

STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Thomas Melone,  
PRB File No. 25-120

**SUBPOENA DUCES TECUM**

**TO: DANIEL MONKS**, Town of Bennington, 205 South Street, Bennington, VT 05201

**YOU ARE COMMANDED** to produce the following documents, electronically stored information:

1. All e-mails, memoranda, text messages, electronic messages (including messages sent through an application-based messaging service, such as Slack or WhatsApp), analyses, manuals, evaluations, opinions, and other documents in your possession or control concerning, mentioning, or relating to (A) the validity of the current Town Plan of the Town of Bennington, Vermont, including, without limitation, (i) the purported re-adoption of the Town Plan of the Town of Bennington, Vermont, in 2018 or (ii) claims that the Town Plan of the Town of Bennington, Vermont, expired in 2023 and (B) all grants applied for by the Town of Bennington since January 1, 2023, to the Vermont Agency of Commerce and Community Development or any subdivision thereof, and (C) Coronavirus State and Local Fiscal Recovery Funds received by the Town of Bennington.
2. All e-mails, memoranda, text messages, electronic messages (including messages sent through an application-based messaging service), and other documents in your possession or control that evidence the hiring of Attorney Merrill Bent to represent the Town of Bennington in connection with (a) Public Utility Commission Case 23-0249, (b) Public Utility Commission case 24-3517, (c) Vermont Superior Court Docket No. 25-ENV-00016, (d) Vermont Superior Court Docket No. 25-cv-01872, (e) Vermont Supreme Court Docket No. 25-AP-175, and (f) Vermont Superior Court, Docket No. 25-CV-01902.

This SUBPOENA DUCES TECUM permits you to deliver the requested documents to [Thomas.melone@allcous.com](mailto:Thomas.melone@allcous.com) by December 31, 2025.

The Vermont Rules of Civil Procedure require that every subpoena set forth the text of subdivisions (c) and (d) of the Rule.

**WARNING: FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED IN CONTEMPT OF COURT**

This SUBPOENA is issued pursuant to the authority under Vermont Rule of Civil Procedure 45 and Vermont Supreme Court Administrative Order 9, RULE 19A dated this 5th of December, 2025.

By:   
Thomas Melone (BAR No. 5456)

The name, address, and telephone number of the party who requests this subpoena: Thomas Melone, 601 S Ocean Blvd., Delray Beach, FL 33483, 212-681-1120 (*requesting party or attorney's name, address, phone number*)

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**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 for which the subpoena was issued shall 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, copying, testing or sampling of designated electronically stored information, 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 (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling 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 producing any or all of the designated materials or inspection of the premises – or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to the requested production or to inspect, copy test, or sample the materials or inspect the premises except pursuant to an order of the court for 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, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party of an officer of a party from significant expense resulting for the inspection, copying, testing or sampling commanded.

(3)(A) On timely motion, the court for which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a resident of this state to travel to attend a deposition more than 50 miles one way unless the court otherwise orders; requires a nonresident of this state to travel to attend a deposition at a place more than 50 miles from the place of service unless another convenient place is fixed by order of court, or

(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, or

(iii) requires a person who is not party or an officer of a party to incur substantial expense to travel more than 50 miles one way to attend trial,

the court 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 may order appearance or production only upon specified conditions.

**DUTIES IN RESPONDING TO A SUBPOENA**

(1)(A) 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.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

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(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such source if the requesting party shows good cause, considering the limitations of Rule 26(b)(1). The court may specify conditions for the discovery.

(2)(A) 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.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.