I hereby consent and agree to fully execute this document to pay Multi Funding Inc. all funds due them at the close of this case, before final distribution to the Plaintiff or (his or her) successors and/or assigns."

41. Defendant signed a document entitled "Attorney Acknowledgement of Explanation of Terms to Plaintiff, Of Irrevocable Lien and Assignment to Multi Funding, Inc.," claiming that he had explained the terms of the loan agreements to McCollum and Brown.

42. But for Defendant's signing of the Attorney Acknowledgement of Explanation of Terms to Plaintiff, Of Irrevocable Lien and Assignment to Multi Funding, Inc., neither McCollum nor Brown would have received the March 4, 2015 loans of $100,000.00 at 19% interest, compounded every 6 months.

43. In March of 2015, Defendant ensured that Weekes and Pointer were paid $10,000.00 from the initial loan proceeds to McCollum and Brown.

44. On March 16, 2015, Defendant sent letters to Rose and Howlett, warning them to never contact McCollum and Brown again as it would violate the "rules of ethics" and would be "actionable as tortious interference of contract."

45. In March 2015, Defendant sent an associate, Charles Gallman, from New York to North Carolina to assess the situation because he was concerned that other lawyers were trying to "poach" the McCollum and Brown cases from him.

46. On June 4, 2015, following a public relations and social media effort directed by Defendant, Governor Pat McCrory granted pardons of innocence to McCollum and Brown.

47. On July 10, 2015, Defendant filed a joint petition in the Industrial Commission seeking compensation for McCollum and Brown pursuant to N.C. Gen. Stat. §148-84. In the second paragraph of the petition, Defendant represented to the Industrial Commission: "At all times hereinafter mentioned, both men had and still have limited mental abilities. Mr. McCollum's Intelligence Quotient (IQ) has been scored at 56, while Leon Brown's IQ has been scored at 54. Both of these IQ scores are within the intellectually disabled range, classified by some as mild retardation."

48. Defendant performed minimal work on behalf of McCollum and Brown in the Industrial Commission proceeding.

49. The attachments to the petitions for compensation Defendant filed with the Industrial Commission were almost exclusively the work product and documents provided by Rose and Alston.

50. In August of 2015, Defendant filed a lawsuit in the United States District Court for the Eastern District of North Carolina on behalf of McCollum and Brown against various parties alleged to be responsible for their wrongful conviction and incarceration (*McCollum v. Town of Red Springs*, Docket # 5:15-CV-451-BO, Eastern District of North Carolina, Western Division) ("Civil Suit").

51. In August 2015, Brown, who suffers from bi-polar disorder and schizophrenia, had a breakdown, and was hospitalized. He eventually ended up in a group home some months later.

52. As a result of Brown's breakdown, on August 17, 2015, Defendant filed a petition in Cumberland County to have Brown declared incompetent. In the petition, Defendant highlighted his own experience and training on how to recognize clients with mental health issues and noted that Brown's medical records from the Department of Correction shows a clear progression of mental illness, starting in 1984 and continuing in severity until his release.

53. As described in Defendant's August 2015 petition, Brown lacks the basic life skills necessary to take care of himself. Upon his release from prison, Brown abruptly stopped taking medication prescribed for his serious mental illness. He was involuntarily committed and had other admissions to mental health facilities resulting from his inability to make rational decisions about his medical care. Brown experienced episodes of bizarre behavior that included refusing to eat or drink, and he had to rely on his family and others for all his basic needs since his release from prison.

54. Defendant recognized the adaptive functioning deficiencies of his clients in Brown's incompetency petition stating: "Both brothers need help with budgeting their monthly allowance because they are unable to understand the concept of paying utility bills and making purchases. One thing is clear: neither Leon Brown nor Henry McCollum have a concept of budgeting or spending limits, nor do they have any experience of budgeting money, let alone large sums of money."

55. After a hearing on Brown's competency petition, Defendant proposed Geraldine for appointment as Brown's guardian by the Clerk of Superior Court in Cumberland County.

56. Geraldine had no expertise or knowledge of how to serve as a guardian and was in need of money, making her a poor choice for a guardian.

57. On September 2, 2015, the Industrial Commission conducted a brief hearing on McCollum and Brown's petition for statutory compensation. The transcript of the hearing before the Industrial Commission is seven pages long.

57. On September 2, 2015, the Industrial Commission conducted a brief hearing on McCollum and Brown's petition for statutory compensation. The transcript of the hearing before the Industrial Commission is seven pages long.

58. Pursuant to N.C. Gen. Stat. §148-84, McCollum and Brown were entitled to the maximum compensation authorized by N.C. Gen. Stat. §148-84: $750,000 each.

59. The State did not oppose compensation for McCollum and Brown in their N.C. Gen. Stat. §148-84 proceeding.

60. Although Defendant represented McCollum and Brown at the September 2, 2015 Industrial Commission hearing, McCollum and Brown had been exonerated mostly through the work of Rose, Alston and The North Carolina Actual Innocence Commission, and the petition for pardons of innocence had been filed before Defendant's involvement.

61. Given the pardons of innocence, McCollum and Brown's entitlement to the Industrial Commission award was clear and there was no dispute as to the amount they would recover.

62. A contingent fee for representation in the Industrial Commission was not justified because there was no risk that McCollum and Brown would not recover the maximum allowed by statute. The only fee to which Defendant was entitled was reasonable compensation for the minimal services rendered in connection to the Industrial Commission proceeding.

63. In October 2015, the Industrial Commission distributed $750,000.00 to McCollum and $750,000.00 to Brown in the form of a check delivered to Defendant for $1.5 million.

64. Defendant took as his fee one-third of the award from both McCollum and Brown, totaling $500,000.00.

65. McCollum and Brown were left with $500,000.00 each.

66. Defendant used nearly $110,000.00 each of McCollum and Brown's Industrial Commission award, totaling $220,000.00, to repay the loans he facilitated their obtaining, even though there was a significant issue as to whether the loans were enforceable because of McCollum and Brown's incapacity to enter into the loan contracts.

67. Defendant charged a combined total of $21,173.88 in costs and expenses to McCollum and Brown for the Industrial Commission process. These charges included costs related to the pardon process and related to Brown's incompetency proceeding.

68. Defendant used $25,972.14 of the Industrial Commission award to repay money he and his firm advanced to McCollum and Brown prior to their Industrial Commission award, including, *inter alia*, the following:

a. A cash payment of $250.00 to McCollum on March 2, 2015;

b. A second cash payment of $250.00 to McCollum on March 2, 2015;

c. A cash payment of $250.00 to Brown on March 2, 2015;

d. A second cash payment of $250.00 to Brown on March 2, 2015;

e. A Western Union payment of $221.50 to McCollum on June 15, 2015;

f. A Western Union payment of $221.50 to Brown on June 15, 2015;

g. A cash payment of $500.00 to McCollum on September 2, 2015;

h. A Money Order payment of $500.00 to McCollum on September 2, 2015;

i. A second Money Order payment of $500.00 to McCollum on September 2, 2015; and

j. A Western Union payment of $758.00 to McCollum on September 14, 2015.

69. Some of these advances were for living expenses and not for the costs of the litigation.

70. On October 21, 2015, Defendant disbursed $358,363.28 to McCollum as the proceeds from his Industrial Commission proceeding. Had McCollum let Rose, Alston and Howlett handle the Industrial Commission proceeding, McCollum would have received $750,000.

71. By May 11, 2016, seven months after Defendant disbursed $358,363.28 from the Industrial Commission proceeds to McCollum (who Defendant told the Clerk of Cumberland County had no concept of budgeting or spending limits), McCollum had spent all of the funds. As a result, Defendant helped McCollum get a second loan from MFI for $50,000.00 at 18% interest, compounded every 6 months.

72. Defendant signed another Attorney Acknowledgement of Explanation of Terms to Plaintiff, Of Irrevocable Lien and Assignment to MFI claiming that he had explained the terms of the $50,000.00 loan agreement to McCollum.

73. Defendant signed at least two pages of the loan document for the May 2016 loan, including a page wherein he agreed to pay MFI before paying his client: "I hereby consent and agree to fully execute this document to pay Multi Funding Inc. all funds due them at the close of this case, before final distribution to the Plaintiff or (his or her) successors and/or assigns."

74. Defendant hired Dr. Thomas Harbin, a neuropsychologist, to do an assessment of McCollum's psychological and behavioral functioning to assist in McCollum's civil cases. On July 28, 2016, Dr. Harbin submitted a report of his evaluation finding, in part, that McCollum:

a. suffers from post-traumatic stress disorder;

b. suffers from intellectual disabilities;

c. is anxious, hypervigilant, paranoid, and unable to make many everyday decisions; and

d. has a profile suggesting that he will be overly dependent upon others for decision-making, will be overly influenced by others, lacks self-confidence and assertiveness, and will be easily influenced and manipulated by others.

75. On October 27, 2016, Defendant facilitated McCollum getting a third loan from MFI for $15,000.00 at 18% interest, compounded every 6 months.

76. Defendant again signed the Attorney Acknowledgement of Explanation of Terms to Plaintiff, Of Irrevocable Lien and Assignment to MFI claiming that he had explained the terms of the $15,000.00 loan agreement to McCollum.

77. Defendant read and signed at least two pages of the loan document for the October 2016 loan, including a page wherein he agreed to pay MFI before paying his client: "I hereby consent and agree to fully execute this document to pay MFI Funding Inc. all funds due them at the close of this case, before final distribution to the Plaintiff or (his or her) successors and/or assigns."

78. The loan contracts provided that if McCollum were to retain new counsel and failed to cause the new counsel to execute a lien on any recovery in favor of the lender, McCollum would be subject to a lawsuit from the lender for damages, costs, and attorney fees.

79. But for Defendant's signing of the loan documents, McCollum would not have received the May 11, 2016 loan for $50,000.00 at 18% interest, compounded every 6 months nor the October 27, 2016 loan for $15,000.00 at 18% interest, compounded every 6 months.

80. In February of 2016, Geraldine was removed as guardian for mismanaging Brown's funds.

81. Months after Geraldine was removed as guardian and had informed Defendant of her removal, Defendant helped Geraldine get a $25,000.00 loan from MFI against any future recovery made by Brown, with the loan proceeds sent to Geraldine purportedly for Brown's rent.

82. As a result of Geraldine receiving a $25,000.00 loan from MFI against any future recovery made by Brown, MFI perfected a lien for that amount against any future recovery made by Brown.

83. At the time Defendant helped Geraldine get a loan against any future recovery made by Brown, Geraldine was no longer Brown's guardian; thus, any rent payments to Geraldine at this time were not for Brown's benefit.

84. In December 2016, there was a mediation in McCollum and Brown's cases against the Town of Red Springs.

85. At the mediation, Defendant presented a power point detailing the intellectual disabilities of McCollum and Brown. The presentation focused on the subaverage intellectual

functioning (IQ scores) and significant limitations in adaptive functioning of McCollum and Brown.

86. On February 1, 2017, Derrick Hamilton ("Hamilton"), a friend of and occasional videographer for Defendant, wired Defendant $30,000.00, which was deposited into Defendant's trust account.

87. Twenty thousand dollars of the $30,000.00 wire transfer was for McCollum's benefit.

88. Ten thousand dollars of the $30,000.00 wire transfer was intended by Defendant and Hamilton to be a loan for Defendant's benefit.

89. Defendant did not disburse the $10,000.00 belonging to him from the trust account in a manner that identified the funds as Defendant's loan proceeds.

90. By not promptly disbursing from his trust account the $10,000.00 of the $30,000.00 wire transfer intended by Defendant and Hamilton to be a loan for Defendant's benefit, Defendant commingled funds belonging to Defendant with entrusted client funds.

91. In settlement discussions with the Town of Red Springs, the competence of McCollum to agree to a settlement was raised by counsel representing the Town of Red Springs.

92. In anticipation of submitting a settlement proposal for court approval, Defendant engaged Dr. Harbin to evaluate McCollum's competency to enter into a settlement agreement with the Town of Red Springs.

93. Dr. Harbin conducted a second evaluation of McCollum and on or about March 8, 2017 produced a report finding, despite contrary findings in his July 28, 2016 report, that McCollum was able to manage his own financial and legal affairs, and to make or communicate important decisions concerning his person and finances.

94. In April 2017, Defendant submitted to the United States District Court for the Eastern District of North Carolina a proposed settlement of McCollum and Brown's civil suit against the Town of Red Springs for $500,000.00 each.

95. Defendant asked the Court to approve the settlement and his 33% fee, claiming that his clients were competent to enter into the representation agreement and the settlement agreement and that the settlement was appropriate because McCollum had agreed to it and Brown's new guardian had as well. J. Duane Gillian, an attorney who was the guardian of the estate for Brown, had approved the proposed settlement.

96. The proposed settlement provided that the liens securing the MFI loans that Defendant helped McCollum and Brown obtain would be paid out of the settlement proceeds.

97. Defendant represented to the Court in his proposed settlement pleading that his costs for the litigation were roughly $70,000.00.

98. In his pleading to the Court, Defendant claimed that he had done the following work for McCollum and Brown in the civil suit and that the following actions, among others, led to the roughly $70,000.00 in costs and justified his requested $330,000.00 fee: "counsel represented both Plaintiffs in their successful petitions to the Governor of North Carolina for Pardons of Innocence, which included several meetings with Governor Pat McCrory and/or his staff, submission of documents and information to the Governor's Office, and several meetings with Plaintiffs; (ii) counsel represented both Plaintiffs in their successful petitions for statutory compensation for wrongful imprisonment pursuant to North Carolina General Statutes § 148-82 et seq. in the North Carolina Industrial Commission, which included preparation of the petition, appearance in the Commission, and presentation of evidence at the hearing; (iii) counsel petitioned the Cumberland County Superior Court for a guardian for Leon Brown and appeared in that court at a hearing and presented evidence[.]"

99. Defendant had already compensated himself for these services with funds from McCollum and Brown's Industrial Commission awards.

100. Defendant's statement to the Court that he needed to be compensated for services for which he had already been paid by the award from the Industrial Commission was a material misrepresentation.

101. The proposed settlement agreement would have left McCollum with $178,035.58 while Defendant would have received $403,493.96.

102. On May 5, 2017, United States District Court Judge Terrance Boyle held a hearing related to approval of the proposed settlement between McCollum and Brown and the Town of Red Springs.

103. As threshold matters, Judge Boyle, citing U.S. Supreme Court documentation a dissenting opinion in a U.S. Supreme Court decision denying a writ of certiorari that McCollum was mentally retarded, had an IQ between 60 and 69, had a mental age of 9-years-old, and reads at a second-grade level, raised concerns about the competency of McCollum and Brown to enter into the settlement agreement and about Defendant's conflict of interest by entering into representation agreements with clients who were incompetent.

104. At the May 5, 2017 hearing, Judge Boyle rejected Dr. Harbin's March 8, 2017 evaluation as unpersuasive, and Defendant agreed that the court had the power to appoint McCollum a guardian ad litem ("GAL").

105. On or about May 10, 2017, Judge Boyle appointed Raleigh attorney Raymond Tarlton ("Tarlton") as GAL for McCollum.

106. On July 26, 2017, Tarlton filed a motion asking the Court to determine whether the representation agreement between McCollum and Defendant was valid based on McCollum's incapacity to enter into a representation agreement with Defendant.

107. On August 10, 2017, a hearing was held by Judge Boyle on the competency of McCollum to make decisions and enter into legally binding obligations.

108. Specifically at issue at this August 10, 2017 hearing was whether or not Defendant's representation agreement with McCollum was invalid due to McCollum's low IQ and intellectual disabilities.

109. Defendant presented evidence at the hearing to support his contention that McCollum was competent to accept the settlement agreement with the Town of Red Springs. Dr. Harbin testified and emphasized that his evaluation of McCollum was on the narrow issue of McCollum's competence to accept or reject the settlement offer and he acknowledged concern about McCollum's history of "blowing money."

110. Defendant argued to the Court that McCollum was competent despite (a) previously arguing that McCollum did not have the mental capacity to confess to the crimes back in 1983; (b) McCollum's notable lack of mental capacity being an important part of McCollum's case against Robeson County, the Red Springs Police Department, and the State of North Carolina; and (c) McCollum having claims of incompetency that could invalidate the contracts he signed with Pointer, Weekes, and MFI.

111. After the August 10, 2017 hearing, Judge Boyle asked the parties to submit recommendations of mental health experts to conduct a competency evaluation of McCollum.

112. On August 12, 2017, Defendant notified Dr. Harbin that Tarlton had nominated Dr. George Corvin, a forensic psychiatrist, to conduct an evaluation of McCollum.

113. On August 14, 2017, Dr. Harbin sent an email to Defendant stating: "Patrick, I don't mean to tell you your business and you may have already thought of this, but I would recommend that you have some rehearsal with [McCollum] and make sure he knows where his bank accounts are, how much is in them, how to write a check, what his income and bills are, etc." In response, Defendant wrote: "Point well taken, thank you."

114. On August 15, 2017, Defendant filed a motion to discharge Tarlton as GAL and to require no further evaluation of McCollum's competency.

115. On August 16, 2017, Judge Boyle entered an order directing Dr. Corvin to evaluate whether McCollum had the practical ability to manage his own affairs.

116. On September 15, 2017, Dr. Corvin submitted a comprehensive report of his evaluation to the court. Dr. Corvin found, among other things, that McCollum "clearly suffers from psychological and intellectual limitations impairing his ability to manage his own affairs and make/communicate important decisions regarding his life without the assistance of others."

117. On October 23, 2017, Judge Boyle entered an order finding that McCollum was not competent to manage his own affairs and that Defendant's representation agreement with McCollum was invalid due to McCollum's incompetency.

118. In his order Judge Boyle found: "Counsel [Defendant] was plainly on notice that his potential clients had intellectual disabilities and that their abilities to proceed without a guardian were at issue. Nonetheless, counsel [Defendant] entered into a representation agreement and has, to the Court's knowledge, never sought to have the agreement ratified by any duly appointed guardian for either plaintiff. Accordingly, the Court finds that, based on McCollum's incompetence, the representation agreement between counsel [Defendant] and McCollum is invalid."

119. On December 14, 2017, the Court approved the settlement with the Town of Red Springs, but not Defendant's fee. The Court permitted Defendant to stay on temporarily as counsel of record and held open the issue of fees for a later determination.

120. On April 13, 2018, Defendant was terminated as counsel for McCollum by McCollum's GAL.

121. On April 24, 2018, Defendant's law partner filed a motion challenging the GAL's authority to terminate Defendant.

122. On May 18, 2018, the Court ordered Defendant removed from the case "for good cause shown."

123. On January 29, 2021, Dr. Corvin conducted an evaluation of McCollum to determine whether, at the time they were executed, McCollum was competent to enter into an agreement for legal representation with Defendant and, separately, whether McCollum was competent to enter into the loan agreements with MFI. In his evaluation, Dr. Corvin found:

a. McCollum has a well-documented and extensive psychosocial history, and he continues to exhibit considerable evidence of his well-established intellectual developmental disorders. McCollum's intellectual disorders are known to be static in nature, meaning there is no known treatment to reverse the cognitive limitations inherent in such conditions;

b. McCollum continued to display evidence of impaired executive functioning (above and beyond that associated with his known intellectual developmental disorder) stemming from his previously diagnosed neurocognitive disorder. McCollum tends to make decisions about circumstances (and people) in a rather impulsive manner without consideration of (or adequate understanding of) the subtleties and complexities that are most commonly associated with such decisions;

c. McCollum continues to experience symptoms consistent with a diagnosis of Post-Traumatic Stress Disorder stemming from his prior lengthy incarceration

on death row after having been convicted of a crime that he did not commit. McCollum experiences intense physiological and psychological reactivity (i.e., flashbacks) when he sees police officers in his community, stating that when he sees them "it makes me think of what happened to me, it scares me. It reminds me of what happened out there";

d. McCollum has been unable to pass the written portion of the test to obtain a driver's license. McCollum agreed to "sign the papers" to engage Defendant's representation because "he gave us money. I agreed to sign the papers for him to handle my pardon and civil suit — because he gave us money, found me a better place. But he had me fooled." Regarding Defendant, McCollum "thought he was doing a good job, but I didn't know that he was taking that much money. I had no idea how much they were supposed to take"; and

e. McCollum remains unable to make and communicate important decisions regarding his person and his property, without the regular assistance of others. McCollum met the statutory definition of "incompetent adult" as detailed in N.C. Gen. Stat. § 35A-1101(7) at the time that he entered into the representation agreement with Defendant and when he entered into the loans with MFI.

124. As of the date of this order, Tarlton continues to serve as McCollum's guardian ad litem.

125. McCollum currently lives in Virginia and has a conservator, the equivalent of a guardian in North Carolina, to help manage his financial affairs.

126. Since September 2015, Brown has had a guardian of his estate.

127. McCollum and Brown did not have the capacity to enter into contracts for the loans with MFI.

128. McCollum and Brown did not have the capacity to enter into representation agreements with Defendant.

129. McCollum did not have capacity to agree to the proposed settlement agreement.

130. At the time the representation agreements, loans, and proposed settlement agreement with the Town of Red Springs were entered into, Defendant knew McCollum and Brown did not have the capacity to enter into the agreements or loans.

Based upon the foregoing Findings of Fact, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the panel has jurisdiction over Defendant, Patrick Michael Megaro, and over the subject matter.

2. Megaro's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

a. By claiming an irrevocable interest in McCollum and Brown's potential financial payments from the state, Defendant charged an improper fee in violation of Rule 1.5(a) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);

b. By entering into a representation agreement with his clients when he knew they did not have the capacity to understand the agreement, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

c. By having McCollum sign off on a settlement agreement and representing to a court that McCollum had consented to the settlement when Defendant knew McCollum did not have the capacity to understand the agreement, Defendant made a false statement to a tribunal and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that was prejudicial to the administration of justice in violation of Rule 3.3(a), Rule 8.4(c), and Rule 8.4(d);

d. By charging and collecting one-third of McCollum and Brown's Industrial Commission award when his role in that process was minimal and *pro forma*, Defendant charged and collected an excessive fee in violation of Rule 1.5(a);

e. By misrepresenting to the United States District Court in his proposed settlement of the Civil Suit that some of his work and costs in that action were for actions for which he had already been paid by McCollum and Brown's Industrial Commission award, Defendant made a false statement to a tribunal and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that was prejudicial to the administration of justice in violation of Rule 3.3(a), Rule 8.4(c), and Rule 8.4(d);

f. By signing various Attorney Acknowledgements of Explanation of Terms to Plaintiff, Of Irrevocable Lien and Assignment to Multi Funding, Inc., claiming to Multi Funding, Inc. that he had explained the terms of the loan agreements to McCollum and Brown when they were not competent to understand those terms or enter into those agreements, Defendant made a material misrepresentation to Multi Funding, Inc. and thereby engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);

g. By lending McCollum and Brown money, both directly and/or through Derrick Hamilton, Defendant entered into a business transaction with his clients in violation of Rule 1.8(a) and Rule 1.8(e);

h. By helping Geraldine get a $25,000.00 loan from Multi Funding, Inc. against any future recovery made by Brown, with the loan proceeds sent directly to Geraldine for Brown's rent when Geraldine was not Brown's guardian, Defendant misused entrusted funds in violation of Rule 1.15-2 and failed to represent Brown with competence or diligence in violation of Rule 1.1 and Rule 1.3;

i. By not promptly disbursing from his trust account $10,000.00 to which he was entitled as proceeds of a loan from Derrick Hamilton, Defendant failed to properly maintain and disburse fiduciary funds in violation of Rule 1.15-2(a) and failed to withdraw the amounts to which Defendant was entitled in violation of Rule 1.15-2(g);

j. By advancing money to McCollum and Brown for living expenses, and by guaranteeing repayment of various loans for McCollum and Brown, Defendant provided financial assistance to clients in connection with pending litigation in violation of Rule 1.8(e); and

k. By entering into a retainer agreement with McCollum that was invalid due to McCollum's lack of competency and then arguing that McCollum was competent in an effort to protect his fee despite such arguments potentially harming McCollum's then-current claims against Robeson County, the Red Springs Police Department, and the State of North Carolina, Defendant engaged in a conflict of interest, as Defendant's representation of McCollum was materially limited by Defendant's personal interest in defending his fee, in violation of Rule 1.7.

3. The Hearing Panel concludes that the remaining rule violations alleged in the Complaint in the First Claim for Relief and the entirety of the Second Claim for Relief are not established by the facts set forth in the Findings of Fact above.

Based upon the pleadings, all other filings in the record, the foregoing Findings of Fact and Conclusions of Law, and the evidence presented at the hearing in this matter, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 through 130 above are reincorporated as if set forth herein.

2. In 2015, Defendant was reprimanded by the North Carolina State Bar's Grievance Committee for assisting in the unauthorized practice of law and making misleading statements about his legal services.

3. Defendant's course of misconduct set forth in this order began in February 2015 and continued through August 2017. During that period, Defendant not only engaged in a pattern of repeated similar acts of misconduct, but also engaged in a wide variety of Rule violations.

4. McCollum and Brown were exceptionally vulnerable to the type of manipulation, deception, and exploitation perpetrated by Defendant. These clients had intellectual deficits and a history of trauma during their lengthy wrongful incarceration. Evaluating clinicians repeatedly described them as susceptible to manipulation and undue influence. Defendant was aware of his clients' vulnerabilities. Instead of protecting them, he capitalized on their naivete and inability to understand.

5. By charging and collecting clearly excessive amounts of McCollum and Brown's Industrial Commission awards based on a fee agreement he knew the clients could not understand, and in a proceeding where his actual work was *de minimis* and there was little or no risk that his clients would not receive the maximum allowed by statute, Defendant financially exploited McCollum and Brown causing significant harm to his clients. Likewise, by arguing that McCollum was mentally competent in an effort to preserve his fee in the civil case, Defendant acted for his own financial benefit to the detriment of his client's legal interests.

6. Defendant used the attorney-client relationship as a foundation for obtaining money he had not earned from clients who lacked the knowledge and sophistication to question his actions or suspect his selfish motive. By elevating his own interests above the interests of McCollum and Brown, Defendant compromised the fiduciary relationship and caused significant harm to his clients.

7. Clients are entitled to attorneys they can trust to act with commitment and dedication to their interests. Defendant violated the trust inherent in the attorney-client relationship by prioritizing his own financial benefit over the best interests of his clients. By repeatedly deceiving and exploiting McCollum and Brown, Defendant has shown himself to be untrustworthy.

8. Defendant's willingness to deceive third parties and the court, as established by paragraphs (c), (e), and (f) in the Conclusions of Law above, further demonstrates that Defendant is untrustworthy.

9. By deceiving McCollum and Brown, collecting an unjustified amount of the funds they received as compensation for their wrongful incarceration, and allowing a third party to obtain a loan secured by Brown's potential settlement, Defendant intentionally created a foreseeable risk of significant harm to his clients.

10. There has been substantial media coverage of Defendant's conduct. Publicity surrounding a lawyer deceiving and exploiting mentally disabled clients debases the legal profession and demeans the justice system in the eyes of the public.

11. Defendant's conduct caused significant harm to the profession by reinforcing the negative stereotype that lawyers are greedy, selfish, and dishonest, and by diminishing the public's expectation that attorneys can be trusted to protect vulnerable clients.

12. Societal order depends in large measure on respect for the rule of law and deference to the decisions of our courts. To maintain this respect and deference, litigants and the general public must have faith in the integrity of our system of justice.

13. Defendant intentionally engaged in conduct that foreseeably undermines public faith in the legal system by deceiving and exploiting clients with diminished intellectual capacity in a case that had already drawn public attention because it involved the mistreatment of vulnerable people.

14. An attorney's duty to persuasively advocate for his client is qualified by his duty of candor towards the tribunal. Accordingly, lawyers must always be honest and forthright with the tribunal. It is unacceptable for a lawyer to be anything less than completely candid with the court. As indicated in paragraphs (c) and (e) in the Conclusions of Law above, Defendant made false statements to the tribunal in violation of this fundamental duty.

15. Attorneys as officers of the court must avoid conduct that undermines the integrity of the adjudicative process. When an attorney makes false statements to the court, it foreseeably causes significant harm to the profession and the administration of justice by eroding judges' and lawyers' ability to rely on another attorney's word.

16. Defendant cooperated in the disciplinary process and gave extensive testimony before the Hearing Panel.

17. Defendant's testimony during the disciplinary hearing, however, reflects a pervasive tendency to blame others for his misconduct rather than acknowledging wrongdoing. Specifically, Defendant claimed that the allegations of misconduct against him arose due to the animosity of other lawyers who had also represented McCollum and/or Brown, rather than his own intentional acts.

18. There is no indication that Defendant has taken ownership of his misconduct or its consequences. With a few minor exceptions,[1] he has not acknowledged violating the Rules of Professional Conduct. Defendant has not expressed remorse or shown any insight regarding the ways in which he betrayed his clients' trust.

19. Defendant has not refunded any of the excessive fees he collected from McCollum and Brown, insisting that he is entitled to $500,000.00 for his participation in the *pro forma* Industrial Commission proceedings. The evidence in this matter establishes that, at minimum, Defendant should be required to refund $250,000.00 of that money because he did not earn it. This proceeding was not designed or intended to calculate the precise value of the legal services Defendant provided. The finding herein regarding the amount of fees that were unearned should not be interpreted as a conclusive valuation of services rendered by Defendant. It is merely a

[1] Though Defendant denied committing any rule violations in his Answer to the Amended Complaint, he admitted at trial to engaging in technical trust account violations and to having inaccurate language in his fee agreement. He did not admit – either at trial or in any pleading – to any of the more substantive misconduct that reflects adversely on his capacity for honesty and loyalty to his clients .

determination that—at minimum—half of the fees Defendant collected from the Industrial Commission award were unearned and should be refunded.

20. Some of Defendant's former clients and friends believe that Defendant is a person of honesty, integrity, and good character.

21. Defendant's misconduct resulted in other sanctions, in that the U.S. District Court voided his representation agreement with McCollum and removed him as counsel in McCollum's case.

Based on the foregoing Findings of Fact, Conclusions of Law, and Findings of Fact Regarding Discipline, the Hearing Panel makes the following

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel considered all of the factors enumerated in 27 N.C.A.C. 1B § .0116(f) of the Discipline and Disciplinary Rules of the North Carolina State Bar.

2. The Hearing Panel concludes that the following factors from § .0116(f)(1), which are to be considered in imposing suspension or disbarment, are present in this case:

(a) Intent of Defendant to commit acts where the harm or potential harm is foreseeable;

(b) Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;

(c) Elevation of Defendant's own interests above that of the client;

(d) Negative impact of Defendant's actions on client's or public's perception of the profession;

(e) Negative impact of Defendant's actions on the administration of justice; and

(h) Acts of dishonesty, misrepresentation, deceit, or fabrication.

3. The Hearing Panel concludes that the following factor from § .0116(f)(2), which requires consideration of disbarment, is present in this case: Acts of dishonesty, misrepresentation, deceit, or fabrication.

4. The Hearing Panel concludes that the following factors from § .0116(f)(3), which are to be considered in all cases, are present in this case:

(a) Prior disciplinary offenses;

(b) Dishonest or selfish motive;

(c) Indifference to making restitution;

(d) Multiple offenses;

(e) Refusal to acknowledge the wrongful nature of conduct;

(f) Character or reputation;

(g) Vulnerability of victim;

(h) Full and free disclosure to the hearing panel or a cooperative attitude toward the proceedings; and

(i) Imposition of other penalties or sanctions.

5. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment.

6. Defendant's course of misconduct involving the manipulation and exploitation of vulnerable clients reflects that Defendant is either unwilling or unable to conform his behavior to the requirements of the Rules of Professional Conduct. Defendant has refused to acknowledge the wrongfulness of his conduct and there is no evidence suggesting that he intends to modify his behavior. Accordingly, if Defendant were permitted to continue practicing law, he would pose a significant and unacceptable risk of continued harm to clients, the profession, the public, and the administration of justice.

7. The Hearing Panel finds that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of the harm to Defendant's clients, the administration of justice and the legal profession in the present case. Furthermore, the Panel finds that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

8. Pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0129(d), the Hearing Panel finds and concludes that the public can only be adequately protected by an active suspension of Defendant's law license with reinstatement to practice conditioned upon compliance with reasonable requirements designed to protect the public and deter future misconduct by Defendant.

9. Nothing can remedy the injustices inflicted upon McCollum and Brown, or their further betrayal by the very lawyer who they trusted to seek redress for those injustices. The harm to McCollum and Brown would be mitigated, however, if Defendant returned a portion of the excessive fee he improperly collected from them. Accordingly, Defendant's ability to practice law in the future should be conditioned upon his reimbursing McCollum and Brown for a portion of the amount of unearned fees he collected.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER

1. Defendant's license to practice law in the State of North Carolina is suspended for five years, beginning 30 days from the date of service of this order upon Defendant.

2. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0128. As provided in § .0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying his compliance with the rule.

4. The administrative fees and costs of this action, including deposition costs and expert witness costs, are taxed to Defendant. Defendant shall pay the costs of this action within 30 days of service upon him of the statement of costs by the Secretary.

5. After serving three years of the active suspension of his license, Defendant may apply for a stay of the remaining period of suspension upon filing a verified petition pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0118(c) with the Secretary of the North Carolina State Bar demonstrating by clear, cogent, and convincing evidence that Defendant has complied with the following conditions:

(a) That Defendant paid the costs and the administrative fees of this action within 30 days of service upon him of the statement of costs by the Secretary;

(b) That Defendant reimbursed McCollum and Brown $250,000.00 for the excessive fees he collected from them: $125,000.00 shall be payable to McCollum or any legal guardian, trustee, or other fiduciary with lawful authority to manage McCollum's financial affairs at the time the restitution is paid. $125,000.00 shall be paid to Brown or any legal guardian, trustee, or other fiduciary with lawful authority to manage Brown's financial affairs at the time the restitution is paid;

(c) That Defendant completed 10 hours of Continuing Legal Education (CLE) accredited by the North Carolina State Bar on the topic of ethics and professionalism. This requirement is in addition to the general CLE requirements for reinstatement after two or more years of suspension set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0129(b)(3)(I);

(d) That Defendant has arranged for an active member in good standing of the North Carolina State Bar who has been approved by the Office of Counsel and practices in the county of Defendant's practice to serve as Defendant's practice monitor. Before Defendant applies for a stay of the suspension, he must supply the Office of Counsel with a letter from the approved practice monitor confirming his or her agreement to:

i) Meet in person, not over the phone or video, with Defendant monthly for a period of two years to review Defendant's cases;

ii) Provide supervision to ensure that Defendant timely and completely handles client matters; and

iii) Provide written quarterly reports of this supervision to the Office of Counsel on the following dates as they occur during the two years following the stay of the suspension: January 30, April 30, July 30, and October 30.

Defendant will be responsible for the cost, if any, charged by the practice monitor for this supervision;

(e) That Defendant kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten days of such change;

(f) That Defendant responded to all communications from the North Carolina State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participated in good faith in the State Bar's fee dispute resolution process for any petition received after the effective date of this Order;

(g) That Defendant did not engage in the unauthorized practice of law during the period of suspension;

(h) That Defendant did not violate the Rules of Professional Conduct of any jurisdiction in which he is licensed or the laws of the United States or any state or local government during his suspension, other than minor traffic violations;

(i) That Defendant properly wound down his law practice and complied with the requirements of 27 N.C.A.C. 1B § .0128; and

(j) That Defendant satisfied all of the requirements for reinstatement set forth in of 27 N.C.A.C. 1B § .0129(b).

6. If Defendant successfully petitions for a stay, the suspension of Defendant's law license shall be stayed as long as Defendant complies and continues to comply with the following conditions:

(a) Defendant must cooperate with the practice monitor as described in paragraph 5(d) above for two years following the stay of the suspension. The practice monitor must provide quarterly reports to the Office of Counsel as described in paragraph 5(d)(3) above for the entire two-year period. It is Defendant's sole responsibility to ensure that the practice monitor completes and submits the required reports;

(b) Defendant must keep the North Carolina State Bar Membership Department advised of his current business and home addresses and notify the Bar of any change in address within ten days of such change;

(c) Defendant must respond to all communications from the North Carolina State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participate in good faith in the State Bar's fee dispute resolution process for any petition received during the period of the stay; and

(d) Defendant must not violate the Rules of Professional Conduct of any jurisdiction in which he is licensed or the laws of the United States or any state

or local government during the period of the stay, other than minor traffic violations.

7. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 6 above, the stay of the suspension may be lifted pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0118(a).

8. If Defendant does not seek a stay of the suspension of his law license or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must comply with the conditions set out in paragraph 5 above before seeking reinstatement of his license to practice law, and must provide in his petition for reinstatement clear, cogent, and convincing evidence showing his compliance therewith.

9. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, §§ .0118(a) and/or .0129(b)(1) throughout the period of the suspension, and any stay thereof, and until all conditions set forth in paragraph 5 above are satisfied.

Signed by the Chair with the consent of the other hearing panel members, this the 27th day of April, 2021.

Fred W. DeVore, III, Chair
Disciplinary Hearing Panel