

**STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM**

In re: Melvin Fink, Esq.
PRB File No. 012-2019

**ORDER GRANTING DISCIPLINARY COUNSEL'S
RENEWED MOTION TO LIFT STAY**

The Hearing Panel issued an order staying the proceedings in this disciplinary matter on March 28, 2019, pending the entry of judgment in a related criminal matter against Respondent. The Panel found good cause for the stay because Respondent's constitutional privilege against self-incrimination had serious implications for both the criminal and disciplinary proceedings and because the trial court prohibited Respondent from having contact with J.H., the complaining witness in this matter, as a condition of his release.

On February 2, 2024, Disciplinary Counsel filed a Motion to Lift Stay ("Motion"), arguing no judgment would be entered in the criminal matter because the State referred Respondent to the Court Diversion Program ("Diversion") to resolve the criminal charges against him. Respondent opposed the Motion on grounds the State would resume prosecuting the charges against him if he failed to successfully complete Diversion. On March 27, 2024, the Hearing Panel denied Disciplinary Counsel's Motion as premature, given that Respondent would successfully complete or fail to complete Diversion in May 2024. On May 23, 2024, Respondent notified the Panel that he completed Diversion and the State dismissed the criminal charges against him.

On July 10, 2024, Disciplinary Counsel filed a Renewed Motion to Lift Stay ("Renewed Motion"). Respondent did not oppose the Renewed Motion within 14 days after Disciplinary Counsel filed it.

The dismissal of the related criminal charges against Respondent eliminates the grounds

for staying the proceedings in this disciplinary matter (Respondent's constitutional privilege against self-incrimination and the trial court's conditions for Respondent's release). The Hearing Panel therefore concludes it is appropriate to lift the stay, effective immediately.

* * *

Accordingly, the Hearing Panel hereby ORDERS:


1. Disciplinary Counsel's Renewed Motion to Lift Stay is GRANTED. The stay in this matter is lifted, effectively immediately.
2. No later than Friday, August 16, 2024, the parties shall work cooperatively to jointly file a proposed scheduling order setting forth, at minimum, deadlines for the parties to:
(1) exchange the names and addresses of all persons having knowledge of relevant facts and/or of witnesses; (2) serve requests for production of documents and evidence; (3) disclose expert witnesses; (4) disclose rebuttal expert witnesses; (5) take depositions; (6) complete discovery, including discovery-related motions; (7) file motions to amend the petition of misconduct; (8) file objections to the hearing panel conducting the merits hearing remotely by video conferencing; (9) file pre-hearing motions, including motions *in limine*; and (10) file a witness list identifying the witnesses the party anticipates calling to testify at the merits hearing, together with a brief summary of each witness's anticipated testimony and an estimate of the amount of time needed for direct examination, and an exhibit list identifying the exhibits the party anticipates presenting at the merits hearing, together with a representation as to whether or not the opposing party stipulates to each exhibit's authenticity or admissibility or both.

To assist with scheduling, the parties shall also identify the date by which this matter will be ready for a merits hearing and provide an estimate of the amount of time needed for the hearing in the proposed scheduling order.

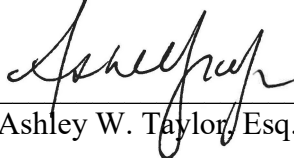
To the extent the parties cannot agree on a deadline, they may so state and explain their respective positions in the proposed scheduling order.

Dated July 31, 2024.

Hearing Panel No. 3

By: 

Gary F. Karnedy, Esq., Chair

By: 

Ashley W. Taylor, Esq.

By: 

Peter Zuk, Public Member