

On February 12, 2026, Mimi Brill granted Mr. Hanley’s motion and recused herself. If the HP Chair’s actions violated the rules of conduct (which they do) and/or required recusal, then the violation and/or the requirement for recusal applies to *all of the members* of the hearing panel because as stated in her various *ex parte* investigative emails, she was acting on behalf of the entire hearing panel.

Rule 2.9(A) of the Judicial Code provides:

A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter...

Mr. Hanley argued in his motion that “[w]hile there are exceptions to Rule 2.9(A), in my opinion, none of the exceptions apply in this case.” Ms. Brill apparently agreed.

Rule 2.9(C) provides:

A judge shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may properly be judicially noticed.

“In conducting its own independent factual research, the court improperly went outside the record in order to arrive at its conclusions, and deprived the parties [of] an opportunity to respond to its factual findings.” *Matter of Justice v. King*, 60 A.D.3d 1452, 1453-54, 876 N.Y.S.2d 301 (2009) (internal citation omitted). *See also, In Matter of Rokowski*, 168 N.H. 57, 61-62, 121 A.3d 284 (2015) (holding trial court erred because it relied, in part, upon its own internet research); *See also Wang v. Attorney General of United States*, 423 F.3d 260, 269 (3d Cir. 2005) (the assurance that the arbiter is not predisposed to find against a person “is absent—and judicial conduct improper—whenever a judge appears biased, even if she actually is not biased”) (internal citations omitted). As the United States Supreme Court declared in *Williams v. Pennsylvania*, 579 U.S. 1, 136 S. Ct. 1899, 1909 (2016): “An insistence on the appearance of neutrality is not some artificial attempt to mask imperfection in the judicial process, but rather an essential means of ensuring the reality of a fair adjudication. Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself.” Apropos to this case, the failure to recuse the entire hearing panel, or alternatively to disqualify

the entire hearing panel under A.O. 9, Rule 20J would be “an unconstitutional failure to recuse constitut[ing] structural error.” *Id.* at 579 U.S. at 14.

Regardless of the reason for the entire hearing panel being removed from this case, a mistrial must be declared and the case completely re-started (*i.e.*, begun anew) with a new hearing panel.

CONCLUSION

The investigation of facts independently by the Hearing Panel are clear violations of the rules of judicial conduct, constitute a violation of Respondent’s constitutional due process rights and additionally likely violate multiple rules of the rules of professional conduct. Whether due to multiple violations of the rules of conduct or the application of A.O. 9, Rule 20J, all the members of the hearing panel must recuse themselves, a mistrial declared and the case re-started afresh with a new hearing panel.

Dated: February 13, 2026

Respectfully Submitted,

/s/ Thomas Melone

Thomas Melone

601 S Ocean Blvd

Delray Beach, FL 33483

(212) 681-1120

Thomas.Melone@AllcoUS.com

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Thomas Melone
PRB File No. 120-2025

**CONFLICT DISCIPLINARY COUNSEL'S
MOTION FOR RECUSAL BY THE HEARING PANEL CHAIR**

With considerable reluctance, Conflict Disciplinary Counsel Michael F. Hanley respectfully requests that the Chair of the Hearing Panel, Mimi Brill, recuse herself.

I. The Facts

On December 3, 2025, Chair Brill, the Chair of the Hearing Panel, wrote an email to Carolyn Anderson, Chair of the Professional Responsibility Board. In that email Chair Brill said:

Hi Attorney Anderson,

I am the chair of the hearing panel in the matter of PRB-120-2025, Respondent Thomas Michael Malone, Esq.

The panel is seeking clarification regarding the appointment of Michael F. Hanley as Conflict Disciplinary Counsel in this matter.

Please see attached letter requesting clarification as well as the documentation we have received thus far.

Thank you for your attention to this matter.¹

Ms. Anderson did not receive Chair Brill's email because it was not sent to her correct email address. The email was sent to: canders@gmail.com. Ms. Anderson's correct email address is canders12345@gmail.com.

Chair Brill attempted to copy Mr. Melone and me on this email.

I did not receive a copy of the email because it was not sent to my correct email address.

¹ Exhibit 1, bottom of page 1- top of page 2.

The email was sent to: mfhanley@planethanley.com. My email address is mfhanley@plantehanley.com.

It appears from a filing made by Mr. Melone on January 14, 2026 that he received a copy of Chair Brill's December 3, 2025 email: "On December 3, 2025, the chair of the Hearing Panel sent a letter to Carolyn Anderson requesting clarification regarding the appointment of Mr. Hanley."² This filing was the first notice to me of Chair Brill's December 3, 2025 letter to Ms. Anderson.

Ms. Anderson was unaware of Chair Brill's December 3, 2025 email until January 12, 2025 when she received another email from Chair Brill which said:

Hi Attorney Anderson,

I am the Chair of the hearing panel in the matter of PRB-120-2025, Respondent Thomas Michael Malone, Esq.

The panel is seeking clarification regarding the appointment of Michael F. Hanley as Conflict Disciplinary Counsel in this matter.

Please see attached letter requesting clarification as well as the documentation we have received thus far.

Thank you for your attention to this matter.

I sent you a similar request back in mid-December, but I think I had the wrong email for you.

Thank you for your attention to this matter.³

When sending this email, Chair Brill did not copy Mr. Melone or me. Chair Brill did not attached her letter to Ms. Anderson.

² *Respondent's Opposition to Motion to Quash Subpoenas Issued by Respondent to James Sullivan, Jeanette Jenkins, Shannon Barsotti and Dan Monks*, page 11.

³ Exhibit 2, page 1.

However, later the same day (January 12, 2026), Chair Brill sent Ms. Anderson an email that said:

Here are the attachments and my original email below.
Sorry about that.⁴

Chair Brill's undated letter to Ms. Anderson, sent on January 12, 2026, states:

Dear Ms. Anderson:

I am Chair of the panel assigned to hear the Petition of Misconduct in the above-entitled matter. In a motion to dismiss, the Respondent raised the issue of the authority of the Board to appoint conflict disciplinary counsel. That motion was denied. We anticipate that in his answer he will raise the issue of whether Conflict Disciplinary Counsel Michael Hanley was properly appointed.

The only documentation we have of Mr. Hanley's appointment is a letter dated May 20, 2025, from Merrick Grutchfield in which she thanked Mr. Hanley for agreeing to serve as conflict disciplinary counsel in this case. But the letter does not advise Mr. Hanley that you, as chair of the Board, appointed him to this role. (I am attaching a copy of the letter.) We respectfully request that you clarify whether you made the appointment and, if so, the date of the same.

Thank you for your time and attention to this matter.⁵

Chair Brill's letter indicates that she sent copies to Mr. Melone and me. I did not receive a copy of the letter from Chair Brill. I assume it was because Chair Brill did not send the letter to my correct email address.

Ms. Anderson replied to Chair Brill's emails and letters by email. Ms. Anderson told Chair Brill that she appointed me as Conflict Disciplinary Counsel on May 16, 2025. Ms. Anderson did not send copies of this email to Mr. Melone or me.

⁴ Exhibit 1, page 1.

⁵ Exhibit 3.

II. The Vermont Code of Judicial Conduct

It is unclear whether the *Vermont Code of Judicial Conduct* applies to members of Hearing Panels. I am unaware of any authority stating that the Code applies. However, it is important to remember that I have asked the Hearing Panel to find that Mr. Melone violated the Vermont Rules of Professional Conduct and then to impose significant sanctions, including the equivalent of disbarment. Without question, Mr. Melone has a significant property right in his license to practice law in Vermont and both the Vermont Constitution and United States Constitution guarantee his right to due process. In the event of appellate review, the Vermont Supreme Court will protect Mr. Melone's right to due process. We should assume that the Court will hold members of the Hearing Panel to the same standards it does in other proceedings. As a result, the Chair should err on the side of caution and assume that the Vermont Code of Judicial Conduct applies, even though all members of the Hearing Panel are volunteers who frequently work in complex and contentious proceedings without compensation and without the benefit of many of the resources available to Probate, Superior and Supreme Court judges.

Rule 2.9(A) of the Code provides:

A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter

While there are exceptions to Rule 2.9(A), in my opinion, none of the exceptions apply in this case.

Rule 2.9(C) provides:

A judge shall not investigate facts in a matter independently and shall consider only the evidence presented and any facts that may properly be judicially noticed.

III. Conclusion

While it is clear that Chair Brill acted in good faith and with the best of intentions, bringing the phrase “no good deed goes unpunished” to mind, Rule 2.9 contains the word “shall” and its prohibitions are mandatory. It is in the interest of all concerned for Chair Brill to recuse herself.

Dated: January 27, 2026

/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 1

Michael F. Hanley

From: Carolyn Anderson <canders12345@gmail.com>
Sent: Wednesday, January 14, 2026 11:46 AM
To: Michael F. Hanley
Subject: Fwd: FW: clarification letter
Attachments: PRB.Anderson.lte.pdf; Han;ey appt letter.pdf

----- Forwarded message -----

From: Brill, Mimi <Mimi.Brill@vermont.gov>
Date: Mon, Jan 12, 2026 at 5:01 PM
Subject: FW: clarification letter
To: canders12345@gmail.com <canders12345@gmail.com>

Here are the attachments and my original email below.

Sorry about that.

Mimi Brill, Esq.

Supervising Attorney

Windham County Public Defender

50 Park Place

Brattleboro, VT 05301

(802)254-2375 office phone

(802)257-2826 fax

(802) 490-3897 google voice

From: Brill, Mimi
Sent: Wednesday, December 3, 2025 1:09 PM
To: 'canders@gmail.com' <canders@gmail.com>
Cc: 'mfhanley@planethanley.com' <mfhanley@planethanley.com>; 'Thomas.Melone@AllcoUS.com' <Thomas.Melone@AllcoUS.com>
Subject: clarification letter

Hi Attorney Anderson,

I am the chair of the hearing panel in the matter of PRB-120-2025, Respondent Thomas Michael Malone, Esq.

The panel is seeking clarification regarding the appointment of Michael F. Hanley as Conflict Disciplinary Counsel in this matter.

Please see attached letter requesting clarification as well as the documentation we have received thus far.

Thank you for your attention to this matter.

Best,

Mimi Brill

Mimi Brill, Esq.

Supervising Attorney

Windham County Public Defender

50 Park Place

Brattleboro, VT 05301

(802)254-2375 office phone

(802)257-2826 fax

(802) 490-3897 google voice

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EXHIBIT 2

Michael F. Hanley

From: Carolyn Anderson <canders12345@gmail.com>
Sent: Wednesday, January 14, 2026 11:46 AM
To: Michael F. Hanley
Subject: Fwd: clarification letter

----- Forwarded message -----

From: Brill, Mimi <Mimi.Brill@vermont.gov>
Date: Mon, Jan 12, 2026 at 12:31 PM
Subject: clarification letter
To: canders12345@gmail.com <canders12345@gmail.com>

Hi Attorney Anderson,

I am the chair of the hearing panel in the matter of PRB-120-2025, Respondent Thomas Michael Malone, Esq.

The panel is seeking clarification regarding the appointment of Michael F. Hanley as Conflict Disciplinary Counsel in this matter.

Please see attached letter requesting clarification as well as the documentation we have received thus far.

Thank you for your attention to this matter.

I sent you a similar request back in mid-December, but I think I had the wrong email for you.

Please get back to me as soon as possible as the issue has now been raised in respondent's pleadings.

Mimi Brill, Esq.

Supervising Attorney

Windham County Public Defender

50 Park Place

Brattleboro, VT 05301

(802)254-2375 office phone

(802)257-2826 fax

(802) 490-3897 google voice

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EXHIBIT 3

Mimi Brill, Esq.
Hearing Panel Chair
Professional Responsibility Program
mimi.brill@vermont.gov

Carolyn Anderson, Esq., Chair
Professional Responsibility Board
109 State Street
Montpelier, VT 05609-0703
By email: canders@gmail.com

In re Melone, PRB file no. 120-2025

Dear Ms. Anderson,

I am Chair of the panel assigned to hear the Petition of Misconduct in the above-entitled matter. In a motion to dismiss, the Respondent raised the issue of the authority of the Board to appoint conflict disciplinary counsel. That motion was denied. We anticipate that in his answer he will raise the issue of whether Conflict Disciplinary Counsel Michael Hanley was properly appointed.

The only documentation we have of Mr. Hanley's appointment is a letter dated May 20, 2025, from Merrick Grutchfield in which she thanked Mr. Hanley for agreeing to serve as conflict disciplinary counsel in this case. But the letter does not advise Mr. Hanley that you, as chair of the Board, appointed him to this role. (I am attaching a copy of the letter.) We respectfully request that you clarify whether you made the appointment and, if so, the date of the same.

Thank you for your time and attention to this matter.

Sincerely,



Mimi Brill, Esq.

cc: Michael Hanley, Esq
Thomas Melone, Esq.

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Thomas Melone
PRB File No. 120-2025

CERTIFICATE OF SERVICE

I certify that I filed *Conflict Disciplinary Counsel's Motion for Recusal by the Hearing Panel Chair* with the Professional Responsibility Program by sending the same via email to:

Merrick.Grutchfield@vtcourts.gov

with a copy to the Respondent via email to:

Thomas.Melone@gmail.com

Dated: January 27, 2026

/s/Michael F. Hanley
Michael F. Hanley
Conflict Disciplinary Counsel