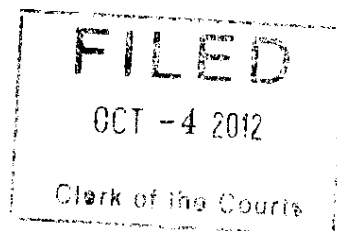


**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

JOHN DOUGLAS GODBEE, BPR # 006234
An Attorney Licensed to Practice Law in Tennessee
(Hawkins County)

No. M2012-01588-SC-BPR-BP
BOPR No. 2012-2141-1-SG(4.3)



ORDER

On August 6, 2012, the Court entered an Order of Temporary Suspension suspending James Douglas Godbee pursuant to Tenn. Sup. Ct. R. 9, § 4.3, due to Mr. Godbee's posing a threat of substantial harm to the public. On August 13, 2012, Mr. Godbee filed a Petition for Dissolution of Temporary Order of Suspension. On August 15, 2012, this Court entered an Order requiring the Board of Professional Responsibility to set a hearing and submit its Report on Mr. Godbee's Petition for Dissolution.

On September 13, 2012, a hearing was conducted before a three-member Hearing Panel of the Board of Professional Responsibility. On September 26, 2012, the Hearing Panel entered its Report and Recommendation that Mr. Godbee's Petition to Dissolve his Temporary Suspension be denied. A copy of the Hearing Panel Report and Recommendation is attached hereto and incorporated herein by reference.

It is, therefore, ordered, adjudged, and decreed by the Court:

The temporary suspension imposed on James Douglas Godbee by Order of Temporary Suspension filed August 6, 2012, remains in effect until dissolved or modified by Order of this Court.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "William C. Koch, Jr.", written over a horizontal line.

WILLIAM C. KOCH, JR., JUSTICE

FILED

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IN DISCIPLINARY DISTRICT I
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

BOARD OF PROFESSIONAL
RESPONSIBILITY

tw
EXEC. SEC.

IN RE: JOHN DOUGLAS GODBEE,
Petitioner

Docket No. 2012-2141-1-SG(4.3)

**REPORT AND RECOMMENDATION OF HEARING PANEL ON PETITION TO
DISSOLVE ORDER OF TEMPORARY SUSPENSION**

On September 13, 2012, a panel consisting of William C. Bovender (Chair), Wade Davies and Michael J. King convened a hearing on Petitioner John Douglas Godbee's ("Godbee") Request to Dissolve Order of Temporary Suspension. Godbee called four witnesses: Tina Arnold, Ed Frost, Tina Davis and Jack Marecic. Godbee also testified. The Board of Professional Responsibility ("Board") called Sheila Pearson, Misty Pearson, Scott Lott and Ted Rice. Based upon the testimony of these witnesses, exhibits introduced by the parties and the panel's review of the file as a whole, it is the panel's recommendation that the Respondent's Request to Dissolve the Order of Temporary Suspension be DENIED.

PROCEDURAL HISTORY AND ALLEGATIONS

On July 27, 2012, the Board filed a Petition for Temporary Suspension with the Tennessee Supreme Court pursuant to Tenn. Sup. Ct. R. 9 §4.3 on the basis that Godbee "poses a threat of substantial harm to the public." *See* Petition for Temporary Suspension, para. 2. The petition was supported by the affidavits of Sandy Garrett, Disciplinary Counsel for the Board, Jeanne Broadwell, General Counsel for the Tennessee Bureau of Investigation and the sworn statement of Sheila Pierson. *See* Petition for Temporary Suspension.

Prior to the initiation of the temporary suspension petition, Godbee was the subject of a separate petition for discipline. *See* Affidavit of Garrett. On September 22, 2011 the Board filed

a petition for discipline on two grounds. *Id.* First, Godbee self-reported that he had been indicted for official misconduct for allegedly attempting to solicit and receiving sexual favors from female defendants Godbee was prosecuting as an assistant district attorney. *Id.* In addition, eleven females reported that Godbee had solicited and/or received sexual favors in criminal cases. *Id.*¹

On July 23, 2012, the Board received a sworn statement taken by the Tennessee Bureau of Investigation from Shelia Pearson. *Id.* Shelia Pearson was represented by Godbee in early 2012 on theft charges. *See* Sworn Statement of Sheila Pearson. She recounted several sexual encounters with Godbee and further stated that the sexual acts were performed in exchange for his representation of her. *Id.* One of the sexual encounters occurred at a boat dock on Cherokee Lake and involved Shelia Pearson and her daughter-in-law Misty Burns Pearson. *Id.* For the sexual encounter, Shelia and Misty Pearson were paid \$220. *Id.* Approximately 7-10 days later, Shelia and Misty Pearson went to Godbee's apartment and Shelia Pearson and Godbee engaged in another sexual act. *Id.* Mr. Godbee paid \$100 to Shelia Pearson and \$40 to Misty Pearson. *Id.* Shelia Pearson also described a third sexual encounter at Godbee's apartment where she was paid \$100 in exchange for a sexual act. *Id.* In her sworn statement, Shelia Pearson also alleged that she took another woman, Tina Arnold, to Godbee's apartment for the purpose of a sexual act and that she was paid \$40 to bring Ms. Arnold to Godbee. *Id.* Sheila Pearson identified another woman, Tina Davis, as a person that Godbee stated that he "wanted."

¹ The Board represented at the hearing that both the original September 2011 petition for misconduct involving sexual misconduct with criminal defendants in cases he prosecuted and the allegations of sexual misconduct with clients during 2012 provide the basis for the temporary suspension. While the Board did not introduce testimony regarding the misconduct in the original petition, the indictment of Godbee was introduced. In addition, when Godbee was questioned regarding these allegations, he invoked his Fifth Amendment right and declined to testify. As this is a civil proceeding, the Board drew an adverse inference due to Godbee's refusal to answer questions regarding the original allegations. Accordingly, the remainder of this report is focused on the allegations of sexual misconduct with his clients.

In response, Godbee admitted he represented Shelia Pearson and that she paid a \$100 down payment toward a \$500 fee. *See* Answer of Godbee. He denied having any sexual relations with Shelia Pearson or Misty Pearson. *Id.* He denies ever having accompanied the women to a boat dock or ever picking either one of them up. *Id.* He does admit that Shelia and Misty Pearson came to his apartment; however, he stated that he was practicing out of his home/apartment and that clients, potential clients, former clients and possible witnesses have come to his home. *Id.* He denied Shelia Pearson has ever brought Tina Arnold to his apartment. *Id.* In his answer, Godbee also stated that in a conversation with a local bail bondsman, Misty Pearson claimed that the Pearsons were going to “set up” Doug Godbee. *Id.*

SUMMARY OF TESTIMONY

(1) Tina Arnold

Tina Arnold testified at the hearing that she had never been to Godbee’s house and does not know where lives. She denied that she ever had sex with Godbee or that he ever provided money to her for sex. Ms. Arnold stated that she had never been to Godbee’s home.

(2) Ed Frost

Ed Frost, a local bail bondsman, also testified at trial. Mr. Frost testified that on June 11, 2012 he picked up Misty Pearson for failing to appear on an appearance bond. He stated that during a conversation with Misty Pearson in his car, she told him that Shelia and Misty Pearson were going to set up Godbee. He testified that Sheila Pearson was setting up Godbee at the request of Chad Gillenwater, a TBI agent. However, Frost could not provide any motive for either Sheila Pearson, Misty Pearson or Gillenwater for setting up Godbee. Approximately two weeks after speaking with Misty Pearson, Mr. Frost told Godbee about the conversation. Godbee acted shocked and stated he couldn’t believe this was happening. The panel noted that

Godbee previously related these allegations to the Board, but stated that Frost told Godbee it was Sheila Pearson who had told Frost of a plan to “set up” Godbee. *See* Exhibit 3 (Godbee letter dated July 31, 2012).

(3) Tina Davis

Tina Davis was represented by Godbee. The representation began on April 1, 2012. Davis testified that Shelia Pearson never propositioned her to have sex with Godbee. She stated she met Godbee in court and only met with him at the court. She stated she has never been to Godbee’s house, apartment or office.

(4) Jack Marecic

Jack Marecic is an attorney in Hawkins County, Tennessee. He was admitted to practice in 1996. He has been an assistant district attorney for several years and in private practice for approximately 10 years. He stated he has worked with Godbee from time to time and has never seen Godbee out of line with women. He did not believe Godbee had a reputation for being dishonest. Mr. Marecic also testified he had no personal knowledge of the facts but has read about the allegations in newspapers.

(5) Doug Godbee

Godbee testified and began by adopting his handwritten statement that was filed with his response to the temporary suspension. Mr. Godbee invoked his Fifth Amendment right against self-incrimination with respect to any questions asked about the initial September 22, 2011 petition for discipline. Mr. Godbee did agree to answer questions regarding the current petition for temporary suspension. He testified that until recently, he was enrolled in the Tennessee Lawyer Assistance Program (TLAP), but had recently been discharged from the program.

Mr. Godbee admitted he represented both Shelia and Misty Pearson. There were times when Mr. Godbee met with the Pearsons at his apartment. He denied ever having a sexual relationship with either of the Pearsons, denied ever going to a boat dock or lake with either Shelia or Misty Pearson. He stated he never paid any money to either Shelia or Misty Pearson. He claims he received \$100 for the representation of Misty Pearson and \$200 for the representation of Shelia Pearson and her son Sean Pearson. Godbee further testified that he would not have been able to give his clients money as he barely was making money for himself. He testified that due to his financial woes, he has been unable to pay for the psychological testing mandated by TLAP. He also stated he has not been able to engage in sexual relations for some time due to various medical conditions including diabetes, high blood pressure and depression. Godbee did not introduce any medical testimony to support these allegations.

Godbee testified that he met with Misty Pearson at the Hawkins County jail after the board petition for temporary suspension was filed. He also met with her on or about August 23, 2012 to discuss the pending Board of Professional Responsibility complaint. He ultimately obtained a statement from Misty Pearson where she denied having sexual relations with Godbee in exchange for his representation. *See* Exhibit 12. After obtaining the written statement, Godbee admitted to paying Misty Pearson \$50 to keep her from being placed on violation by her probation officer.

Godbee also admitted to not complying with the requirements of Rule 4.3 after his temporary suspension. He did not notify his clients in writing via certified or registered mail of his temporary suspension. He did not set up a trust account for any fees received during the temporary suspension period and, in fact, stated he does not have a trust account because he “does not handle client money.” He also made at least two court appearances, one on September

6 and one on September 7, in violation of the temporary suspension order. Godbee stated that after discussions with his counsel, there was some ambiguity as to whether his temporary suspension remained in effect since he had not yet had a hearing on his request to lift the suspension. Godbee self-reported his September 7 appearance in court to the Board of Professional Responsibility.

(6) Sheila Pearson

Shelia Pearson testified regarding several sexual encounters with Godbee. Shelia Pearson described performing sex acts with Godbee at a boat dock on Cherokee Lake while accompanied by her daughter-in-law Misty Pearson, and at Doug Godbee's apartment on two occasions. She testified that her daughter-in-law also performed sexual acts on Godbee at his apartment. Sheila Pearson testified that while both she and Misty Pearson received money from Godbee for performing the sex acts, she understood that the sex acts were in exchange for his representation of her and her son. Shelia Pearson testified that she took two different women to see Godbee to perform sexual acts, Tina Arnold and Amanda West. Shelia Pearson ultimately went to the Tennessee Bureau of Investigation regarding these sexual encounters and provided a sworn statement.

(7) Misty Pearson

Misty Pearson states that Godbee represented her with respect to various drug related criminal charges beginning in December 2011. Misty Pearson also testified that she engaged in sexual relations with Godbee. Prior to the sexual encounter with Godbee at the boat dock, Misty Pearson stated that she went to Godbee's apartment in approximately March of 2012 and engaged in sexual relations with Godbee. Pearson testified there were approximately six different occasions that she engaged in sexual acts with Godbee. While Misty Pearson received

money from Godbee for the sex acts, she understood that the acts were compensation for his representation of her. Godbee represented her until late August 2012.

As a result of Misty Pearson's criminal charges, she was incarcerated for a period of time during 2012. After the temporary suspension order was issued and while she remained incarcerated, Godbee visited Misty Pearson on three different occasions. She stated that Godbee wanted her to lie about what occurred and approximately two days after Misty Pearson was released from jail, Godbee visited her at Shelia Pearson's house. He obtained a statement from Misty Pearson dated August 25, 2012 denying that she had provided sex in exchange for Godbee's representation of her. *See Exhibit 12.* In an August 27, 2012 statement to the TBI she stated Godbee agreed to pay her \$45 for her probation fees if she would lie for Godbee at the hearing. *See Exhibit 13.* At the hearing, Misty Pearson testified the August 25, 2012 written statement was false and that she provided the statement because she was afraid that she would get into additional trouble if she did not provide Godbee the statement. She also testified that at the time she provided the statement, Godbee told her that he would help her if she would help him. Specifically, he stated he would help her pay any probation fees that were coming due.

Following the August 25, 2012 meeting, Misty Pearson met with the Tennessee Bureau of Investigation and agreed to wear a recording device during conversations with Godbee. During an August 27, 2012 telephonic conversation with Godbee, Pearson asked Godbee about the money that he stated he would pay her. Godbee stated he had no money at the time but would get back to her. When Misty Pearson asked Godbee what she should say at the upcoming hearing, he responded by telling her "we'll figure it out." *See Exhibit 14.* In a phone call on August 28, 2012, Godbee again stated he did not have much luck in obtaining the money. He later stated during the telephone conversation that when they met on August 25th (when Godbee

obtained the statement) he agreed to try and help Misty Pearson. *Id.* Subsequently, Godbee and Pearson met at the medical center in Rogersville. According to Pearson, Godbee gave her \$30 in cash and asked whether she would still come to court for him.

(8) Scott Lott

Scott Lott, an agent with the Tennessee Bureau of Investigation, also testified. Mr. Lott testified that he interviewed Misty Pearson who stated that Godbee had come to Shelia Pearson's house and sat in his car where he asked Misty Pearson to change her story in exchange for the payment of court fees and probation fees. Misty Pearson agreed to wear a listening device and participate in conversations with Godbee. Three recordings were obtained. Two were recordings of telephone conversations and one was a recording of a face to face meeting between Misty Pearson and Godbee. Lott authenticated the recordings that were introduced into evidence as Exhibit 14. Lott testified that after the third meeting, Misty Person provided \$30 to the Tennessee Bureau of Investigation that she stated she received from Doug Godbee during the meeting.

(9) Ted Rice

Ted Rice is the Director of the Tennessee Lawyer Assistance Program. He testified that Godbee was participating in the TLAP program. On August 8, 2012, Godbee was discharged from the TLAP program due to unaddressed sexual proclivity issues. TLAP requested that Godbee undergo a complete bio/psycho/sexual evaluation with an approved facility that conducts sexual compulsivity evaluations. To date, Godbee has not undergone an evaluation.²

² The Board previously filed a Motion to Permit Supplemental Petition for Temporary Suspension requesting this panel allow them to introduce Godbee's discharge from the TLAP program as an additional basis for the temporary suspension. By prior order of the panel, this motion was denied. The panel did not consider Godbee's discharge from the TLAP program in making its recommendation on Respondent's Petition to Dissolve the Temporary Suspension.

RECOMMENDATION OF PANEL

Section 4.3 of the Tennessee Supreme Court Rule 9 outlines temporary suspensions.

4.3. Temporary Suspension. On petition of the Disciplinary Counsel and supported by an affidavit demonstrating facts personally known to affiant, showing that an attorney has misappropriated funds to the attorney's own use, has failed to respond to the Board or Disciplinary Counsel concerning a complaint of misconduct, has failed to substantially comply with a contract entered into with the Tennessee Lawyer Assistance Program, or otherwise poses a threat of substantial harm to the public, the Supreme Court may issue an order with such notice as the Court may prescribe imposing temporary conditions of probation on said attorney or temporarily suspending said attorney, or both.

Any order of temporary probation which restricts the attorney maintaining a trust account shall, when served on any bank maintaining an account against which said attorney may make withdrawals, serve an injunction to prevent said bank from making further payment from such account or accounts on any obligation except in accordance with restrictions imposed by the Court. Any order of temporary suspension issued under this rule shall preclude the attorney from accepting any new cases but shall not preclude such attorney from continuing to represent existing clients during the first 30 days after issuance of such temporary order; however, any fees tendered to such attorney during such 30 period be deposited in a trust fund from which withdrawals may be made only in accordance with restrictions imposed by the Court.

The attorney may for good cause request dissolution or amendment of any such temporary order by petition filed with the Supreme Court, a copy of which shall be served on the Disciplinary Counsel. Such petition for dissolution shall be set for immediate hearing before the Board of Professional Responsibility or a panel of three members, at least two of whom shall be members of the Board of Professional Responsibility and one of whom may be a district committee member from the same disciplinary district as the respondent, designated by the Chair of the Board, or, in the Chair's absence, the Vice-Chair. No more than one non-lawyer Board member may serve on the panel. The Board or its designated panel shall hear such petition forthwith and submit its report and recommendation to the Supreme Court with the utmost speed consistent with due process. Upon receipt of the foregoing report, the Supreme Court shall modify its order if appropriate and continue such provision of the order as may be appropriate until final disposition of all pending disciplinary charges against said attorney.

The basis for the temporary suspension of Godbee was the Board's allegation that his continuation of the practice of law posed a threat of substantial harm to the public. The issue before the panel is whether the Respondent has shown good cause for the lifting of the temporary

suspension. Godbee states he does not pose a threat of substantial harm to the public and provides two bases for lifting the temporary suspension. First, he states he did not engage in the conduct alleged in the complaint of misconduct. Second, he argues that even if the conduct were taken as true, such conduct does not warrant a temporary suspension. It is the recommendation of this panel that the temporary suspension remain in place as Godbee has failed to show good cause for lifting the temporary suspension.

(1) The proof establishes Godbee engaged in sexual misconduct with Sheila and Misty Pearson.

The proof presented at the hearing establishes by a preponderance of the evidence that Godbee engaged in the alleged conduct with Sheila and Misty Pearson. The testimony of Sheila and Misty Pearson are fairly consistent. Godbee calls into question the motives of these women in reporting the alleged conduct, but Godbee fails to establish any proof of an ulterior motive. While Godbee denies the sexual conduct, he does admit to having seen these women at his apartment. Moreover, his conduct after these allegations came to light casts substantial doubt upon the veracity of his testimony.

The panel recognizes that a statement from Misty Pearson has been introduced by Godbee that is contrary to Misty Pearson's testimony at the hearing. Godbee visited Misty Pearson three times while she was in jail after the temporary suspension order was issued. He obtained the statement when they met in his car at Sheila Pierson's house after she was released from jail. Misty Pearson claims that during these visits, Godbee talked about the allegations that were the subject of this hearing and that he told her that if she would help Godbee, he would help her. There does not appear to be any motive to Godbee's visits with Misty Pearson other than the desire to obtain a statement concerning these allegations. After obtaining the statement,

Godbee provided money to Misty Pearson. Godbee testified he gave Misty Pearson fifty dollars. Misty Pearson testified he gave her thirty dollars. In recordings made by the TBI, Godbee confirms that he had promised to help Misty Pearson during the same meeting that she provided the written statement. Based on the evidence presented, it seems inconceivable to this panel that there was any proper motive or legitimate purpose in Godbee providing cash to Misty Pearson after obtaining her statement. The only conclusion this panel can draw is that Godbee paid Misty Pearson money to change her testimony. Accordingly, the panel credits the testimony of Misty Pearson at the hearing and discredits the statement of Misty Pearson obtained by Godbee. Based on the testimony of Sheila and Misty Godbee, the panel finds that Godbee engaged in the alleged sexual misconduct.

(2) The proof fails to establish Godbee engaged in sexual misconduct with Tina Davis or Tina Arnold

The panel takes at face value the testimony of Tina Davis or Tina Arnold. Both women emphatically deny that any sexual activity took place with Godbee. Unlike the statement of Misty Pearson that was introduced at the hearing, there is no evidence that their statements were obtained through threats, coercion or other improper means. The panel does not find that the Board has established that the alleged misconduct took place.

(3) The alleged conduct warrants a temporary suspension.

Respondent argues that even if the allegations were taken as true, the conduct does not warrant a temporary suspension. The panel rejects this argument. At the outset, Godbee must demonstrate good cause for the lifting of the temporary suspension. The panel finds that the exchange of sex for legal representation, especially in light of the pending criminal charges and disciplinary petition regarding allegations he exchanged sex with criminal defendants for

reduction in criminal charges and sentences, represents a threat of substantial harm to the public. Accordingly, when this testimony is taken as true, Godbee cannot establish good cause for lifting the suspension.

(4) Godbee's conduct post-suspension warrants a temporary suspension.

Godbee's post-suspension conduct also warrants continuation of the temporary suspension. He has engaged in conduct that can only be described as witness tampering. He has also failed to comply with the requirements of Rule 4.3 regarding notification of clients and the handling of fees during the thirty day winding up period prior to the beginning of the suspension period. Finally, he engaged in the practice of law after the suspension period commenced.

(a) Godbee tampered with the testimony of Misty Pearson

Godbee admits paying fifty dollars cash after obtaining a written statement from her. At the time he gave the cash to Misty Pearson, Godbee (1) knew there was a pending Board proceeding, (2) knew Misty Pearson was a material witness at the Board proceeding, and (3) per his own testimony, gave the only money that he had available to him to Misty Pearson. This conduct alone casts suspicion upon Godbee's testimony regarding the events and the statement he procured. Moreover, in the recordings made by the Tennessee Bureau of Investigation, Godbee referenced the fact that he agreed to provide money to Misty Pearson in exchange for her favorable testimony at this hearing. Godbee's conduct with this witness warrants continuation of the temporary suspension.

(b) Godbee failed to notify clients in writing of the suspension and mishandled fees received after receipt of the suspension order.

Godbee admits to not having complied with the requirements of Section 4.3 by failing to maintain fees tendered to the attorney during the 30 day period after the initial suspension in a

trust fund. Godbee further admits that he did not notify his clients in writing via registered or certified mail regarding his temporary suspension as required by Section 18 of Rule 9. Godbee's inability to comply with the rules regarding the conduct of his practice post-suspension raises substantial questions about the threat he poses to the public if he continues to practice law. This misconduct also fails to establish good cause for lifting the temporary suspension.

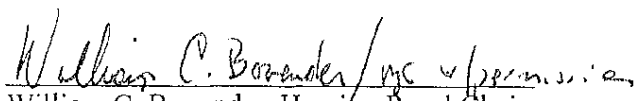
(c) Godbee made two court appearances after the suspension period began.

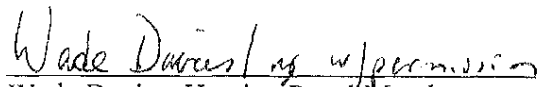
Godbee made at least two appearances before tribunals after the suspension was in full force and effect. On September 6th, he appeared at court on a scheduling issue on behalf of a client. On September 7th, he appeared before a court in Hawkins County on a separate matter. After that appearance, he self-reported this potential violation to the Board. In defense of these appearances, Godbee asserts that based upon the advice of counsel, he believed there was ambiguity regarding the effect of the suspension since his request to lift the temporary suspension had not been heard. The panel rejects the assertion that there was any ambiguity in the temporary suspension order. Moreover, to the extent Godbee was confused as to the status of his ability to practice law due to the fact his request to dissolve the temporary suspension had not been heard, Godbee was required to seek clarification from the Supreme Court. The unilateral decision to continue to practice law after the suspension went into effect also fails to establish good cause for lifting the suspension.

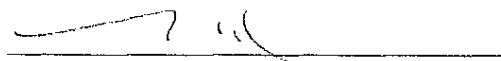
CONCLUSION

The burden of proof is on Godbee to establish good cause for lifting the temporary suspension. He has failed to carry this burden. Based upon the testimony of the witnesses, it appears that Godbee has engaged in the alleged sexual misconduct as it relates to Misty and Sheila Pierson. These acts of sexual misconduct warrant the imposition of the temporary suspension. Finally, Godbee's post-suspension conduct including the tampering with a witness, failing to properly notify clients of the suspension, failure to properly handle fees and continuing to practice law provide additional bases for continuation of the temporary suspension. This panel finds that Godbee poses a substantial threat of harm to the public and that he has failed to establish good cause for lifting the suspension. Accordingly, the panel recommends the Respondent's Request to Dissolve the Order of Temporary Suspension be DENIED.

Respectfully Submitted this 26th day of September, 2012.


William C. Bovender, Hearing Panel Chair


Wade Davies, Hearing Panel Member


Michael J. King, Hearing Panel Member