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BOARD OF PROFESSIONAL
RESPONSIBILITY

IN THE DISCIPLINARY BOARD HEARING PANEL, DISTRICT VI, OF
THE BOARD OF PROFESSIONAL RESPONSIBILITY OF THE
SUPREME COURT OF THE STATE OF TENNESSEE

IN RE: CARRIE WATSON GASAWAY

BPR#18746, an Attorney

Docket No. 2016-2629-6-AW-22.3

Licensed to Practice

Docket No. 2016-2653-6-AW

Law in Tennessee

(Montgomery County)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT OF
THE HEARING PANEL

This matter came on to be further considered on the 28th day of June, 2017, upon the consolidated Petitions by the Board of Professional Responsibility for discipline of the Respondent, Carrie W. Gasaway.

The Panel, having considered the Board's Motion for Default Judgment, the evidence produced at this hearing and the lack of a response by Ms. Gasaway, finds that the Respondent committed certain violations of the Rules of Professional Conduct as admitted by default and recommends that she be disbarred from the practice of law pending further orders of the Supreme Court.

I.

AUTHORITY OF BOARD

The Tennessee Supreme Court has inherent authority to license and regulate attorneys who practice law in this state. *Smith Cnty. Educ. Ass'n v. Anderson*, 676 S.W.2d 328, 333 (Tenn.1984). It can make rules to implement this authority. *Petition of Tenn. Bar Ass'n*, 539 S.W.2d 805, 807 (Tenn.1976). Tennessee Supreme Court Rule 8 establishes the ethical rules to which attorneys must adhere and Rule 9 establishes the mechanism by which the ethical rules are enforced. Rule 9, section 5 creates the Board of Professional Responsibility. Tenn. Sup.Ct. R. 9, § 5. The Board derives all of its powers and functions from the Supreme Court. *Doe v. Bd. of Prof'l Responsibility*, 104 S.W.3d 465, 472 (Tenn.2003). The Board is an agent of the Supreme Court. *Id. Moncier v. Bd. of Prof'l Responsibility of Supreme Court of Tennessee*, M2012-00779-COA-R3CV, 2013 WL 2490576 (Tenn. Ct. App. June 6, 2013).

II.

PANEL FINDINGS

The Panel finds that the Respondent, Carrie Gasaway, is subject to discipline by the Tennessee Supreme Court and the Board of Professional Responsibility.

III.

On September 16, 2016 pursuant to Tennessee Supreme Court Rule, 9, Section 22, the Court suspended her and ordered the institution of formal proceedings to

determine the extent of final discipline to be imposed based upon her criminal conviction for the crime of Theft of a value over \$10,000 in State of Tennessee v. Carrie Gasaway, in the 19th Judicial District.

IV.

The crime of Theft of a value over \$10,000 constitutes a serious crime and a violation of Tennessee Rules of Professional Conduct, 8.4 (a), (b), (c) and (d).

V.

COMPLAINT OF BRANDON McGETTIGAN

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$45,283.45

VI.

COMPLAINT OF BONNIE ENDRES

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$2,116.00

VII.

COMPLAINT OF DR. JAMES DAVIS

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$ 3,000.00

VIII.

COMPLAINT OF JEFFERY TOWLES

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$7,500.00.

JUDGEMENT OF HEARING PANEL

IX.

Ms. Gasaway has repeatedly violated the Tennessee Rules of Professional Conduct as found above. When licensed as an attorney of this State she took an oath "that (she) will truly and honestly demean (herself) in the practice of (her) profession to the best of (her) skill and abilities". *Tennessee Supreme Court Rules, Rule 6.*

We find that she has breached this oath on numerous occasions. She is a chronic, recidivist violator.

X.

AGGRAVATING CIRCUMSTANCES

The Panel found the following aggravating circumstances:

1. Dishonest or selfish motive. (found by hearing panel).
2. Refusal to recognize wrongful nature of conduct. (found by hearing panel).
3. Substantial experience in the practice of law. (found by hearing panel).
4. Repeatedly prior violations. (found by hearing panel).

V.

MITIGATING CIRCUMSTANCES

None

VI.

PENALTY

We find that she should be disbarred from the practice of law in the State of Tennessee pending further Orders of the Court, and having considered all the factors presented and evidence we find that probation is not appropriate.

VII.

ABA STANDARDS

In making this decision the hearing panel has considered the following:

American Bar Association, Standards for Imposing Lawyer Sanctions.

3.0 Generally

In imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors:

- (a) the duty violated;
- (b) the lawyer's mental state;
- (c) the potential or actual injury caused by the lawyer's misconduct; and
- (d) the existence of aggravating or mitigating factors.

The Panel has likewise found violations of other *ABA Standards*, including 4.11, 4.41 and 5.1 as produced by Disciplinary Council for the Board.

As to these *ABA Standards* it is our belief that this Finding and Memorandum sufficiently addresses all these standards comprehensively without cataloguing them on a standard by standard basis.

VIII.

RESTITUTION

A. COMPLAINT OF BRANDON McGETTIGAN

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$45,283.45, and fix that amount in restitution.

B. COMPLAINT OF BONNIE ENDRES

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$2,116.00, and fix that amount in restitution.

C. COMPLAINT OF DR. JAMES DAVIS

The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$ 3,000.00, and fix that amount in restitution.

D. COMPLAINT OF JEFFERY TOWLES


The Panel finds that as set forth in the Complaint for Discipline, this victim was defrauded by the Respondent Gasaway in the amount of \$7,500.00, and fix that amount in restitution.

IX.


COSTS

Respondent shall be assessed costs payable to the Board within 180 days of the date of this Finding and Conclusions.


ENTER, this the 20th day of June, 2017



JOSEPH D. BAUGH
HEARING PANEL CHAIRMAN



MICHAEL JOSEPH FAHEY, II
HEARING PANEL



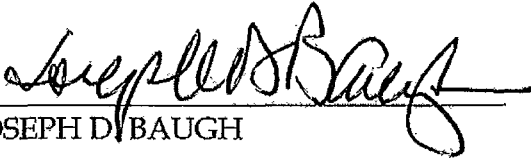
JOSEPH W. HENRY, JR. 2
HEARING PANEL

NOTICE: This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 30th day of June, 2017, a true and correct copy of the foregoing was mailed, postage prepaid and sent by electronic mail addressed as follows:

Rita Webb
Executive Secretary
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE SUPREME COURT
OF THE STATE OF TENNESSEE
16 Cadillac Drive, Suite 220
Brentwood, Tennessee 37027



JOSEPH D. BAUGH

1 Signed with permission after review.
2 Signed with permission after review.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Carrie Leigh Gasaway, 758 Doe Run Drive, Newton, AL 36352, by U.S. First Class Mail, and hand-delivered to A. Russell Willis, Disciplinary Counsel, on this the 30th day of June, 2017.



Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery court within sixty (60) days of the date of entry of the hearing panel's judgment.