

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 5<sup>th</sup> of July, 2001, the following order was made and entered:

Lawyer Disciplinary Board,  
Complainant

vs.) No. 28794

Gerald B. Hough, a member of The  
West Virginia State Bar, Respondent

On a former day, to-wit, May 31, 2001, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Timothy L. Sweeney, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition recommending: (1) that no sanction be imposed by this Court upon the respondent; (2) that the respondent be cautioned; and (3) that respondent be required to reimburse the Lawyer Disciplinary Board for costs and expenses incurred in the investigation of this matter in the amount of Four Hundred Dollars (\$400.00).

Upon consideration whereof, the Court is of opinion to and doth hereby remand this action to the Hearing Panel Subcommittee of the Lawyer Disciplinary Board for compliance with Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.

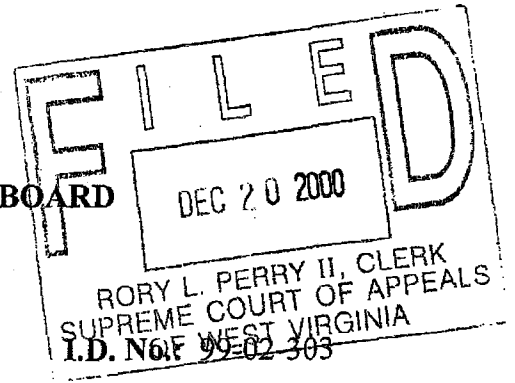
A True Copy

Attest: \_\_\_\_\_

  
Clerk, Supreme Court of Appeals

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~~002908~~



**DO NOT REMOVE BEFORE THE LAWYER DISCIPLINARY BOARD  
FROM FILE STATE OF WEST VIRGINIA**

**In Re:** GERALD B. HOUGH, a member of  
The West Virginia State Bar

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**STATEMENT OF CHARGES**

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**YOU ARE HEREBY** notified that a Hearing Panel Subcommittee of the Lawyer Disciplinary Board will hold a hearing pursuant to Rules 3.3 through 3.16 of the Rules of Disciplinary Procedure, upon the following charges against you:

1. Gerald B. Hough is a lawyer practicing in Glenville, Gilmer County, West Virginia, and, as such, is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board.

Respondent was admitted to The West Virginia State Bar on October 13, 1998.

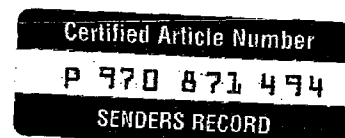
2. Anita Phillips Wiseman alleged that she was raped.

3. Respondent was the criminal defense counsel for the man charged with this crime.

4. Respondent was also on the academic staff at Glenville State College.

5. Ms. Wiseman [then Anita Phillips] was a student at Glenville State College during times relevant to the criminal case.

6. At Glenville State College, a student's transcripts are confidential.



17. By telling college officials that he was an advisor for Ms. Wiseman in order to obtain her confidential records, when his real purpose was to use the records for the criminal case, Respondent violated Rules 4.1(a), 4.4 and / or 8.4(c) of the Rules of Professional Conduct, which provide:

**Rule 4.1. Truthfulness in statements to others.**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person;

**Rule 4.4. Respect for rights of third persons.**

In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

**Rule 8.4. Misconduct.**

It is professional misconduct for a lawyer to:

- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

18. For holding himself out to college officials as Ms. Wiseman's advisor in order to obtain these confidential records, and / or for holding himself out to college officials as someone who was entitled to these records, when his real purpose was to use the records for the criminal case, Respondent violated Rules 4.1(a), 4.4, and 8.4(c), as set forth above.

\* \* \*

Pursuant to Rule 2.9(d) of the Rules of Lawyer Disciplinary Procedure, the Investigative Panel has found that probable cause exists to formally charge you with a violation of the Rules of Professional Conduct and has issued this Statement of Charges. As

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LAWYER DISCIPLINARY BOARD  
STATE OF WEST VIRGINIA

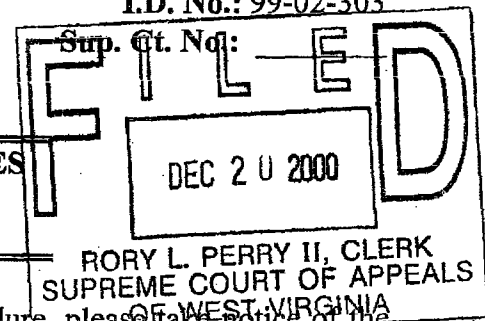
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Re: Gerald Hough, a member of  
The West Virginia State Bar

I.D. No.: 99-02-303

Sup. Ct. No:

PREHEARING PROCEDURES  
AND  
SCHEDULING NOTICE



Pursuant to the Rules of Lawyer Disciplinary Procedure, please take notice of the

following:

A. **Applicable Rules.** The Rules of Lawyer Disciplinary Procedure [RLDP] apply to the present proceedings, and are found in the Court Rules Volume of the West Virginia Code. Please note that the Rules of Lawyer Disciplinary Procedure have been significantly amended effective July 1, 1999. The amendments apply to all pending cases. The West Virginia Rules of Evidence shall apply to evidentiary matters. Unless specified herein or by the Rules of Lawyer Disciplinary Procedure, the Hearing Subcommittee Chairperson may extend or shorten the deadlines for good cause shown.

B. **Notice and Scheduling of Hearing.** Within 30 days of service of the formal charges, the Hearing Panel Subcommittee shall set a hearing to be held within 120 days of service of the formal charges, unless Respondent, Lawyer Disciplinary Counsel and the Hearing Panel Subcommittee agree otherwise. (Rule 3.4 and 3.5). The Hearing Panel Subcommittee, the Office of Disciplinary Counsel and Respondent may agree to designate a hearing examiner to conduct a hearing. (Rule 3.3). These deadlines may be extended by the Hearing Panel Subcommittee or its Chairperson upon good cause shown.

C. **Filing of Pleadings.** The original of all motions, answers or other pleadings shall be filed with the Clerk of the Supreme Court of Appeals and shall be available for public inspection. The party filing the pleading shall send a copy to each Hearing Subcommittee member or hearing examiner and to opposing counsel, or Respondent if proceeding *pro se*, at the following addresses:

forth in Rule 3.4 will be allowed except upon a successful motion to the Hearing Panel Subcommittee showing good cause. (Rule 3.4).

F. **Subpoenas.** Each party may request subpoenas or other lawful process through the Hearing Subcommittee Chairperson or the Clerk of the Supreme Court of Appeals consistent with the purposes set forth in Rule 3.8 of the Rules of Lawyer Disciplinary Procedure. Any subpoenas shall be served in accordance with the West Virginia Rules of Civil Procedure. No blank subpoenas will be signed. The subpoenas are returnable before the Hearing Panel Subcommittee. The failure of any person without adequate excuse to obey a subpoena or other process shall constitute contempt of the Board. (Rule 3.8). A sample subpoena is attached.

G. **Pretrial Hearing.** A pretrial hearing will be held by telephone on a date to be determined by the Hearing Panel Subcommittee Chairperson. The Office of Lawyer Disciplinary Counsel will initiate the call.

H. **Exhibit Copies.** For each exhibit a party intends to introduce as evidence at the hearing, he or she shall bring an original [or copy consistent with the Rules of Evidence] for the official record; and shall bring four additional copies, one for each Hearing Panel Subcommittee Member and one for opposing counsel. The documents shall be three-hole punched prior to the hearing.

I. **Dispositive Motions.** Unless otherwise directed by the Hearing Panel Subcommittee Chairperson, all dispositive motions shall be filed along with supporting memoranda not later than 10 days before the pretrial hearing. The opposing party shall respond within 7 days of receipt of said motions.

J. **Motions in Limine and other Pretrial Motions.** Unless otherwise directed by the Hearing Panel Subcommittee Chairperson, all motions in limine and other pretrial motions other than discovery matters shall be filed along with supporting memoranda, if any, not later than 10 days before the pretrial hearing. The opposing party shall respond within 7 days of receipt of said motions.

K. **Continuances.** Motions to Continue shall be filed with the Clerk of the Supreme Court of Appeals and the Chairperson of the Hearing Panel Subcommittee no later than 14 days prior to the date of the hearing other than in the case of emergency. (Rule 3.4).

LAWYER DISCIPLINARY CASE SUBPOENA

IN RE: Gerald Hough

Supreme Court No:

I. D. No.: 99-02-303

A member of The West Virginia State Bar

TO: [If the list of the persons/entities subpoenaed is too numerous to fit in this area, type "See Attached List" and attach list, titled "Persons/Entities Subpoenaed,]

YOU ARE HEREBY COMMANDED [mark all that apply]

to appear before the Hearing Panel Subcommittee of the Lawyer Disciplinary Board at the place, date and time specified below to
testify in the taking of a deposition in the above-styled case; or
testify in a hearing in the above-styled case;

to produce and permit inspection of and copying of designated books, documents or tangible things in your possession, custody or control, as follows:
[If the number of items is too numerous to fit in this area, type "See Attached List- Production/Inspection" and attach list, titled "Production/Inspection".]

to permit inspection of premises located at place, date and time specified below.

Place of Appearance/Inspection:

Date of Appearance/Inspection:

Time of Appearance/Inspection:

AM/PM

Issued by:

Please state the name and office address of the attorney requesting this subpoena:

Title:

Signature:

Bar Identification No., if applicable:

Date Issued:

W. Va. R. Civ. P. 45(c). Place of the examination.- A deponent may be required to attend an examination only in the county in which the deponent resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of the Court [Hearing Panel Subcommittee].

W. Va. R. Civ. P. 45(d). Protection of persons subject to subpoenas.- (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The Court [Hearing Panel Subcommittee] on behalf of which the subpoena was issued may enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings, and a reasonable attorney's fee. (2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. (B) Subject to paragraph (e)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the Court [Hearing Panel Subcommittee] by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded. (3)(A) On timely motion, the Court [Hearing Panel Subcommittee] by which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow reasonable time for compliance; (ii) requires a person to travel for a deposition to a place other than the county in which that person resides or is employed or transacts business in person or at a place fixed by order of the Court [Hearing Panel Subcommittee]; (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or (iv) subjects a person to undue burden. (B) If a subpoena (i) requires disclosure of a trade secret or other confidential research development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the Court [Hearing Panel Subcommittee] may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the Court [Hearing Panel Subcommittee] may order appearance or production only upon specified conditions.

W. Va. R. Civ. P. 45(e). Duties in responding to subpoena.- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand. (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Furthermore, in light of the Investigative Panel's issuance of the Statement of Charges, Disciplinary Counsel moved the Circuit Court of Gilmer County to unseal the Circuit Court file in Respondent's underlying representation of Mr. Wilkie Perez. This representation is the subject of the Statement of Charges. On January 5, 2001, Disciplinary Counsel obtained a copy of the Gilmer County Circuit Clerk's file and would need to ask Respondent questions about the documents in the file.

Permitting this discovery deposition would reduce the amount of time needed for the hearing in this matter, as both sides would better know the facts and issues in dispute.

Accordingly, the Office of Disciplinary Counsel requests leave to take the discovery deposition of Respondent Gerald Hough.

Respectfully submitted,

The Office of Disciplinary Counsel,

By counsel,



Amie L. Johnson [Bar #6623]  
Disciplinary Counsel  
900 Lee St., East, Ste 1710  
Charleston, WV 25301  
(304) 558-7999  
Fax (304) 558-4015

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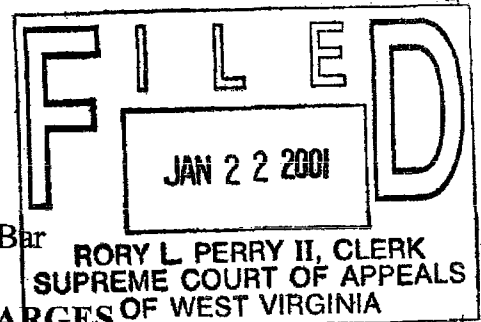
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**BEFORE THE LAWYER DISCIPLINARY BOARD  
STATE OF WEST VIRGINIA**

I.D. No. 99-02-303

In Re: **GERALD B. HOUGH**,  
a Member of the West Virginia State Bar

**RESPONSE TO STATEMENT OF CHARGES**



Comes now the Respondent member, **GERALD B. HOUGH**, by his attorney James Wilson Douglas, and in and for his response to the Statement of Charges, heretofore regularly filed, does hereby assert the following affirmative defenses and does aver, depose and say:

**FIRST DEFENSE**

That Statement of Charges herein is not timely made and the same does not represent a fresh complaint within the context of the alleged infraction, and therefore, the lapse of time has caused the Respondent to be: a) disadvantaged and aggrieved in the preparation of his defense; and, b) denied a meaningful opportunity to cross-examine effectively the anticipated witnesses to be offered against him.

**SECOND DEFENSE**

That Statement of Charges herein is a retaliatory measure by the Complainant Anita Phillips Wiseman, a.k.a., Anita Thornhill, for the failure or refusal of the Grand Jury attending the July 1999 Term of the Circuit Court of Gilmer County to re-indict one Wilkie Perez.



## **SIXTH DEFENSE**

That the allegations raised by the Wiseman Complaint and the Statement of Charges herein, even if true, are more properly the subject matter of a civil or malpractice claims.

## **SEVENTH DEFENSE**

That the Office of Disciplinary Counsel has failed, neglected and refused to abide by the mandatory and affirmative discovery submissions within established time lines, as promulgated by Rule 3.4, RLDP.

## **RESPONSE**

### **I**

That the Respondent admits Paragraphs 1., 3., 4. and 7. of the Statement of Charges herein.

### **II**

That the Respondent denies Paragraphs 2., 8., 9., 10., 11., 12., 13., 14., 15., 16., 17. and 18., as pled, of the Statement of Charges herein, and the Respondent demands strict proof thereof.

### **III**

That the Respondent is without sufficient information or knowledge to form a belief as to the truth or veracity of the averred student status of the Complainant, set forth in Paragraph 5. of the Statement of Charges herein, or all of

**VERIFICATION**

STATE OF WEST VIRGINIA,

COUNTY OF BRAXTON; TO-WIT:

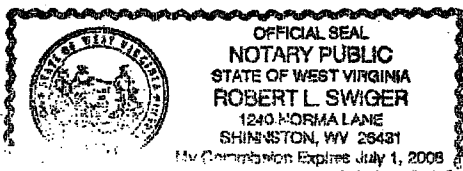
**GERALD B. HOUGH**, the Respondent named in the foregoing **attached pleading**, after being duly sworn, says that the facts and allegations therein contained are true, except so far as they are therein stated to be on information and belief, and that so far as they are therein stated to be on information and belief, he believes them to be true.

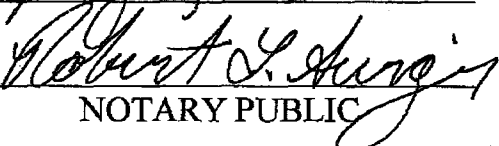
  
GERALD B. HOUGH

Taken, sworn to and subscribed before me this the 18<sup>th</sup> day of  
January, 2001, by **GERALD B. HOUGH**.

My Commission Expires:

July 1, 2008



  
NOTARY PUBLIC

STATE OF WEST VIRGINIA  
OFFICE OF DISCIPLINARY COUNSEL

SUITE 1710, HUNTINGTON BANK BUILDING

900 LEE STREET, EAST

CHARLESTON, WEST VIRGINIA 25301

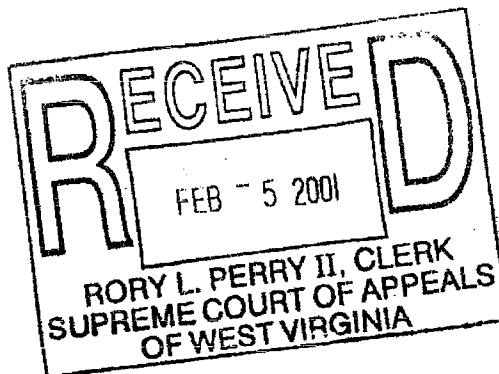
OFFICE: (304) 558-7999

FAX: (304) 558-4015

LAWRENCE J. LEWIS  
CHIEF LAWYER DISCIPLINARY COUNSEL  
AMIE LANGFITT JOHNSON  
LAWYER DISCIPLINARY COUNSEL  
MORGAN PALMER GRIFFITH  
LAWYER DISCIPLINARY COUNSEL

February 2, 2001

Rory L. Perry, Clerk  
Supreme Court of Appeals of West Virginia  
State Capitol Building 1, Room E-317  
Charleston, West Virginia 25305



**In re:**            **Lawyer Disciplinary Board v. Gerald Hough, Esquire**  
                         **I.D. No.: 99-02-303**  
                         **Supreme Court No. 28794**

Dear Mr. Perry:

Enclosed for filing please find the original "Motion to Extend Deadline to Hold Hearing" in the above-referenced matter.

Sincerely,

A handwritten signature in cursive script that reads "Amie L. Johnson".

Amie L. Johnson

ALJ/djw  
Enclosure

cc: James W. Douglas, Esquire, Respondent's Counsel  
Timothy L. Sweeney, Esquire  
Glenn Walker, CPA  
Cheryl Connelly, Esquire

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE LAWYER DISCIPLINARY BOARD  
STATE OF WEST VIRGINIA**

**IN RE: GERALD HOUGH**, an active member of  
The West Virginia State Bar

**I.D. No.: 99-02-303  
Supreme Ct. No.: 28794**

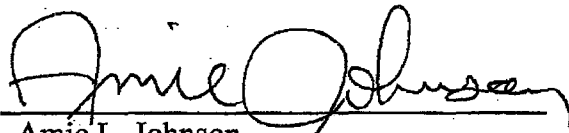
**CERTIFICATE OF SERVICE**

This is to certify that I, **Amie L. Johnson**, Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, February 2, 2001, served a true copy of the foregoing "**MOTION TO EXTEND DEADLINES TO HOLD HEARING**" and prepared "**ORDER EXTENDING DEADLINE TO HOLD HEARING**" upon James W. Douglas, Esquire, Counsel for Respondent, by mailing the same, United States Mail with sufficient postage, to the following address:

James W. Douglas, Esquire  
181B Main Street  
Sutton, West Virginia 26601

and upon the Hearing Panel Subcommittee Chairperson at the following address:

Timothy L. Sweeney, Esquire  
Post Office Box 340  
St. Marys, West Virginia 26170

  
Amie L. Johnson

one (1) sworn statement from the Respondent in reply to the former's initial inquiries into this matter;

4. That the Respondent may elect not to testify at the trial of the Statement of Charges herein, and thus, said deposition, if permitted, would negatively impact upon the privilege or right not to be compelled to testify against his ethical, penal, civil or otherwise punitive interests;

5. That the information sought by the Office of Disciplinary Counsel could be readily obtained from the cross-examination of the Respondent at hearing, should he choose to testify;

6. That from the four corners of said Motion, made by the Office of Disciplinary Counsel, there are additional ambiguous grounds asserted for the relief requested; e.g., "... other aspects... Counsel would explore.", to which Respondent could not be expected to frame a meaningful response;

7. That the naked Motion of the Office of Disciplinary Counsel does not demonstrate good cause for the deposition sought. Rule 3.4, RLDP;

8. That the deposition requested would add unnecessary costs and delay to this proceeding and cause the Respondent to incur additional expense to prepare therefor and to defend against the Statement of Charges; and,

9. For such other reasons as may appear on the hearing of Disciplinary Counsel's Motion.

**CERTIFICATE OF SERVICE**

I, JAMES WILSON DOUGLAS, the undersigned attorney, do hereby certify that a true copy of the foregoing **REPLY IN OPPOSITION TO MOTION TO DEPOSE** was deposited in the regular United States Mail, in an envelope properly stamped and addressed to the following:

Office of the Clerk  
Supreme Court of Appeals  
1900 Kanawha Boulevard, East  
State Capitol, Building 1, Room E-317  
Charleston, West Virginia 25305

and

Amie L. Johnson  
Office of Disciplinary Counsel  
Suite 1710, Huntington Bank Building  
900 Lee Street, East  
Charleston, West Virginia 25301

on this 2<sup>nd</sup> day of February, 2001.

  
JAMES WILSON DOUGLAS

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE  
LAWYER DISCIPLINARY BOARD**

**Re:** Gerald Hough, a member of  
The West Virginia State Bar

**I.D. No.:** 99-02-303  
**Sup. Ct. No.:** 28794

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**NOTICE OF PREHEARING AND HEARING**

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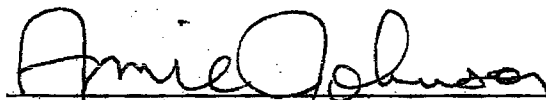
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**YOU ARE HEREBY** notified that at 10:00 a.m. on Monday, April 23, 2001, a telephonic prehearing conference will be held. The Office of Lawyer Disciplinary Counsel will initiate the conference call. Timothy L. Sweeney, Chairperson of the Hearing Panel Subcommittee will preside over this matter.

**YOU ARE HEREBY** notified that a hearing in this matter will be held at 10:00 a.m. on Tuesday, May 1, 2001, at the Days Inn Convention Center, Flatwoods, West Virginia. Subcommittee Chairperson Timothy Sweeney and Subcommittee members Cheryl Connelly and Glen Walker will preside.

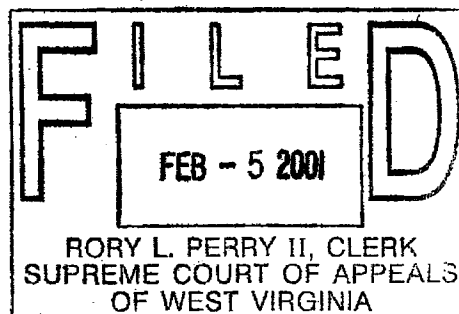
**THESE PROCEEDINGS** are being held pursuant to Rules 3.3 through 3.16 of the Rules of Lawyer Disciplinary Procedure, with respect to the charges which have been previously duly served on you.

OFFICE OF DISCIPLINARY COUNSEL  
By Counsel



Amie L. Johnson [Bar No. 6623]  
Lawyer Disciplinary Counsel  
900 Lee Street East, Suite 1710  
Charleston, West Virginia 25301  
(304) 558-7999  
(304) 558-4015 [facsimile]

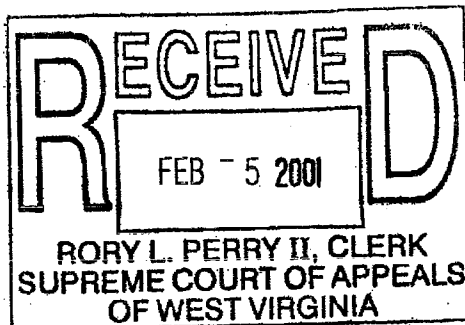
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STATE OF WEST VIRGINIA  
OFFICE OF DISCIPLINARY COUNSEL  
SUITE 1710, HUNTINGTON BANK BUILDING  
900 LEE STREET, EAST  
CHARLESTON, WEST VIRGINIA 25301  
OFFICE: (304) 558-7999  
FAX: (304) 558-4015

LAWRENCE J. LEWIS  
CHIEF LAWYER DISCIPLINARY COUNSEL  
AMIE LANGFITT JOHNSON  
LAWYER DISCIPLINARY COUNSEL  
MORGAN PALMER GRIFFITH  
LAWYER DISCIPLINARY COUNSEL

February 2, 2001



Rory L. Perry, Clerk  
Supreme Court of Appeals of West Virginia  
State Capitol Building 1, Room E-317  
Charleston, West Virginia 25305

*In re:*            **Lawyer Disciplinary Board v. Gerald Hough, Esquire**  
                      **I.D. No.: 99-02-303**  
                      **Supreme Court No. 28794**

Dear Mr. Perry:

Enclosed for filing please find the original "Certificate of Service" for the Office of Disciplinary Counsel's Discovery Pursuant to Rule 3.4 of the Rules of Lawyer Disciplinary Procedure in the above-referenced matter.

Sincerely,

  
Amie L. Johnson

ALJ/rfb  
Enclosure

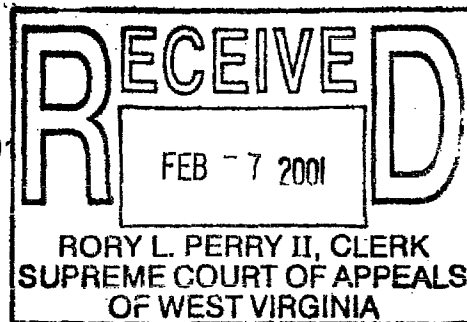
cc: James W. Douglas, Esquire, Respondent's Counsel  
Timothy L. Sweeney, Esquire  
Glenn Walker, CPA  
Cheryl Connelly, Esquire



STATE OF WEST VIRGINIA  
OFFICE OF DISCIPLINARY COUNSEL  
SUITE 1710, HUNTINGTON BANK BUILDING  
900 LEE STREET, EAST  
CHARLESTON, WEST VIRGINIA 25301  
OFFICE: (304) 558-7999  
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LAWRENCE J. LEWIS  
CHIEF LAWYER DISCIPLINARY COUNSEL  
AMIE LANGFITT JOHNSON  
LAWYER DISCIPLINARY COUNSEL  
MORGAN PALMER GRIFFITH  
LAWYER DISCIPLINARY COUNSEL

February 6, 2001



Rory L. Perry, Clerk  
Supreme Court of Appeals of West Virginia  
State Capitol Building 1, Room E-317  
Charleston, West Virginia 25305

***In re: Lawyer Disciplinary Board v. Gerald Hough, Esquire***  
***I.D. No.: 99-02-303***  
***Supreme Court No. 28794***

Dear Mr. Perry:

Enclosed for filing please find the original "Order Extending Deadline to Hold Hearing" for the Office of Disciplinary Counsel's Discovery Pursuant to Rule 3.4 of the Rules of Lawyer Disciplinary Procedure in the above-referenced matter.

Sincerely,

A handwritten signature in cursive script that reads "Amie L. Johnson".

Amie L. Johnson

ALJ/rfb  
Enclosure

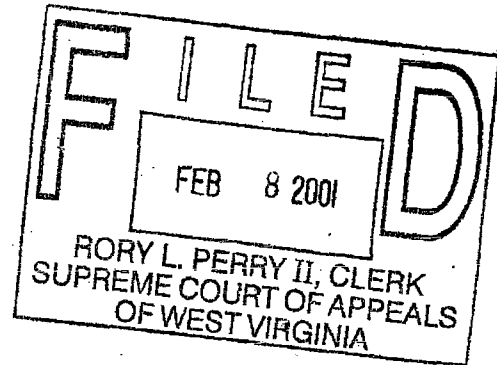
cc: James W. Douglas, Esquire, Respondent's Counsel  
Timothy L. Sweeney, Esquire  
Glenn Walker, CPA  
Cheryl Connelly, Esquire

STATE OF WEST VIRGINIA  
**OFFICE OF DISCIPLINARY COUNSEL**  
SUITE 1710, HUNTINGTON BANK BUILDING  
900 LEE STREET, EAST  
CHARLESTON, WEST VIRGINIA 25301  
OFFICE: (304) 558-7999  
FAX: (304) 558-4015

LAWRENCE J. LEWIS  
CHIEF LAWYER DISCIPLINARY COUNSEL  
AMIE LANGFITT JOHNSON  
LAWYER DISCIPLINARY COUNSEL  
MORGAN PALMER GRIFFITH  
LAWYER DISCIPLINARY COUNSEL

February 7, 2001

Rory L. Perry, Clerk  
Supreme Court of Appeals of West Virginia  
State Capitol Building 1, Room E-317  
Charleston, West Virginia 25305



**In re:           Lawyer Disciplinary Board v. Gerald Hough, Esquire**  
**I.D. No.: 99-02-303**  
**Supreme Court No. 28794**

Dear Mr. Perry:

Enclosed for filing please find the original "Office of Disciplinary Counsel's Reply to Respondent's Reply in Opposition to Motion to Depose" in the above-referenced matter.

Sincerely,

Amie L. Johnson

ALJ/rfb  
Enclosure

cc: James W. Douglas, Esquire, Respondent's Counsel  
Timothy L. Sweeney, Esquire  
Glenn Walker, CPA  
Cheryl Connelly, Esquire

Respondent further asserts that a deposition should not be held because Disciplinary Counsel already possesses a sworn statement from Respondent, i.e., the very brief initial response to the ethics complaint. See, Exhibit 1. However, that initial response did not include some of the defenses which are now being asserted in the Answer to the Statement of Charges. These new defenses include that the Statement of Charges [as issued by the Investigative Panel] is motivated and inspired by local political considerations. Another defense is that Respondent has been "disadvantaged and aggrieved" in the preparation of his defense by a "lapse in time", yet he does not identify specifically how he has been so disadvantaged. Another defense in the Answer is that the contemplated testimony of two unidentified principal witnesses is inherently untrustworthy. Based upon his brief initial response, Respondent presumably means that one of these witnesses is the Complainant, but it is not clear who the other "inherently untrustworthy" witness is – the prosecutor?

The requested deposition could be held at a time to give Respondent's counsel plenty of time to review the discovery provided, and still be held before the May 1, 2001 hearing in this matter. There would be no delay in the hearing date because of this requested deposition. In fact, the only slight delay in the hearing date thus far has been Respondent's Counsel's office's indication that a May hearing date is better for their schedule than an April date, which request has been accommodated.

With specific reference to paragraph four of Respondent's "Reply in

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE  
LAWYER DISCIPLINARY BOARD**

**Re: GERALD B. HOUGH, a member of  
The West Virginia State Bar**

**I.D. No.: 99-02-303  
Sup. Ct. No.: 28794**

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**CERTIFICATE OF SERVICE**

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This is to certify that I, Amie L. Johnson, Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, the 7th day of February, 2001, served a true copy of the foregoing "**OFFICE OF DISCIPLINARY COUNSEL'S REPLY TO RESPONDENT'S REPLY IN OPPOSITION TO MOTION TO DEPOSE**" upon James W. Douglas, counsel for Respondent Gerald Hough, and upon the Hearing Panel Subcommittee Chairperson Timothy Sweeney by mailing the same, United States Mail with sufficient postage, to the following addresses:

James W. Douglas, Esquire  
181B Main Street  
Sutton, WV 26601

Timothy L. Sweeney, Esquire  
P. O. Box 340  
St. Marys, WV 26170

  
Amie L. Johnson