

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:)	
)	
PETITION OF TENNESSEE WASTEWATER)	
SYSTEMS, INC. TO CHANGE AND)	
INCREASE CERTAIN RATES AND)	DOCKET NO. 08-00202
CHARGES SO AS TO PERMIT IT TO)	
RECOVER COSTS ASSOCIATED WITH)	
FURNISHING WASTEWATER SERVICE TO)	
ITS CUSTOMERS)	

SECOND MOTION TO STRIKE

Tennessee Wastewater Systems, Inc. ("TWS") asks the Hearing Officer to strike the "Motion for Expedited Review" filed on January 28, 2009, by King's Chapel Capacity ("King's Chapel"). The "Motion" is signed by Mr. John Powell, who is not a licensed attorney. This filing violates the "Initial Order" issued by the Hearing Officer on January 22, 2009. The Order holds that Mr. Powell's filing of legal briefs violates state law and expressly directs him not to file any such briefs, including any "appeal of any order of the Hearing Officer" unless the document is signed by a licensed Tennessee attorney. Initial Order, at 7.

Based on Tennessee statutes which prohibit the unauthorized practice of law and a 2004 Opinion of the Office of the Attorney General ("AG") (Opinion No. 04-160), the Hearing Officer has ruled that Mr. Powell is prohibited from performing any act that requires "legal analysis and the professional judgment of a lawyer." Id. The Hearing Officer found that Mr. Powell's filing of discovery, legal briefs, or "any appeal" of the Hearing Officer's order would involve "legal

analysis" and would therefore constitute the unauthorized practice of law in violation of these statutes.¹

Mr. Powell's "Motion" does not dispute the Hearing Officer's conclusion about what it means to "practice law" in Tennessee or the Hearing Officer's finding that the filing of discovery, briefs, or an appeal requires "legal analysis and the professional judgment of a lawyer." In other words, Mr. Powell does not deny that the filing of his "Motion" violates state law. He simply argues that the Hearing Officer's decision is "unfair" because of the cost involved. Motion at 3. Mr. Powell acknowledges that King's Chapel "may well" hire an attorney in the future "if it first determines that these services are needed" but does not want to incur the expense of retaining counsel "at this time." Id.

None of this, of course, excuses Mr. Powell's illegal conduct. A non-attorney is not allowed to practice law in Tennessee simply because he finds it inconvenient to hire counsel "at this time."

By filing this four-page appeal, Mr. Powell appears to have intentionally violated both state law and the Initial Order. The proper remedy is to strike the Motion. Any subsequent violation should result in the dismissal of King's Chapel from this case.²

¹ T.C.A. § 23-3-103 states that the unauthorized practice of law is a criminal offense. It also states that the Attorney General is authorized to bring a civil action to enforce the statute and may seek a penalty of up to \$10,000.

² By copy of this motion, TWS is notifying the Office of the Attorney General of the apparent violation of T.C.A. § 23-3-103.

Respectfully submitted,

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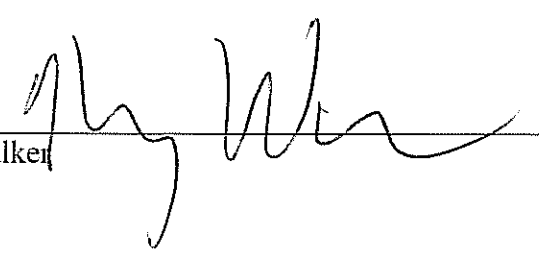
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by placing it in the U.S. Mail, First Class, postage prepaid, on the following counsel of record, this the 30th day of January, 2009.

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