STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re Thomas Melone	)	PRB No. 25-120
	)	
	)	February 8, 2026

RESPONDENT'S SECOND MOTION TO COMPEL MICHAEL HANLEY TO COMPLY WITH SUBPOENA[1]

A. MICHAEL HANLEY REFUSES WITHOUT LEGAL BASIS TO COMPLY WITH THE SUBPOENA ISSUED TO HIM.

Respondent THOMAS MELONE ("Respondent") served a subpoena on Michael Hanley, *see* **EXHIBIT 1.** Mr. Hanley failed to fully comply with the subpoena. His response indicating that he had no intention to fully comply is attached as **EXHIBIT 2**. Respondent and Mr. Hanley held a meet and confer teleconference on January 30, 2026. In order to narrow the request and in a good faith effort to reach agreement, and in light of the disclosure by Mr. Hanley of various documents related to the probable cause hearing panel, Respondent narrowed the request, *see* **EXHIBIT 3**, to:

> ***For the time period between May 1, 2025, to September 4, 2025, all e-mails, text messages, and other electronic messages in Your possession or control concerning, mentioning, or relating to Thomas Melone***.

Mr. Hanley has stated that he has no intention of complying with the revised request either. Mr. Hanley cited no valid basis for his failure to comply. His revised objection, *see* **EXHIBIT 4**, to the narrowed subpoena request, which continues his quest to hide relevant information, states:

> For the reasons previously stated, I will not produce emails regarding my investigation of you.
>
> After filing an answer, you are free to conduct appropriate discovery of facts from witnesses. You are not free to subpoena or depose me or view my work product. In addition, what I did, or did not do in my investigation of you is not discoverable. The issue is what you did, and did not do not what I did, or did not do. On the other hand, I have given you every document within my possession or control filed in any proceeding, whether in the Vermont Superior Court, a federal court or the Public Utility Commission, and any

[1] This motion also contains the report required by paragraph 2 of the Hering Panel's order of January 21, 2026.

> communication you sent to or received from any party in any proceeding which in an way relates to the charges in the Petition of Misconduct.[2]

Mr. Hanley did not timely file a motion to quash the subpoena. Mr. Hanley has cited no case law in support of his bald claim that he is not required to "produce emails regarding [his] investigation of [Respondent]."

Respondent hereby moves the Hearing Panel to compel Mr. Hanley's full compliance with the above narrower request for documents.

B. MR. HANLEY PRODUCED SOME DOCUMENTS IN RESPONSE TO THE SUBPOENA.

Mr. Hanley produced some documents in response to a prior 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 5**, 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.

C. MR. HANLEY PRODUCED ADDITIONAL DOCUMENTS ON JANUARY 27, 2026, THAT FIRMLY ESTABLISH JUDICIAL DECEPTION OF THE PROBABLE CAUSE HEARING PANEL.

Mr. Hanley also produced on January 27, 2026, various documents related to the probable cause hearing panel, and he filed a discovery certificate listing those documents. Those documents

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[2] Mr. Hanley's previous objection 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.

show that Mr. Hanley did not have probable cause for each of the charges and engaged in misconduct, and that he engaged in judicial deception. "'Judicial deception' consists of either 'deliberate omission or affirmative misrepresentation.'" *Scanlon v. Cty. of L.A.,* 92 F.4th 781, 799 (9th Cir. 2024) (internal citations omitted). "By reporting less than the total story, an affiant can manipulate the inferences a magistrate will draw and denude the probable cause requirement of all real meaning." *Id.* (internal quotations and citations omitted). "Even otherwise true observations made misleading by the omission of facts that are not themselves material may result in an affidavit that, considered as a whole, is materially misleading." *Id*.

Mr. Hanley engaged in professional misconduct by misrepresenting the facts and the law to the probable cause hearing panel by his statements and his omissions. In doing so he also violated Respondent's Fifth and Fourteenth Amendment due process rights.[3]

Mr. Hanley's judicial deception and violation of the rules of conduct began with his purported definition of what constitutes "probable cause." For his purported definition he cited a case from Maryland. *See* **EXHIBIT 6**. But the leading case on the definition of probable cause comes from the Vermont Supreme Court, which Mr. Hanley knows or should have known. Probable cause is examined on a count-by-count basis. *Chiaverini v. City of Napoleon*, 602 U.S. 556 (2024).

The term "probable cause" has been stated by the Vermont Supreme Court "to refer to 'a state of facts and circumstances as would lead a careful and conscientious man to believe' that a

[3] *Scanlon v. Cty. of L.A.,* 92 F.4th 781, 799 (9th Cir. 2024):

> "Judicial deception" consists of either "deliberate omission or affirmative misrepresentation." *Id.* at 801 n.3. A statement can also be misleading if, although technically true, it has been so wrenched from its context that the judicial officer will not comprehend how it fits into the larger puzzle. For example, a statement uttered jokingly or sarcastically will be understood by those present one way but, when reproduced on the written page and read out of context, the statement may be understood to mean the opposite of what was said. In such a case, "the officer [has] omitted facts required to prevent technically true statements in the affidavit from being misleading." *Ewing v. City of Stockton*, 588 F.3d 1218, 1224 (9th Cir. 2009). Even otherwise true observations made misleading by the omission of facts that are not themselves material may result in an affidavit that, considered as a whole, is materially misleading. "[B]y reporting less than the total story, an affiant can manipulate the inferences a magistrate will draw . . . . [and] denude the probable cause requirement of all real meaning." *Liston v. Cnty. of Riverside*, 120 F.3d 965, 973 (9th Cir. 1997) (internal quotation marks and citations omitted).

violation had taken place." *Diamond v. Vickrey*, 134 Vt. 585, 590 (1976) (internal citations omitted.) Mr. Hanley did not inform the probable cause hearing panel of the true "state of facts and circumstances." Mr. Hanley was not a "careful and conscientious man" in performing his investigation or in his presentation to the probable cause hearing panel.

Mr. Hanley's affidavit in support of his motion for a probable cause finding, *see* **EXHIBIT 7**, similarly is chock full of deliberate omissions and/or affirmative misrepresentations. Mr. Hanley's affidavit consists of eleven numbered paragraphs. Only one paragraph—paragraph 11—contains anything vaguely resembling allegations of facts. But none set "forth a factual basis for the charges." A.O. 9, Rule 13C. Paragraph 11 only states Mr. Hanley's expectations: "I expect to prove by clear and convincing evidence that on multiple occasions over a period of years the Respondent Thomas Melone violated rules 3.1, 3.3(a)(1), 3.5(d), 4.2, 4.3, 4.4(a), 4.5, and 8.4(d)[4] of the Vermont Rules of Professional Conduct by …"

Mr. Hanley's statement of his expectations is then followed by lettered subparagraphs that at best could be characterized as a disconnected jumble or mash-up at listing the reasons for his expectations. His jumbling, however, makes it impossible for any neutral hearing panel or

[4] 3.1 (Meritorious Claims and Contentions) "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law."
3.3(a)(1) (Candor Toward the Tribunal) "(a) A lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."
3.5(d) (Impartiality and Decorum of the Tribunal) "A lawyer shall not:…. (d) engage in undignified or discourteous conduct which is degrading or disrupting to a tribunal."
4.2 (Communication with Person Represented by Counsel) "In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order."
4.3 (Dealing with Unrepresented Person) "In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client."
4.4(a) (Respect for Rights of Third Persons) "(a) 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."
4.5 (Threatening Criminal Prosecution) "A lawyer shall not present, participate in presenting, or threaten to present criminal charges in order to obtain an advantage in a civil matter."
8.4(d) (Misconduct) "It is professional misconduct for a lawyer to:… (d) engage in conduct that is prejudicial to the administration of justice."

magistrate to unjumble what facts purportedly support what charges. Because probable cause is examined on a count-by-count basis, *Chiaverini v. City of Napoleon*, 602 U.S. 556 (2024), Mr. Hanley's jumble prevents any count-by-count analysis by a neutral hearing panel or magistrate. That, in turn, renders his affidavit on its face deliberately misleading and invalid, thus denuding the probable cause requirement of all real meaning.

Mr. Hanley's misrepresentations and omissions continue with his failure to attach any actual evidence, *i.e.,* documents, for a neutral hearing panel or magistrate. Mr. Hanley's charges are based only on documents. Yet he fails to attach a single one to his affidavit. That failure makes it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning. What remains are simply allegations by Mr. Hanley without the presentation of any evidence.

Mr. Hanley's misrepresentations and omissions continue in paragraph 11a. Paragraph 11a does not accurately reflect what was stated and is deliberately misleading. *First*, there was only one filing related to paragraph 11a's embellished characterization. That occurred on January 10, 2025. The deliberately inaccurate use of the plural of filing manipulates the inferences that he is pushing the probable cause hearing panel to draw. *Second*, as clearly stated in that January 10 filing, Respondent stated that the members of the Select Board (other than two) were engaged in "multi-faceted conspiracy to cover up" *the expiration of the Town Plan*.[5] No allegations against any specific person or the Town were made with respect to the "forgery," "counterfeiting," filing of "false certifications to the state and federal government in violation of criminal statutes" or

[5] *See,* para. 6 ("cover-up conspiracy includes all of the Select Board members but the two aforementioned and other Does and has resulted, *inter alia*, in the Town fraudulently obtaining grants from various entities, including federal funds, all of which require a Town Plan to be in effect.")

"false statement with the [Public Utility] Commission."[6] Only the "cover-up" of the expiration of the Town Plan was specifically alleged against the members of the Select Board (other than two).

But even if they were made, Mr. Hanley had access to all the information available from Respondent that establishes that the Town Plan expired,[7] and that no valid Town Plan meant forgery and counterfeiting when official documents are altered, which they were as shown in *RESPONDENT'S REPLY TO MR. HANLEY'S OBJECTION TO RESPONDENT'S MOTION TO REVISE* filed January 12, 2026, in this case (the "Reply")).[8] All of this information Mr. Hanley deliberately failed to disclose to the probable cause hearing panel thus denuding the probable cause requirement of all real meaning and violating Respondent's constitutional due process rights.

During the meet and confer conference on January 30, 2026, Respondent asked Mr. Hanley how he could justify bringing and maintaining the charge in Count I in light of the overwhelming evidence in the Reply. His answer was straightforward. He expressed that it was his opinion that civil RICO only applies to "mobsters," and in his view the officials in the Town of Bennington are not "mobsters." Mr. Hanley's position is in some sense consistent with his assertions in his motion to quash subpoenas that evidence of "forgery," "counterfeiting," "false certifications" and violations of RICO are irrelevant.[9] While Respondent appreciates Mr. Hanley's candor on that issue during the meet and confer, that candor was owed to the probable cause hearing panel. His

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[6] *See* para. 7 ("The cover up and overt acts include the forgery, counterfeiting and publication of official town and regional documents in violation of 13 V.S.A §1801 and §1802 and the submission of false certifications to the State and Federal government in violation of 13 V.S.A. §2002 and 32 V.S.A §631(a)(9).") *See also id*. ("The cover-up also includes filing false statements with the Commission that are based upon the existence of a Town Plan, but for which the Town knows does not exist and has not existed since October 6, 2023.")

[7] The nuts and bolts of the expiration of the Town Plan are laid out in the complaint filed in *PLH Vineyard Sky LLC v. Town of Bennington*, 2:25-cv-469 (D. Vt. Filed May 2, 2025).

[8] Available at: https://www.vermontjudiciary.org/media/19783.

[9] *See*, Mr. Hanley's MOTION TO QUASH SUBPOENAS ISSUED BY THOMAS MELONE TO JAMES SULLIVAN, JEANETTE JENKINS, SHANNON BARSOTTI AND DAN MONKS dated December 16, 2025 at 6-7 ("The validity of the Bennington Town Plan is not relevant. Even if we assume for the purposes of discussion that the Bennington Town Plan was invalid, had expired or is, or was, defective, and even if we assume that Bennington received grant money at a time its Town Plan was invalid, this does not lead to the conclusion that officers and agents of Bennington are criminals. … Evidence of criminal actions by opponents of Mr. Melone's solar project is not admissible in these proceedings…. even if opponents of Mr. Melone's application for a Certificate of Public Good were guilty of criminal conduct, Mr. Melone's threat to use the criminal process to coerce adjustment of a private civil matter subverted the civil process.")

duty of candor and full disclosure also required him to inform the probable cause hearing panel that his opinion neither a municipality nor any of its officials could be held liable under RICO is baseless in the Second Circuit, whose opinions are controlling law in this case on the issue. *See*, *Gingras v. Think Fin., Inc*., 922 F.3d 112, 124-25 (2d Cir. 2019). Likewise, stating that a party is preparing a civil RICO complaint is not a threat to report criminal violations as the Second Circuit has held. *Revson v. Cinque & Cinque*, 221 F.3d 71, 81 (2d Cir. 2000). In recently denying a municipal police chief's motion to dismiss a RICO claim against him, a New York federal judge reiterated that the Second Circuit has found that some courts' holdings that a municipality and its officials could not form the *means rea* needed for RICO was "not persuasive" … "particularly given that private corporations are routinely held liable for damages under RICO." *Winnie v. Sinagra*, No. 1:24-cv-00940 (BKS/PJE), 2025 U.S. Dist. LEXIS 159289 (N.D.N.Y. Aug. 18, 2025), *16 quoting *Gingas*. Mr. Hanley's failure to disclose the controlling precedent was misconduct, judicial deception and violates Respondent's constitutional due process rights.[10] Paragraph 11a of Mr. Hanley's affidavit is at best grossly misleading. Regardless, his failure to inform the probable cause hearing panel of the whole story is judicial deception.

Paragraph 11b fares no better. In paragraph 11b states: "Threatening to disclose purported criminal conduct by two other opponents if they did not support his companies' applications for Certificates of Public Good." Paragraph 11b another clear case of judicial deception. Mr. Hanley attaches no evidence to his affidavit. Paragraph 11b is simply a regurgitation of his allegations. Paragraph 11b does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or

[10] As to the mention of RICO, the January 10 filing says Respondent was finalizing a *civil* complaint against the Town and others (including unidentified "Does") that would include *various civil claims*, including breach of contract, declaratory and injunctive relief related to the Town Plan, civil rights violations and a civil RICO count. But the Respondent did not state what defendants would be charged in which Count. In other words, as to the Town, the two claims that were certain to be directed to the Town were the breach of contract and the declaration that the Town Plan expired. The breach of contract was based, *inter alia*, on what the Respondent alleged were unauthorized acts of Merrill Bent. There is no threat against any person Mr. Hanley can point to.

magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11c states: "Commencing site preparation for at least one of the proposed facilities in Bennington without a Certificate of Public Good from the Public Utility Commission." Mr. Hanley attaches no evidence to his affidavit. Paragraph 11c is simply a regurgitation of his allegations. Paragraph 11c does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11d states: "Giving 'not credible' testimony in the Public Utility Commission." Paragraph 11d does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11e states: "Attempting to have an ex parte communication with the Chair of the Public Utilities Commission." Paragraph 11e does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. None of the alleged rules which are "3.1, 3.3(a)(1), 3.5(d), 4.2, 4.3, 4.4(a), 4.5, and 8.4(d)" relate to *ex parte* communications. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11f states: "Bringing legal proceedings when there was no basis in law of for those proceedings." Paragraph 11f does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11g states: "Threatening to sue the Complainant when she made a privileged, confidential complaint to the Professional Responsibility Program." Paragraph 11g does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an

independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11h states: "Disclosing the Complainant's confidential complaint to the Complainant's client and its officers and agents." Paragraph 11h does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11i states: "Directly communicating with and threatening to sue the Complainant's client and its officers and agents on account of the Complainant's privileged, confidential complaint to the Professional Responsibility Program." Paragraph 11i does not set forth a *factual* basis for any of the charges. It does not reference any legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

Paragraph 11j states: "Engaging in a persistent and deliberate violations of the Rules." Paragraph 11j does not set forth a *factual* basis for any of the charges. It does not reference any

legal proceeding nor does it reference any facts. Nor does it tell the whole story that would include the contrary evidence that Respondent provided. Those failures (as well as his failure to associate facts and law with specific alleged violations) make it impossible for any neutral hearing panel or magistrate to make an independent determination of whether there are facts that support each count and what facts support each individual count. That failure also makes it impossible for any neutral hearing panel or magistrate to make an independent determination of the basis for Mr. Hanley's characterization of his asserted expectations, denuding the probable cause requirement of all real meaning.

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 available 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: February 9, 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
†Admitted in VT and NH

TELEPHONE 802-295-3151
FACSIMILE 802-547-8228
MFHANLEY@PLANTEHANLEY.COM
PJPERKINS@PLANTEHANLEY.COM
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

Event Added - MFH 1:30 Meet and Confer -- Thos. Melone and David Groff -- In Re Melone

Thomas Melone <thomas.melone@gmail.com> Sun, Feb 1, 2026 at 9:52 AM
To: "Michael F. Hanley" <mfhanley@plantehanley.com>

Good morning Mr. Hanley,

Thank you for your time on Friday to discuss the motion to quash the subpoena of Edward McNamara, and the motion to compel directed to you.

In order to narrow the information requested in the subpoena, I propose that you provide the following:

For the time period between May 1, 2025, to September 4, 2025, all e-mails, text messages, and other electronic messages in Your possession or control concerning, mentioning, or relating to Thomas Melone.

For any responsive document for which you withhold, 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.").

Thank you.

Thomas Melone
Chief Executive Officer
Allco Renewable Energy Inc

777 West Putnam Avenue, Suite 300

Greenwich, CT 06830

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

On Wed, Jan 28, 2026 at 1:30 PM Michael F. Hanley <mfhanley@plantehanley.com> wrote:

> MFH has added the following Event to your Calendar:
>
> Date: Friday 01/30/2026
> Time: 01:30 PM
> Client: 15411.005 Professional Responsibility Board
> Desc: MFH 1:30 Meet and Confer with Thos. Melone and David Groff
>
> Call 802-281-6167
>
> Password 4246
>
> Michael F. Hanley
>
> Plante & Hanley, P.C.
>
> P.O. Box 708
>
> White River Junction, VT 05001
>
> 802-295-3151, Ext. 102
>
> mfhanley@plantehanley.com

EXHIBIT 4

Event Added - MFH 1:30 Meet and Confer -- Thos. Melone and David Groff -- In Re Melone

Michael F. Hanley <mfhanley@plantehanley.com> Thu, Feb 5, 2026 at 5:19 PM
To: Thomas Melone <thomas.melone@gmail.com>

Dear Mr. Melone:

For the reasons previously stated, I will not produce emails regarding my investigation of you.

After filing an answer, you are free to conduct appropriate discovery of facts from witnesses. You are not free to subpoena or depose me or view my work product. In addition, what I did, or did not do in my investigation of you is not discoverable. The issue is what you did, and did not do not what I did, or did not do. On the other hand, I have given you every document within my possession or control filed in any proceeding, whether in the Vermont Superior Court, a federal court or the Public Utility Commission, and any communication you sent to or received from any party in any proceeding which in an way relates to the charges in the Petition of Misconduct.

Michael F. Hanley

Plante & Hanley, P.C.

P.O. Box 708

White River Junction, VT 05001

802-295-3151, Ext. 102

mfhanley@plantehanley.com

From: Thomas Melone <thomas.melone@gmail.com>
Sent: Thursday, February 5, 2026 8:46 AM
To: Michael F. Hanley <mfhanley@plantehanley.com>
Subject: Re: Event Added - MFH 1:30 Meet and Confer -- Thos. Melone and David Groff -- In Re Melone

Good morning Mr. Hanley,

Please advise whether you intend to comply with the request to provide:

For the time period between May 1, 2025, to September 4, 2025, all e-mails, text messages, and other electronic messages in Your possession or control concerning, mentioning, or relating to Thomas Melone.

I will proceed with refiling the motion to compel if you do not confirm by tomorrow that you will be complying with that request.

Sincerely,

Thomas Melone
Chief Executive Officer
Allco Renewable Energy Inc

777 West Putnam Avenue, Suite 300

Greenwich, CT 06830

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

On Wed, Feb 4, 2026 at 8:36 AM Thomas Melone <thomas.melone@gmail.com> wrote:

> Good morning Mr. Hanley,
>
> I realize that you have asserted *without any legal basis* that you are not subject to subpoena.
>
> AO9, Rule 19A(2) provides, and the Hearing Panel has confirmed, that "respondent may compel by subpoena … the production of pertinent books, paper, and documents."
>
> There is no exemption for you under either AO9 or Rule 45. If you have contrary authority, then please provide it now. Your bald assertions are insufficient.
>
> Likewise, your bald assertion that I "would not be entitled to discovery regarding my investigation before I sought a finding of probable cause," is insufficient. If you have contrary authority, then please provide it now. There is no exemption for your communications under either AO9 or Rule 45 prior to the time you sought a finding of probable cause.
>
> Tellingly, your position directly conflicts with Jon Alexander's compliance with the subpoena and Carolyn Anderson's testimony to the Vermont Legislature that the only information that might not be available is information subject to the work-product privilege.
>
> The time period between May 1, 2025 and September 4, 2025 is the period leading up to the probable cause hearing panel's determination.
>
> And while federal cases may not be controlling (on non-federal issues), there are persuasive authority, particularly as here where Vermont's subpoena rules follow the federal rules.
>
> Sincerely
>
> Thomas Melone
> Chief Executive Officer
> Allco Renewable Energy Inc
>
> 777 West Putnam Avenue, Suite 300
>
> Greenwich, CT 06830
>
> (212) 681-1120
> (801) 858-8818 (fax)

On Tue, Feb 3, 2026 at 4:34 PM Michael F. Hanley <mfhanley@plantehanley.com> wrote:

> Mr. Melone:
>
> Please explain with citation, to AO9, why you believe I am subject to subpoena. As I have told you on multiple occasions, I am not subject to subpoena.
>
> As I said when we spoke, even if I were subject to subpoena, you would not be entitled to discovery regarding my investigation before I sought a finding of probable cause.

Please explain why you chose May 1, 2025 and September 4, 2025.

The federal cases you cite have no application to disciplinary cases in the Professional Responsibility Program.

Michael F. Hanley

Plante & Hanley, P.C.

P.O. Box 708

White River Junction, VT 05001

802-295-3151, Ext. 102

mfhanley@plantehanley.com

From: Thomas Melone <thomas.melone@gmail.com>
Sent: Sunday, February 1, 2026 9:53 AM
To: Michael F. Hanley <mfhanley@plantehanley.com>
Subject: Re: Event Added - MFH 1:30 Meet and Confer -- Thos. Melone and David Groff -- In Re Melone

Good morning Mr. Hanley,

Thank you for your time on Friday to discuss the motion to quash the subpoena of Edward McNamara, and the motion to compel directed to you.

In order to narrow the information requested in the subpoena, I propose that you provide the following:

For the time period between May 1, 2025, to September 4, 2025, all e-mails, text messages, and other electronic messages in Your possession or control concerning, mentioning, or relating to Thomas Melone.

For any responsive document for which you withhold, 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.").

Thank you.

Thomas Melone
Chief Executive Officer
Allco Renewable Energy Inc

777 West Putnam Avenue, Suite 300

Greenwich, CT 06830

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

On Wed, Jan 28, 2026 at 1:30 PM Michael F. Hanley <mfhanley@plantehanley.com> wrote:

> MFH has added the following Event to your Calendar:
>
> Date: Friday 01/30/2026
> Time: 01:30 PM
> Client: 15411.005 Professional Responsibility Board
> Desc: MFH 1:30 Meet and Confer with Thos. Melone and David Groff
>
> Call 802-281-6167
>
> Password 4246
>
> Michael F. Hanley
>
> Plante & Hanley, P.C.
>
> P.O. Box 708
>
> White River Junction, VT 05001
>
> 802-295-3151, Ext. 102
>
> mfhanley@plantehanley.com

EXHIBIT 5

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)

EXHIBIT 6

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Thomas Melone
File No. 25-120

CONFIDENTIAL

MEMORANDUM IN SUPPORT OF *MOTION FOR FINDING OF PROBABLE CAUSE*

Administration Order 9, Rule 11(c) requires that before filing formal disciplinary charges, Conflict Discipline Counsel must obtain a finding of probable cause from a Hearing Panel. If this Hearing Panel finds probable cause to believe that a violation or violations ot the Vermont Rules of Professional Conduct occurred, Conflict Disciplinary Counsel will present formal charges to a different Hearing Panel.

Probable cause in the Professional Responsibility Program is defined as reasonable grounds to believe that an attorney has violated the Vermont Rules Professional Conduct. A finding of probable cause does not require proof beyond a reasonable doubt, and does not require proof of a violation by clear and convincing evidence. "Stripped of all gloss and technicalities, 'probable clause' is less certainty than proof, but more than suspicion of possibility." Peterson v. State, 379 A.2d 164, 166 (Md. 1977).

The *Motion for Finding of Probable Cause*, the proposed *Petition of Misconduct* (Exhibit A to the *Motion*) and the *Affidavit of the Conflict Disciplinary Counsel all* show that there is substantially more than a mere suspicion of the possibility that between June 2020 and, at a minimum, April 23, 2025, Thomas Melone, an attorney licensed to practice law in Vermont, violated Vermont Rules of Professional Conduct 3.1, 3.3(a)(1), 3.5(d), 4.2, 4.3, 4.4(a), 4.5 and 8.4(d) in legal proceedings connection with his efforts to develop solar-electric energy generation

facilities in Bennington and in the manner in which he responded when a confidential complaint regarding him was filed with the Professional Responsibility Program.

Dated: August 18, 2025

/s/Michael F. Hanley

Michael F. Hanley
Conflict Disciplinary Counsel
Plante & Hanley, P.C.
Post Office Box 708
White River Junction, VT 05001
802-295-3151, Ext. 102
mfhanley@plantehanley.com

EXHIBIT 7

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

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

CONFIDENTIAL

AFFIDAVIT OF MICHAEL F. HANLEY, CONFLICT DISCIPLINARY COUNSEL

Michael F. Hanley, Conflict Disciplinary Counsel, being sworn to tell the truth, states:

1. I am Conflict Disciplinary Counsel in this matter having been appointed on May 20, 2025.

2. I have been actively investigating this matter since my appointment.

3. Thomas Melone is licensed to practice law in Vermont and has been a lawyer for approximately 40 years.

4. Thomas Melone is the sole owner of approximately 85 business organizations.

5. Between 2013 and 2025, various business organizations solely owned by Thomas Melone, and represented by Thomas Melone and his son, also a lawyer licensed to practice in Vermont, have been engaged in efforts to develop at least two solar-electric generation facilities in Bennington.

6. Thomas Melone's efforts to obtain statutorily required Certificates of Public Good for these facilities from the Public Utilities Commission generated considerable opposition from various individuals and from the Town of Bennington.

7. Thomas Melone's actions in connection with the proposed solar-electric generation facilities resulted in a confidential complaint to the Professional Responsibility Program.

8. I interviewed the Complainant on multiple occasions.

9. I interviewed the Respondent and his son on multiple occasions.

10. I obtained, catalogued and read hundreds and hundreds of pages of documents provided by both the Complainant, the Respondent and others, including but not limited to:

a. A very large number of emails prepared and sent by the Respondent;

b. A very large number of pleadings prepared and filed by the Respondent;

c. A very large number of rulings and decisions issued by the Public Utility Commission, the Vermont Superior Court Civil Division, the Vermont Superior Court Environmental Division, the Vermont Supreme Court, the United States District Court for the District of Vermont, the United States Court of Appeals for the Second Circuit and at least one other circuit; and

d. One pleading filed by the Respondent in the United States Supreme Court.

11. I expect to prove by clear and convincing evidence that on multiple occasions over a period of years the Respondent Thomas Melone violated rules 3.1, 3.3(a)(1), 3.5(d), 4.2, 4.3, 4.4(a), 4.5, and 8.4(d) of the Vermont Rules of Professional Conduct by:

a. Filings in the Public Utility Commission claiming that officials and agents of the Town of Bennington were engaged in a "cover-up conspiracy," committed acts of "forgery" and "counterfeiting," filed "false certifications to the state and federal government" in violation of the criminal statutes that made them liable to his business organizations and/or him for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962(a);

b. Threatening to disclose purported criminal conduct by two other opponents if they did not support his companies' applications for Certificates of Public Good;

c. Commencing site preparation for at least one of the proposed facilities in Bennington without a Certificate of Public Good from the Public Utility Commission;

d. Giving "not credible" testimony in the Public Utility Commission;

e. Attempting to have an ex parte communication with the Chair of the Public Utilities Commission;

f. Bringing legal proceedings when there was no basis in law of for those proceedings;

g. Threatening to sue the Complainant when she made a privileged, confidential complaint to the Professional Responsibility Program;

h. Disclosing the Complainant's confidential complaint to the Complainant's client and its officers and agents;

i. Directly communicating with and threatening to sue the Complainant's client and its officers and agents on account of the Complainant's privileged, confidential complaint to the Professional Responsibility Program; and

j. Engaging in a persistent and deliberate violations of the Rules.

August 15, 2025

Michael F. Hanley

STATE OF VERMONT
WINDSOR COUNTY, SS

On August 15, 2025, Michael F. Hanley, a person known to me, personally appeared before me and swore that this *Affidavit* was true.

Notary Public
My Commission Expires:

PAUL J. PERKINS
Notary Public, State of Vermont
Commission # 157.0010074
My Commission Expires January 31, 2027