**STATE OF VERMONT**
**PROFESSIONAL RESPONSIBILITY PROGRAM**

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| In Re Thomas Melone | ) | PRB No. 25-120 |
| | ) | |
| | ) | January 14, 2026 |

**RESPONDENT'S MOTION TO COMPEL MICHAEL HANLEY TO COMPLY WITH SUBPOENA**

Respondent THOMAS MELONE ("Respondent") served a subpoena on Michael Hanley, *see* **EXHIBIT 1.** Mr. Hanley has failed to fully comply with the subpoena. His response indicating that he has no intention to fully comply is attached as **EXHIBIT 2**.

Respondent hereby moves the Hearing Panel to compel Mr. Hanley's full compliance with the subpoena.

The subpoena requests:

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, and other Documents in Your possession or control concerning, mentioning, or relating to Thomas Melone AND
2. 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, and other Documents in Your possession or control concerning, mentioning, or relating to Petitions for Misconduct alleging one or more violations of the any of the following VERMONT RULES OF PROFESSIONAL CONDUCT (i) Rule 3.5(d), (ii) Rule 3.3, (iii) Rule 4.5, (iv) Rule 8.4(d), (v) Rule 3.5(b), (vi) Rule 3.1, (vii) Rule 4.4(a) AND/OR (viii) Rule 4.2.

Mr. Hanley produced some documents in response to a prior email request, the list of which is included in the two discovery certificates that he filed in this case dated October 1, 2025. At least one of the documents, *see* **EXHIBIT 3**, appears to be surreptitiously redacted without any proper claim of justification for the redaction as required by V.R.C.P 45(d)(2)(A). The portion that appears to be improperly redacted is the entire first page above where the printed words begin.

Mr. Hanley's objection to the subpoena states:

> I will not produce additional documents as a result of your Subpoena because: 1. I have produced all records and documents subject to discovery. 2. Your request for all documents and data regarding you is overbroad, burdensome, and seeks information which is not subject to discovery because of the attorney-client privilege and the work product doctrine. Specifically, you are not entitled to see

> any and all documents prepared by me, or prepared under my supervision, in anticipation of litigation or in preparation for a hearing on the merits. You may not have access to my notes, or notes of anyone working under my supervision, regarding my interviews of witnesses. You may not have records of my legal research or any drafts of any documents prepared by me. 3. Documents relating to other Petitions of Misconduct are not relevant. If you wish to learn more about disciplinary proceedings in Vermont, I suggest that you read the Vermont Rules of Professional Conduct, Administrative Order 9 of the Vermont Supreme Court, the Rules of the Professional Responsibility Program, the decisions of Hearing Panels and the decisions of the Vermont Supreme Court regarding attorney discipline, all of which are readily available to you and the public. 4. Under Rule 19(A)(2), disciplinary counsel and a respondent may only subpoena witnesses. I am not a witness. I note that before you issued the Subpoena 1 told you "I am not subject to subpoena." 5. Under Rule 19(B)(1), no discovery may take place until the respondent files an answer. You have not filed an answer.

Mr. Hanley did not timely file a motion to quash the subpoena.

**ARGUMENT**

"[T]he purpose of discovery is to provide a mechanism for making relevant information available to the litigants." *Lozano v. Maryland Cas. Co*., 850 F.2d 1470, 1473 (11th Cir. 1988). "Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever facts he has in his possession." *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S. Ct. 385 (1947). Broad discovery helps "make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." *United States v. Procter & Gamble Co*., 356 U.S. 677, 682, 78 S. Ct. 983 (1958).

A.O. 9, Rule 19(A)(2) provides the Respondent with the right "[a]fter a petition .. is filed [to] compel by subpoena … the production of pertinent books, paper, and documents." A.O. Rule 20(B) provides that "[e]xcept as otherwise provided in these rules, the Vermont Rules of Civil Procedure" apply. V.R.C.P. 45(a)(l)(C) states that a subpoena may "command each person to whom it is directed … to produce and permit inspection, copying, testing, or sampling of designated books, documents, electronically stored information, or tangible things in the possession, custody or control of that person ." V.R.C.P. 45(c) provides that "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 on inspection [emphasis added] unless commanded to appear for deposition, hearing or trial."

V.R.C.P. 45(d)(2)(A) requires that privilege claims must 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." Mr. Hanley failed to do that. Instead he offers boilerplate objections that courts reject.

Without any citation to case law, Mr. Hanley claims that he is not subject to subpoena because he alleges that he is "not a witness."

Carolyn Anderson, Chair of the Professional Responsibility Board, testified before the Vermont the Senate Government Operations Committee on April 1, 2025. There she testified that the only information not obtainable after a complaint has been made public is that disciplinary counsel's work-product that might be protected by the work-product doctrine, *see* https://www.youtube.com/watch?v=LAECMbVFSxA (beginning in relevant part at 1:23:00). In other words, according to Carolyn Anderson, all documents in Mr. Hanley's possession or control for which he has not made a proper claim of work-product privilege are considered public and should have been produced by Mr. Hanley.

## I. ANY CLAIMS BY MR. HANLEY OF PRIVILEGE ARE WAIVED DUE TO FAILURE TO PROPERLY MAKE THEM.

Privilege is construed narrowly because it blocks the discovery of relevant information. *United States v. Mejia*, 655 F.3d 126, 132 (2d Cir. 2011). *Id.* The party asserting the privilege bears the burden of establishing privilege. *Mejia*, 655 F.3d at 132. "[P]rivilege 'stands in derogation of the public's "right to every man's evidence."'" *Exp.-Imp. Bank of the U.S. v. Asia Pulp & Paper Co., Ltd.*, 232 F.R.D. 103, 114 (S.D.N.Y. 2005) (quoting *In re Horowitz*, 482 F.2d 72, 81 (2d Cir. 1973) (quoting 8 Wigmore, Evidence § 2192 (McNaughton rev. 1961), at 70)).

V.R.C.P. 45(d)(2)(A) requires that privilege claims must 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." Mr. Hanley failed to do that,

according the claim of privilege is waived. Instead, it offers boilerplate objections that courts reject.

Mr. Hanley's claims of privilege are also waived because he failed to provide a privilege log. *Jansson v. Stamford Health, Inc*., 312 F. Supp. 3d 289, 299 (D. Conn. 2018), *reconsideration denied*, No. 3:16-CV-260 (CSH), 2018 U.S. Dist. LEXIS 86959, 2018 WL 2357271 *35-36 (D. Conn. May 24, 2018) ("A party's right to assert and succeed upon of a claim of privilege is conditioned upon its filing 'an adequately detailed privilege log'") (quoting *United States v. Construction Prods. Research*, 73 F.3d 464, 473 (2d Cir. 1996)); *Aurora Loan Servs., Inc. v. Posner, Posner & Assocs., P.C*., 499 F. Supp. 2d 475, 479 (S.D.N.Y. 2007) ("[f]ailure to furnish an adequate privilege log is grounds for rejecting a claim of attorney client privilege"); *OneBeacon Ins. Co. v. Forman Int'l, Ltd*., 2006 U.S. Dist. LEXIS 90970, 2006 WL 3771010, at *6 (S.D.N.Y. Dec. 15, 2006) ("Courts in this Circuit have refused to uphold a claim of privilege where privilege log entries fail to provide adequate information to support the claim.").

## II. THERE IS NO REQUIREMENT THAT THE PERSON SUBPOENAED FOR DOCUMENTS BE SOMEONE THAT RESPONDENT KNOWS NOW WHETHER OR NOT HE WILL CALL AS A WITNESS.

Mr. Hanley's *MOTION TO RECONSIDER THE HEARING PANEL'S DECEMBER 11, 2025 ENTRY ORDER* undercuts his "I'm not a witness" argument. There is no requirement that the person subpoenaed for documents be someone that Respondent knows now whether or not he will call as a witness. It is enough that Mr. Hanley possesses relevant information, which he does. Moreover, as noted above, Carolyn Anderson, Chair of the Professional Responsibility Board, testified before the Vermont the Senate Government Operations Committee on April 1, 2025, that the only information not obtainable after a complaint has been made public is disciplinary counsel's work-product that might be protected by the work-product doctrine, *see* https://www.youtube.com/watch?v=LAECMbVFSxA (beginning in relevant part at 1:23:00). In other words, according to Carolyn Anderson, all documents in Mr. Hanley's possession or control for which he has not made a proper claim of work-product privilege are considered public and

should have been produced by Mr. Hanley (even if he was properly appointed, which he was not). So was Carolyn Anderson's testimony inaccurate, or in Mr. Hanley's words from this case—not credible or false? Or is Mr. Hanley simply unfairly and improperly withholding information that he must produce?

## III. MR. HANLEY'S BOILERPLATE OBJECTIONS ARE IMPROPER.

Mr. Hanley claims that Respondent's requests are "overbroad, burdensome." Mr. Hanley's non-specific, boilerplate objection would be improper in court and it should be improper here as well. *See, Passenti v. Veyo, LLC*, No. 21-CV-01350 (SRU), 2022 U.S. Dist. LEXIS 214272 *18 (D. Conn. November 29, 2022) citing *Mancia v. Mayflower Textile Servs. Co*., 253 F.R.D. 354, 358 (D. Md. 2008) ("[B]oilierplate objections that a request for discovery is 'over[broad] and unduly burdensome, and not reasonably calculated to lead to the discovery of material admissible in evidence,' . . . persist despite a litany of decisions from courts, including this one, that such objections are improper unless based on particularized facts."). Mr. Hanley's objections provide no particularized facts justifying his improper boilerplate objections, and as such the objections should be overruled.

## CONCLUSION

Here, Mr. Hanley did not make a proper documented claim of privilege. Nor did he file a timely motion to quash. As a result, regardless of Carolyn Anderson's testimony, he must produce all requested documents in his possession or control.

Dated: January 14, 2026

Respectfully Submitted,

*/s/ Thomas Melone*
Thomas Melone
601 S Ocean Blvd
Delray Beach, FL 33483
(212) 681-1120
Thomas.Melone@AllcoUS.com

# EXHIBIT 1

# STATE OF VERMONT

PROFESSIONAL
RESPONSIBILITY
PROGRAM

In Re: Thomas Melone,

PRB File No. 25-120

## SUBPOENA

**TO:** MICHAEL HANLEY, Plante & Hanley, P.C., 82 Fogg Farm Rd., White River Junction, VT 05001, mfhanley@plantehanley.com

**YOU ARE COMMANDED** to appear at the place, date, and time set forth below and 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, and other Documents in Your possession or control concerning, mentioning, or relating to Thomas Melone **AND**

2. 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, and other Documents in Your possession or control concerning, mentioning, or relating to Petitions for Misconduct alleging one or more violations of the any of the following VERMONT RULES OF PROFESSIONAL CONDUCT (i) Rule 3.5(d), (ii) Rule 3.3, (iii) Rule 4.5, (iv) Rule 8.4(d), (v) Rule 3.5(b), (vi) Rule 3.1, (vii) Rule 4.4(a) AND/OR (viii) Rule 4.2.

**Place, date and time:** 157 Church St., 19th floor, New Haven, CT 06510 on OCTOBER 16, 2025 at 10:00 A.M. OR this SUBPOENA permits YOU to deliver the requested documents electronically to Thomas.Melone@AllcoUS.com by OCTOBER 16, 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 VT. A.O. 9 RULE 19A dated this 2nd of October 2025.

**THOMAS MELONE** (Bar No. 5456)

The name, address, and telephone number of the party who requests this subpoena: Thomas Melone, 157 Church St., 19th Fl., New Haven, CT 06510, 212-681-1120 *(requesting party or attorney's name, address, phone number)*

Thomas.Melone@AllcoUS.com

[i] **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 theme 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.

(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.

# EXHIBIT 2

# PLANTE & HANLEY, P.C.

LAWYERS
POST OFFICE BOX 708
WHITE RIVER JUNCTION, VERMONT 05001-0708

PETER P. PLANTE (1920-1996)
MICHAEL F. HANLEY*
PAUL J. PERKINS†

*Admitted in VT, NH and ME
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WWW.PLANTEHANLEY.COM


October 3, 2025

Thomas M. Melone
Allco Renewable Energy Inc
157 Church St., 19th floor
New Haven, CT 06510

**BY EMAIL ONLY: thomas.melone@gmail.com; thomas.melone@AllcoUS.com**

In Re Thomas Melone; PRB 25-120

Dear Mr. Melone:

I write in my capacity as Conflict Disciplinary Counsel.

I write pursuant to Administrative Order 9 of the Vermont Supreme Court, Rule 20(B) of the Rules of the Professional Responsibility Program and Vermont Rules of Civil Procedure 45(c)(2)(B) and 26(b)(4).

I object to the *Subpoena* you sent to me on October 2, 2025.

I note that you seek the production of all documents in any form, electronic or otherwise,

- "concerning, mentioning, or relating to Thomas Melone" and
- "concerning, mentioning, or relating to Petitions for Misconduct" alleging violations of various Vermont Rules of Professional Conduct.

I will not produce additional documents as a result of your *Subpoena* because:

1. I have produced all records and documents subject to discovery.

2. Your request for all documents and data regarding you is overbroad, burdensome, and seeks information which is not subject to discovery because of the attorney-client privilege and the work product doctrine. Specifically, you are not entitled to see any and all documents prepared by me, or prepared under my supervision, in anticipation of litigation or in preparation for a hearing on the merits. You may not have access to my notes, or notes of anyone working under my supervision, regarding my interviews of witnesses. You may not have records

of my legal research or any drafts of any documents prepared by me.

3. Documents relating to other Petitions of Misconduct are not relevant. If you wish to learn more about disciplinary proceedings in Vermont, I suggest that you read the Vermont Rules of Professional Conduct, Administrative Order 9 of the Vermont Supreme Court, the Rules of the Professional Responsibility Program, the decisions of Hearing Panels and the decisions of the Vermont Supreme Court regarding attorney discipline, all of which are readily available to you and the public.

4. Under Rule 19(A)(2), disciplinary counsel and a respondent may only subpoena witnesses. I am not a witness. I note that before you issued the *Subpoena* I told you "I am not subject to subpoena."

5. Under Rule 19(B)(1), no discovery may take place until the respondent files an answer. You have not filed an answer.

Respectfully yours,

Michael F. Hanley

MFH/shg

# EXHIBIT 3

From: **Thomas Melone** <thomas.melone@gmail.com>
Date: Wed, Nov 20, 2024 at 7:55 PM
Subject: Chelsea & Apple Hill Solar
To: Maru Leon <maru@mtanthonycc.com>, Maru Leon <maruleondesign@gmail.com>, <dgriffin@mtanthonycc.com>

Hello Maru & David,

I assume you have still been following the Chelsea solar case. And I understand that you were in attendance at the Planning Commission meeting that looked at the recent plan for Apple Hill solar.

As you know, in your filing withdrawing from the Chelsea case you listed various reasons for withdrawing, most of which were not very nice. The Town is repeating those reasons in their filings.

As you know, the Town is also pressing the issue of the view from the MACC as an issue.

As you also likely know, we requested the PUC to approve deposition subpoenas for you and the PUC denied that. We are appealing that decision to the Vermont Superior Court.

I think the only way that the various lingering issues from your involvement can be removed is if you send letters to the PUC, the Planning Commission and the Select Board supporting both projects. This way the other parties would stop trying to get you involved, and would eliminate any need for us to depose the two of you.

Please let me know if you are willing to do that.

Sincerely,

Thomas Melone
Chief Executive Officer
Allco Renewable Energy Limited
157 Church St., 19th floor
New Haven, CT 06510

(212) 681-1120
(801) 858-8818 (fax)