ROB BONTA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General
CLAUDIA MOREHEAD
Deputy Attorney General
State Bar No. 205340
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6482
Facsimile: (916) 731-2117
Attorneys for Complainant

BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **DAVID WESLEY HUBBARD** **Basic Certificate No. 135727** **Intermediate Certificate No. 103800** **Advanced Certificate No. 109559** **Supervisory Certificate No. 87984,** Respondent.	Case No. 2300204 **ACCUSATION**

Complainant alleges:

PARTIES

1. Manuel Alvarez, Jr. (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the California Commission on Peace Officer Standards and Training (Commission).

2. On March 12, 2009, the Commission issued Basic Certificate Number 135727 to David Wesley Hubbard (Respondent). On October 24, 2011, the Commission issued Intermediate Certificate Number 103800 to Respondent. On October 13, 2015, the Commission issued Advanced Certificate Number 109559 to Respondent. On June 15, 2018, the Commission issued Supervisory Certificate Number 87984 to Respondent. (Collectively Certification). The Certification was in full force and effect at all relevant times to the charges brought herein.

3. On March 9, 2023, Complainant ordered the immediate temporary suspension of Respondent's Certification under Penal Code section 13510.8, subdivision (d), because Complainant determined that the temporary suspension was in the best interest of the health, safety, and welfare of the public based upon Respondent's discharge from the Kern County Sheriff's Office (KCSO) for serious misconduct and/or because he separated employment as a peace officer with KCSO pending investigation into allegations of serious misconduct.

JURISDICTION

4. This Accusation is brought before the Commission under the authority of the following laws. All section references are to the Penal Code (Code) unless otherwise indicated.

5. Code section 830 states:

> Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his or her status for purposes of retirement.

6. Code section 830.1, subdivision (a), states that "[a] sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county . . . is a peace officer. . . ."

7. Code section 13510.1 states:

> (a) The commission shall establish a certification program for peace officers described in Section 830.1, 830.2 with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program. A certificate or proof of eligibility issued pursuant to this section shall be considered the property of the commission.
>
> (b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police departments, county sheriffs' departments, districts, university and state university and college departments, or by the California Highway Patrol.
>
> . . .
>
> (e) The commission shall assign each person who applies for or receives certification a unique identifier that shall be used to track certification status from application for certification through that person's career as a peace officer.
>
> (f) Notwithstanding any other provision of law, the commission shall have the

authority to suspend, revoke, or cancel any certification pursuant to this chapter. This authority extends to any certificate or proof of eligibility issued by the commission including, without limitation, any certificate or proof of eligibility that is invalid, inactive, expired, or canceled.

. . .

(i) As used in this chapter, 'certification' means any and all valid and unexpired certificates issued pursuant to subdivision (b), including basic, intermediate, advanced, supervisory, management, and executive certificates or any proof of eligibility issued by the commission pursuant to this section.

8. Code section 13510.85, subdivisions (a) and (b), state:

(a)(1) When, upon the completion of a serious misconduct investigation conducted pursuant to subdivision (c) of Section 13510.8, the division finds reasonable grounds for the denial, revocation, or suspension of a peace officer's certification, it shall take the appropriate steps to promptly notify the peace officer involved, in writing, of its determination and reasons therefore, and shall provide the peace officer with a detailed explanation of the decertification procedure and the peace officer's rights to contest and appeal.

(2) Upon notification, the peace officer may, within 30 days, file a request for a review of the determination by the board and commission. If the peace officer does not file a request for review within 30 days, the peace officer's certification shall be suspended or revoked, consistent with the division's determination, without further proceedings. If the peace officer files a timely review, the board shall schedule the case for hearing.

(3) The board shall meet as required to conduct public hearings, but no fewer than four times per year.

(4) At each public hearing, the board shall review the findings of investigations presented by the division pursuant to paragraph (1) and shall make a recommendation on what action should be taken on the certification of the peace officer involved. The board shall only recommend revocation if the factual basis for revocation is established by clear and convincing evidence. If the board determines that the facts and circumstances revealed by the investigation warrant a sanction other than revocation, it may recommend that a peace officer's certification be suspended for a period of time. The board shall issue a written decision explaining its reasons for decertification or suspension.

(5) The commission shall review all recommendations made by the board. The commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of commissioners present and shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence. In any case in which the commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing.

(6) The commission shall return any determination requiring action to be taken against an individual's certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in

accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), which shall be subject to judicial review as set forth in that act.

(b) Notwithstanding Section 832.7, the hearings of the board and the review by the commission under this section, administrative adjudications held pursuant to paragraph (6) of subdivision (a), and any records introduced during those proceedings, shall be public. These public records may, in the discretion of the division, be redacted for the reasons set forth in paragraphs (6) and (7) of subdivision (b) of Section 832.7. This subdivision does not preclude the board or the commission, or both, from reviewing the unredacted versions of these records in closed session and using them as the basis for any action taken.

. . . .

9. On January 10, 2024, pursuant to its authority under Code section 13510.8, subdivision (c), the Peace Officer Standards Accountability Division (Division) found reasonable grounds for disciplinary action against Respondent's Certification. Respondent was properly notified and timely requested a review of the determination under Code section 13510.85, subdivision (a)(2). On March 21, 2024, pursuant to its authority under Code section 13510.85, subdivision (a)(4), the Peace Officer Standards Accountability Advisory Board (Board) reviewed the Division's determination, concluded that clear and convincing evidence existed for a disciplinary action against Respondent, and recommended that the Commission revoke Respondent's Certification.

10. On June 12, 2024, pursuant to its authority under Code section 13510.85, subdivision (a)(5), the Commission reviewed the Board's determination and recommendation and found that it was supported by clear and convincing evidence. Pursuant to Code section 13510.85, subdivision (a)(6), this Accusation is filed to initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act, as prescribed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

STATUTORY PROVISIONS

11. Code section 13510.8 states:

(a)(1) The commission shall revoke the certification of a certified peace officer if the person is or has become ineligible to hold office as a peace officer pursuant to Section 1029 of the Government Code.

(2) The commission may suspend or revoke the certification of a peace officer

if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

(3) The commission may cancel the certificate or proof of eligibility of a peace officer if the commission determines that there was fraud or misrepresentation made by an applicant at any time during the application process that resulted in the issuance of the certification.

(b) By January 1, 2023, the commission shall adopt by regulation a definition of 'serious misconduct' that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

(1) Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct.

(2) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

. . .

(d) Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code, or discharge from any law enforcement agency for grounds set forth in subdivision (a), or separation from employment of a peace officer during a pending investigation into allegations of serious misconduct, the executive director shall order the immediate temporary suspension of any certificate or proof of eligibility held by that peace officer upon the determination by the executive director that the temporary suspension is in the best interest of the health, safety, or welfare of the public. The order of temporary suspension shall be made in writing and shall specify the basis for the executive director's determination. Following the issuance of a temporary suspension order, proceedings of the commission in the exercise of its authority to discipline any peace officer shall be promptly scheduled as provided for in this section. The temporary suspension shall continue in effect until issuance of the final decision on revocation pursuant to this section or until the order is withdrawn by the executive director.

. . .

(g)(1) The commission may initiate proceedings to revoke or suspend a peace officer's certification for conduct that occurred before January 1, 2022, only for either of the following:

(A) Serious misconduct pursuant to paragraph (1) or (4) of subdivision (b) or pursuant to paragraph (3) of subdivision (b) for the use of deadly force that results in death or serious bodily injury.

(B) If the employing agency makes a final determination regarding its investigation of the misconduct after January 1, 2022.

(2) Nothing in this subdivision prevents the commission from considering the peace officer's prior conduct and service record in determining whether suspension or

revocation is appropriate for serious misconduct.

REGULATORY PROVISIONS

12. California Code of Regulations, title 11, section 1205, states:

(a) Serious Misconduct is:

(1) Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct. For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the Commission will consider the extent to which the dishonesty related to a material or significant fact in the context of the statement or omission alleged to be dishonest, and will also consider whether the dishonesty appears to have been done willfully or intentionally, with the intent to deceive.

(2) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest. For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the Commission will consider the extent to which the abuse of power was a knowing abuse of the power and authority of a public office.

. . . .

13. California Code of Regulations, title 11, section 1212 states:

(a) The Commission shall have the authority to suspend, revoke, or cancel any certification issued pursuant to Chapter 1 of Title 4 of Part 4 of the Penal Code.

(b) At the hearing, conducted by the Commission, to review a recommendation made by the Peace Officer Standards Accountability Advisory Board (the 'board'):

(1) The Commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of Commissioners present.

(2) The decision shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence.

(3) The Commission may conduct deliberations in closed session.

(4) In any case which the Commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing. A copy of the written decision shall be provided to:

(A) The board,

(B) The Peace Officer Standards Accountability Division (the 'division'), and

(C) The involved peace officer or designated representative.

(c) The Commission shall return any determination requiring action to be taken against an individual's certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act.

(1) After the hearing, the Commission will receive the proposed decision from the administrative law judge.

(2) The proposed decision shall be reviewed by the Commission in accordance with Government Code Section 11517(c)(2).

(3) The Commission's decision shall be considered final 30 days after the date of service of the decision upon the involved peace officer or their legal representative. A copy of the written decision shall be provided to:

(A) The board,

(B) The division,

(C) The involved peace officer or designated representative, and

(D) The head of the agency that employs or employed the involved peace officer.

(d) The commission shall publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation on the POST website.

(e) The commission shall notify the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation.

14. California Code of Regulations, title 11, section 1213 states:

(a) In considering whether to take action against a peace officer's certification, and in considering whether a revocation or suspension is appropriate in light of the facts of the particular case, the Commission shall consider any of the following factors:

(1) The nature and severity of the act or omission.

(2) The circumstances surrounding the conduct and the extent to which the act or omission caused any actual or potential harm to or impact upon the victim, the public, other peace officers, the employing agency, or the law enforcement profession.

(3) Whether the involved peace officer is currently employed as a peace officer.

(4) Whether the alleged conduct was committed under the color of authority or while the peace officer was acting in the capacity of a peace officer.

(5) The peace officer's prior conduct, discipline and service record, and any prior instances of misconduct.

(6) The proximity or remoteness in time since the conduct occurred.

(7) Any mitigating or aggravating factors and/or evidence of rehabilitation.

(8) The degree of accountability and cooperation with the investigation evidenced by the peace officer.

(9) The extent to which discipline, or forbearance from discipline, would impact the best interests of the public, the public service, the employing agency, and/or the law enforcement profession.

(10) The motives of the peace officer that resulted in the conduct.

(11) Consistency of the penalty with those imposed upon other peace officers for the same or similar offense.

(12) The clarity with which the peace officer was on notice of any rules that were violated in committing the offense.

(13) The extent to which the act or omission was done intentionally, willfully, or maliciously.

(14) The likelihood of recurrence.

(15) Any other aggravating or mitigating factors relevant to the Commission's determination.

(b) A suspension shall not exceed three years.

(c) A peace officer whose certification has been suspended may not be assigned duties which include the exercise of peace officer powers.

FACTUAL ALLEGATIONS

15. At all relevant times, Respondent was employed with KCSO. From December 19, 2020, to March 13, 2021, he served as the Lieutenant of the Detective Section. From March 13, 2021 to May 8, 2021, he served as the Lieutenant in charge of the Internal Affairs Unit, which at the time conducted administrative investigations of subject employees. From May 8, 2021, to December 4, 2021, he served as the Lieutenant in charge of the Professional Standards Unit (PSU), which at the time conducted criminal investigations of subject employees.

16. On April 19, 2021, Jane Doe, a Sheriff's Aide, (Ms. Doe) reported that a KCSO employee (Suspect 1) had sexually assaulted her in late February 2021 while they were both assigned to the Detective Section.[1] Both employees had reported to Respondent when he was the lieutenant of that section. On April 21, 2021, PSU initiated a criminal investigation into the

[1] The names of individuals are omitted to protect their privacy rights.

allegations.

17. In late April 2021, Respondent complained to KCSO command staff about the quality of the criminal investigation notwithstanding that he did not have any role or authority in connection with the criminal case. Between April to May 2021, he sought updates from the criminal investigators about Suspect 1's case.

18. On May 20, 2021, Respondent effectuated a temporary transfer of Ms. Doe to his chain of command. She reported to him and Sergeant 1. On June 28, 2021, Respondent effectuated a permanent transfer of Ms. Doe. Between August and September 2021, he became her direct supervisor, telling Sergeant 1 that Sergeant 1 was no longer going to supervise Ms. Doe even though standard practice at KCSO was that a Sheriff's Aide reported to a sergeant and a sergeant reported to a lieutenant.

19. On May 4, 2021, PSU completed its criminal investigation and sent it to the Kern County District Attorney's Office (D.A.'s Office) for prosecutorial review and decision.

20. As early as June 2021, Respondent and Ms. Doe's relationship progressed to a highly personal relationship such that Respondent's wife became suspicious of it and believed it was too close and casual, his wife stopped providing childcare to Ms. Doe's children, and Respondent provided his wife the code to his work cellular telephone.

21. In early June 2021, Respondent accompanied Ms. Doe to a meeting with the D.A.'s Office without informing the criminal case investigators. He lacked the investigative team's level of knowledge about the substantive details of the investigation and his attendance deprived the criminal investigators of an important opportunity to present effectively their investigative findings to the D.A.

22. On June 8, 2021, upon the conclusion of the criminal investigation of Suspect 1, KCSO opened an Internal Affairs Investigation of Suspect 1.

23. Between June and July 2021, the D.A.'s Office declined to prosecute Suspect 1.

24. Between August and November 2021, Respondent and Ms. Doe flirted in the workplace.

25. In early- to mid-October 2021, Respondent provided significant input to Sergeant 2

about the investigative strategy and interview questions for Suspect 1 in the Internal Affairs case. Respondent saw himself as, and Sergeant 2 perceived Respondent to be, Sergeant 2's mentor. At the time, Respondent did not have an active role or authority over Internal Affairs investigations.

26. In mid-October 2021, Respondent asked Sergeant 2 if he could attend Ms. Doe's interview in the Internal Affairs case as Ms. Doe's personal representative and attended a meeting with Sergeant 2 and Ms. Doe to discuss the investigation. On October 15, 2021, Sergeant 2 interviewed Ms. Doe during which time Respondent served as her personal representative.

27. In early to mid-November 2021, Respondent and Ms. Doe flirted, kissed, and held hands in the workplace. On November 5, 2021, they acknowledged having feelings for each other.

28. In mid-November 2021, Respondent asked Sergeant 2 when Suspect 1 was going to be interviewed and then shared that information with Ms. Doe.

29. On November 20 and 21, 2021, Respondent was assigned as the Watch Lieutenant for KCSO. In that capacity, he was the highest-ranking law enforcement officer on duty at the time. On both dates, he and Ms. Doe had sexual relations in Respondent's office while he was on duty and in uniform.

30. On November 22, 2021, Sergeant 2 interviewed Suspect 1. The next day, on November 23, 2021, Respondent entered Sergeant 2's office and sought information regarding the interview. Sergeant 2 disclosed, among other information, that Suspect 1 accused Respondent of having an affair with Ms. Doe. Sergeant 2 advised Respondent that he may need to interview Respondent and re-interview Ms. Doe, in light of Suspect 1's statements. Respondent did not disclose that he had sexual relations with Ms. Doe.

31. Between November 23, 2021 and November 24, 2021, Respondent disclosed to Ms. Doe what Suspect 1 said during his Internal Affairs interview.

32. In late-November to early-December 2021, Respondent and Ms. Doe kissed in the workplace.

33. In late November 2021, after learning that Suspect 1 accused him of having an affair with Ms. Doe, Respondent deleted text and telephone call records from his work cellular

telephone, which were relevant to both the Internal Affairs investigation concerning Suspect 1 and Respondent's own misconduct. There were gaps from November 8, 2021 to November 17, 2021 and November 22, 2021 to November 30, 2021 in the text messages. There were gaps from November 5, 2021 to November 30, 2021 in the telephone call logs.

34. On December 3, 2021, Ms. Doe's boyfriend, a KCSO employee, reported Ms. Doe's affair with Respondent to the boyfriend's supervisor.

35. On December 4, 2021, Respondent reported the affair with Ms. Doe to his supervisor.

36. On December 6, 2021, KCSO initiated an Internal Affairs investigation of Respondent into allegations that he had an inappropriate sexual relationship with Ms. Doe, who was his direct subordinate, while he was on duty. The investigation revealed that Respondent committed eight violations of the KCSO Departmental Policies and Procedures Manual and Kern County Rules of Civil Service Commission. As a result, his employment was terminated effective August 15, 2022. On January 6, 2023, KCSO reported to the Commission that Respondent may have committed serious misconduct, as mandated by Code section 13510.9.

FIRST CAUSE FOR DISCIPLINE

(Dishonesty)

37. Respondent has subjected his Certification to disciplinary action on the grounds of serious misconduct under Code section 13510.8, subdivision (b)(1), and California Code of Regulations, title 11, section 1205, subsection (a)(1), in that between approximately late April 2021 and approximately December 4, 2021, Respondent engaged in acts that constituted dishonesty and a lack of candor. The circumstances are as follows:

A. The allegations in paragraphs 15 to 36 are incorporated by reference as though fully set forth herein;

B. Respondent deleted work telephone text messages and call logs after knowing that they might be evidence in Suspect 1's Internal Affairs investigation and also relevant to a future investigation into his own misconduct;

C. Respondent failed to timely inform KCSO command staff and the investigators of his

personal relationship with Ms. Doe and that his personal relationship with her could be material to the criminal and Internal Affairs investigations in which he was becoming involved; and

D. After learning that Suspect 1 accused him of having an affair with Ms. Doe, Respondent concealed it and waited until December 4, 2021 to report it.

SECOND CAUSE FOR DISCIPLINE

(Abuse of Power)

38. Respondent has subjected his Certification to disciplinary action on the grounds of serious misconduct under Code section 13510.8, subdivision (b)(2), and California Code of Regulations, title 11, section 1205, subsection (a)(2), in that between approximately late April 2021 and approximately December 4, 2021, Respondent abused his power. The circumstances are as follows:

A. The allegations in paragraphs 15 to 36 are incorporated by reference as though fully set forth herein;

B. Respondent abused his power when his personal interests and relationship with Ms. Doe compromised his judgment and professional obligations as a peace officer;

C. Respondent had sexual relations with Ms. Doe while on duty as Watch Lieutenant and in his KCSO-assigned office on November 20 and 21, 2021;

D. On or about November 23, 2021, Respondent contacted Sergeant 2 after having sexual relations with Ms. Doe and sought confidential information from Sergeant 2 about the Internal Affairs interview of Suspect 1's alleged sexual assault of Ms. Doe, and did not first disclose to Sergeant 2 his sexual relationship with Ms. Doe;

E. Respondent shared confidential information with Ms. Doe that Respondent learned from Sergeant 2 concerning the statements Suspect 1 made during his Internal Affairs interview. Respondent violated Code section 832.7 which protects peace officer personnel records and KCSO confidentiality policies;

F. Respondent deleted work telephone text messages and log records of communications between him and Ms. Doe after learning that Suspect 1 accused him of having an affair

with Ms. Doe; and

G. Respondent interfered with the Internal Affairs investigation of Suspect 1 by providing input on the investigative strategy and interview questions of Suspect 1 while simultaneously serving as Ms. Doe's personal representative during her interview in the same Internal Affairs investigation.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Commission issue a decision revoking the Basic, Intermediate, Advanced, and Supervisory Certificates issued to Respondent David Wesley Hubbard, or taking other appropriate disciplinary action according to evidence.

DATED: 9/9/2024

Signature on File

MANUEL ALVAREZ, JR.
Executive Director
Commission on Peace Officer Standards and Training
State of California
Complainant

LA2024603272
67027955.docx

BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2300204
DAVID WESLEY HUBBARD	**DEFAULT DECISION AND ORDER**
Basic Certificate No. 135727 **Intermediate Certificate No. 103800** **Advanced Certificate No. 109559** **Supervisory Certificate No. 87984,**	[Gov. Code, §11520]
Respondent.	

FINDINGS OF FACT

1. On September 9, 2024, Complainant Manuel Alvarez, Jr., in his official capacity as the Executive Director of the Commission on Peace Officer Standards and Training filed Accusation No. 2300204 against David Wesley Hubbard (Respondent) before the Commission on Peace Officer Standards and Training (Commission). (Accusation attached as Exhibit A.)

2. On March 12, 2009, the Commission issued Basic Certificate Number 135727 to David Wesley Hubbard (Respondent); on October 24, 2011, the Commission issued Intermediate Certificate Number 103800 to Respondent; on October 13, 2015, the Commission issued Advanced Certificate Number 109559 to Respondent; and on June 15, 2018, the Commission issued Supervisory Certificate Number 87984 to Respondent (collectively, Certification).

3. On March 9, 2023, Complainant ordered the immediate temporary suspension of Respondent's Certification under Penal Code section 13510.8, subdivision (d), because

Complainant determined that the temporary suspension was in the best interest of the health, safety, and welfare of the public based upon Respondent's discharge from the Kern County Sheriff's Office (KCSO) for serious misconduct and/or because he separated employment as a peace officer with KCSO pending investigation into allegations of serious misconduct.

4. On September 18, 2024, Respondent was served by Certified and First-Class Mail copies of the Accusation No. 2300204, Statement to Respondent, Notice of Defense, Request for Discovery and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations, title 11, section 1215, is required to be reported and maintained with the Commission. Additionally, a courtesy copy was sent via Certified and First-Class Mail to Respondent's counsel, Kasey A. Castillo, Esq., KC Law Group, 31566 Railroad Canyon Road, Ste. 2, PMB 1123, Canyon Lake, California 92587.

5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

6. Government Code section 11506, subdivision (c) states:

> The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

7. The Commission takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2300204.

8. California Government Code section 11520, subdivision (a) states:

> If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent . . . .

9. Pursuant to its authority under Government Code section 11520, the Commission finds Respondent is in default. The Commission will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet

in this matter, finds that the charges and allegations in Accusation No. 2300204, are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent David Wesley Hubbard has subjected his Certification to discipline.

2. The Commission has jurisdiction to adjudicate this case by default.

3. The Commission is authorized to revoke Respondent's Basic, Intermediate, Advanced, and Supervisory Certificates based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet:

a. Respondent committed serious misconduct in violation of Penal Code section 13510.8, subdivision (b)(1), and California Code of Regulations, title 11, section 1205, subsection (a)(1), in that between approximately late April 2021 and approximately December 4, 2021, Respondent engaged in acts that constituted dishonesty and a lack of candor.

b. Respondent committed serious misconduct in violation of Penal Code section 13510.8, subdivision (b)(2), and California Code of Regulations, title 11, section 1205, subsection (a)(2), in that between approximately late April 2021 and approximately December 4, 2021, Respondent abused his power.

ORDER

IT IS SO ORDERED that Basic Certificate No. 135727, Intermediate Certificate Number 103800, Advanced Certificate Number 109559, and Supervisory Certificate Number 87984 issued to Respondent David Wesley Hubbard are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The Commission in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

///

This Decision shall become effective on 10/24/2024.

It is so ORDERED 10/24/2024

Signature on file

MANUEL ALVAREZ, JR.
EXECUTIVE DIRECTOR
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

Attachment:
Exhibit A: Accusation No. 2300204

67146222.docx
LA2024603272