



**BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**

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**RELEASE OF INFORMATION**  
**RE: GERALD DENNY WAGGONER, BPR #13988**  
**CONTACT: A. RUSSELL WILLIS**  
**BOARD OF PROFESSIONAL RESPONSIBILITY**  
**615-361-7500**

August 2, 2017

**SHELBY COUNTY LAWYER SUSPENDED**

On August 1, 2017, the Supreme Court of Tennessee entered an order suspending Gerald Denny Waggoner, Jr., from the practice of law for a period of three (3) years, pursuant to Tennessee Supreme Court Rule 9, Section 12.2, and requiring payment of restitution to the client and costs to the Board of Professional Responsibility. As a condition of reinstatement, Mr. Waggoner will be required to engage a practice monitor for one (1) year.

A Petition for Discipline was filed against Mr. Waggoner on March 1, 2016, consisting of one (1) complaint alleging lack of diligence, lack of communication, incompetent representation, misrepresentations to client, improper fee and misrepresentations to the Board. Mr. Waggoner applied for and received a statutory award of attorney fees in an ERISA case. Although required by a written contingency fee agreement to credit any fee received toward that owed by the client, Mr. Waggoner demanded a forty percent (40%) contingency fee upon settlement of the case in addition to retaining the previously received statutory fee. Without the knowledge or consent of his client, Mr. Waggoner removed the disputed fees from his trust account and converted them to his personal and business use. Further, Mr. Waggoner failed to provide his client with a detailed accounting of the funds received and converted and materially misrepresented to the Board that the client's money remained in the law firm's trust account. The matter was tried before a Hearing Panel which determined the appropriate disciplinary sanction to impose upon Mr. Waggoner was a three (3) year suspension.

Mr. Waggoner's conduct violated Rules of Professional Conduct (RPC) 1.4 (communication); 1.5(a) & (b) (fees); 1.15(a), (b), (d) & (e) (safekeeping property and funds); 8.1(a) & (b) (bar admissions and disciplinary matters) and 8.4(a), (b), (c) & (d) (misconduct).

Mr. Waggoner must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED  
08/01/2017  
Clerk of the  
Appellate Courts

**IN RE: GERALD DENNY WAGGONER, JR., BPR #013988**  
An Attorney Licensed to Practice Law in Tennessee  
(Shelby County)

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**No. M2017-01434-SC-BAR-BP**  
BOPR No. 2016-2561-9-AW

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**ORDER OF ENFORCEMENT**

This matter is before the Court upon a Petition for Discipline filed against Gerald Denny Waggoner, Jr., on March 1, 2016; upon a Response to Petition for Discipline filed by Mr. Waggoner on April 5, 2016; upon an Amended Response to the Petition for Discipline filed September 6, 2016; upon a Motion for Partial Summary Judgment and a Memorandum of Law in Support for Partial Summary Judgment on the Issue of Respondent Charging Excessive Attorney Fees filed by Mr. Waggoner on August 30, 2016; upon Response of the Board in Opposition to Motion for Partial Summary Judgment filed October 10, 2016; upon Mr. Waggoner's Response to Petitioner's Response to Partial Summary Judgment filed October 18, 2016; upon Order Denying Motion for Partial Summary Judgment entered November 8, 2016; upon the Findings of Fact, Conclusions of Law and Judgment entered by the Hearing Panel on March 17, 2017; and upon service by the Executive Secretary of the Board of the Findings of Fact and Conclusions of Law and Judgment of the Hearing Panel upon Mr. Waggoner and his counsel on March 17, 2017; upon the Board's Application for Assessment of Costs filed March 27, 2017; upon the Hearing Panel's Judgment for Assessment of Costs entered April 18, 2017; upon service of the Hearing Panel's Judgment on Assessment of Costs upon Mr. Waggoner on April 19 2017; upon consideration and approval by the Board on June 9, 2017; upon expiration of the appeal period with no appeal taken; and upon the entire record in this cause.

From all of which the Court accepts the recommendation of the Hearing Panel and adopts the Hearing Panel's Findings of Fact, Conclusions of Law and Judgment as the Court's Order.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

(1) Gerald Denny Waggoner, Jr., is suspended from the practice of law for three (3) years, pursuant to Tenn. Sup. Ct. R. 9, § 12.2 (a).

(2) Pursuant to Tenn. Sup. Ct. R. 9, § 12.7, and as a condition precedent to reinstatement, Mr. Waggoner shall make restitution to Peggy Cockrell in the amount of \$48,528.25 (less any amount already paid) and furnish proof of such total payment to the Board of Professional Responsibility.

(3) As a further condition of reinstatement, Mr. Waggoner shall be required to engage a practice monitor for one year, after reinstatement to the practice of law, pursuant to Tenn. Sup. Ct. R. 9, § 12.9 (b) with particular emphasis in his taking continuing legal education courses with regard to trust account rules, accounting procedures, office management procedures, fee agreements, and attorney-client communications.

(4) Prior to seeking reinstatement, Mr. Waggoner must have met all CLE requirements; have remitted all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and have remitted all court costs and Board costs in this matter.

(5) Additionally, Mr. Waggoner shall comply in all aspects with Tenn. Sup. Ct. R. 9, §§ 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

(6) Pursuant to Tenn. Sup. Ct. R. 9, § 31.3(d), Mr. Waggoner shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$2,954.22 and shall pay to the Clerk of this Court the costs incurred herein, within ninety (90) days of the entry of this Order, for all of which execution may issue if necessary.

(7) Pursuant to Tenn. Sup. Ct. R. 9, § 28.1, this Order shall be effective upon entry.

(8) The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM