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September 26, 2025

Professional Responsibility Program
Merrick Grutchfield, Program Administrator
109 State Street
Montpelier, VT 05609-0701

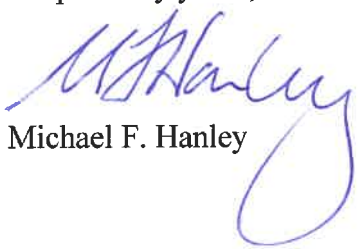
BY FIRST CLASS U.S. MAIL AND EMAIL (merrick.grutchfield@vermont.gov)

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

Dear Merrick

I enclose the *Petition of Misconduct* and my *Certificate of Service.*

Respectfully yours,



Michael F. Hanley

MFH/shg
Enclosures
cc: Thomas M. Melone (via U.S. Mail and email)

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

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

PETITION OF MISCONDUCT

Administrative Order 9, Rule 11(D)(1)(b)

The Petition follows a finding of probable cause on September 4, 2025.

NOTICE TO RESPONDENT: This is a formal *Petition of Misconduct.* Pursuant to Administrative Order 9, Rule 11(D)(3), you are required to file an Answer within 20 days addressed to the Professional Responsibility Program, 109 State Street, Montpelier, VT 05609, with a copy to Conflict Disciplinary Counsel. Failure to file a timely answer may result in the facts and charges being deemed admitted.

The Facts

Thomas Melone and his Various Business Organizations

1. Thomas Melone is a lawyer.
2. Thomas Melone has been a lawyer for more than 40 years.
3. Thomas Melone is licensed to practice law in Vermont.
4. Thomas Melone is also licensed to practice law in California, New York, New Jersey, Massachusetts, Pennsylvania, Florida and Connecticut.
5. Thomas Melone is the sole owner of at least 85 business organizations.
6. Many, or most, of Thomas Melone's business organizations are involved in some manner in renewable energy.
7. Business organizations owned by Thomas Melone are organized under the laws of, at least, Vermont, Connecticut, Indiana, Massachusetts, Minnesota and Delaware.

8. Thomas Melone is the sole owner of PLH Vineyard Sky, LLC ("PLH"), a Florida business organization.

9. Thomas Melone is the sole owner of Vineyard Sky Allco, Ltd. ("Vineyard Sky"), a Florida business organization.

10. Vineyard Sky is the sole owner of Allco Finance, Ltd. ("Allco"), a Florida business organization.

11. Allco is the sole owner of Apple Hill Solar, LLC ("Apple Hill"), a Vermont business organization.

12. Allco is the sole owner of Chelsea Solar, LLC ("Chelsea"), a Vermont business organization.

13. Thomas Melone controls and manages PLH, Vineyard Sky, Allco, Apple Hill and Chelsea.

Thomas Melone's Efforts to Develop
Two Solar-Electric Generation Facilities In Bennington

14. For more than a decade, Thomas Melone, PLH, Vineyard Sky, Allco, Apple Hill and Chelsea have been involved in efforts to develop solar-electric energy generation facilities on adjacent parcels on Willow Road (Chelsea) and Apple Hill Road (Apple Hill) in Bennington.

15. In 2013 and 2014, Apple Hill and Chelsea entered into two Standard Offer Contracts.

16. Standard Offer Contracts exist pursuant to 30 V.S.A. § 8005(a) apart of Vermont's Sustainably Priced Energy Enterprise Development (SPEED) Program. 30 V.S.A. §§ 8001, 8005, 8005a.

17. The Vermont Legislature created the SPEED Program to promote the rapid deployment of small renewable generation. 30 V.S.A. § 8005(a).

18. Under the SPEED Program, Vermont distribution utilities, the companies that own and maintain the wires, poles and transformers that deliver electricity from the transmission grid to homes and businesses, must buy renewable power from an eligible renewable electric energy generator at a specified price for a specified period of time.

19. To be eligible for the SPEED program, a project's proposed "plant capacity" cannot exceed 2.2 meagawatts. 30 V.S.A. § 8005a(b).

20. The 2.2 megawatt limits serves the Legislature's goal of providing support and incentives for renewable energy plants of small and moderate size distributed across the state's electric grid. 3 V.S.A. § 8001(a)(7).

21. 30 V.S.A. § 248 mandates that a project with a Standard Offer Contract must have a Certificate of Public Good (sometimes called a CPG) from the Public Utility Commission (sometimes called the PUC) before beginning site preparation, before constructing a generation facility and before selling electricity.

22. Chelsea applied for a Certificate of Public Good.

23. The Public Utility Commission denied Chelsea's petition.

24. In 2021, the Vermont Supreme Court affirmed the Public Utility Commission's denial of Chelsea's petition for a Certificate of Public Good. In re Petition of Chelsea Solar LLC, 2021 VT 27. ("We affirm the PUC's determination that the Willow Road and Apple Hil Facilities are a single plant under 30 V.S.A. § 8002(14)(14)(2014) . . . ."

25. Apple Hill applied for the statutorily required Certificate of Public Good by filing a

petition with the Public Utility Commission.

26. The Town of Bennington and neighbors of the Apple Hill facility intervened in the proceedings in the Public Utility Commission.

27. The Town of Bennington opposed Apple Hill's petition on the grounds that it violated the Town Plan.

28. Sometime later, the Town Selectboard changed its position and voted "not to oppose Apple Hill . . . ." In re Peition of Apple Hill Solar LLC, 2019 VT 64, ¶ 6.

29. In 2018, the Public Utility Commission granted Apple Hill's petition for a Certificate of Public Good.

30. Apple Hill's neighbors appealed the Public Utility Commission's grant of the Certificate of Public Good for Apple Hill to the Vermont Supreme Court.

31. In 2019, the Vermont Supreme Court reversed in part and remanded for further proceedings. Among other things, the Court found that:

> The selectboard's decision not to oppose the project as violating the Town Plan, on which the PUC heavily relied, does not necessarily mean anything. A decision not to oppose a project or assert that it violates the Town Plan does not mean the project comports with the Plan, or even that the Town has concluded that the project comports with the Plan. In fact, as the PUC recognized, the Town repeatedly emphasized in its response to petitioner's post-technical hearing brief and proposed findings that "[t]he Town has taken no position on the project overall compliance with the Town Plan." The Town could have any number of reasons for choosing not to oppose the project on these grounds, including conservation of its time and resources. That decision in no way supported the PUC's conclusion that the Town took the position that the project complied with the Town Plan.

In re Apple Hill Solar LLC, 2019 VT 64, ¶ 30.

32. After the remand, the Public Utility Commission denied Apple Hill's request for a Certificate of Public Good.

33. Apple Hill appealed.

34. In 2021, the Vermont Supreme Court reversed and remanded to the Public Utility Commission. In re Apple Hill Solar LLC, 2021 VT 69.

35. On remand, the Public Utility Commission again denied Apple Hill's petition for a Certificate of Public Good.

36. Apple Hill appealed again.

37. In 2023, the Vermont Supreme Court unanimously affirmed the decision of the Public Utility Commission. In re Petition of Apple Hill Solar LLC, 2023 VT 57, 311 A.3d 117, *motion for reargument denied*, Dec. 12, 2023, *motion to stay mandate denied*, Dec. 19, 2023.

38. In 2024, Apple Hill filed a new petition for a Certificate of Public Good in the Public Utility Commission.

39. At present, that petition is still pending.

40. Apple Hill's most recent petition is opposed by the Public Service Department, which has moved to dismiss on the grounds of collateral estoppel.

41. As of the filing of this *Petition For Misconduct*, neither Apple Hill nor Chelsea have a Certificate of Public Good.

Thomas Melone Has Acted as Counsel
For His Business Organizations in Vermont

42. Thomas Melone, and his son, Michael Melone, also a lawyer and also licensed to practice

in Vermont, have represented Thomas Melone's companies in a large number of legal proceedings in Vermont.

43. Thomas Melone has appeared on behalf of his various business organization on many occasions in the Civil and Environmental Divisions of the Vermont Superior Court, the Public Utilities Commission, the Vermont Supreme Court and the United States District Court for the District of Vermont.

44. In addition, Thomas Melone has represented his companies in appeals from the United States District Court for the District of Vermont to the United States Court of Appeals for the Second Circuit and in a *Petition for Writ of Certiorari* from the Vermont Supreme Court to the United States Supreme Court.

45. In addition to serving as an attorney for his various Vermont business organizations, Thomas Melone has testified under oath as a witness in proceedings in the Public Utility Commission.

Thomas Melone's Communications with ML and DG

46. ML and DG were opponents to at least one of the applications by at least one of the companies owned and controlled by Thomas Melone for a Certificate of Public Good.

47. At some point before May 3, 2024, ML and DG filed under the Bankruptcy Act for protection from their creditors.

48. In an email to ML and DG dated May 3, 2024, Thomas Melone said that he had discovered "property [that] does not seem to have been declared on Schedule A to the bankruptcy petition."

49. In a bankruptcy case, Schedule A/B is the document where bankrupts list all real and all

personal property. Schedule A focuses on real estate, while Schedule B covers everything else, including personal belongings and financial assets.

50. Thomas Melone attached to his May 3, 2024 email a copy of a deed that conveyed real property in Florida from DG to a Florida limited liability company.

51. In the May 3, 2024 email, Thomas Melone said "I do want you to be aware that we will be asking about it in your depositions."

52. ML and DG withdrew from the proceedings in the Public Utility Commission.

53. Nonetheless, in an email dated November 20, 2024 to ML and DG, Mr. Melone said:

> 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 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.

54. ML and DG did not "send letters to the PUC, the Planning Commission and the Select

Board supporting both projects."

55. On January 12, 2025, Thomas Melone filed "Further Comments" in the proceedings in the Public Utility Commission regarding Apple Hill's application for a Certificate of Public Good accusing ML and DG of "defrauding the federal government" and defrauding ML and DG's creditors.

Thomas Melon's Site Preparation Without a Certificate of Public Good and His "Not Credible" Testimony in the Public Utility Commission

56. On August 30, 2024, in In re Investigation Pursuant to 30 V.S.A. Sec. 30 & 209, 2024 VT 58, the Vermont Supreme Court affirmed the Public Utilities Commission's imposition of a $5,000 fine on various business organizations owned and controlled by Thomas Melone.

57. In In re Investigation Pursuant to 30 V.S.A. Sec. 30 & 209, the Vermont Supreme Court said that even though the Public Utility Commission had issued a Temporary Restraining Order prohibiting site-preparation "developer continued to conduct site clearing activities the following day until the sheriff arrived and ordered all work to cease."

58. In In re Investigation Pursuant to 30 V.S.A. Sec. 30 & 209, the Vermont Supreme Court said that "the PUC also found developer's claims that site preparation was done solely for unrelated farming purposes to be not credible given that developer knew that it did not have a Certificate of Public Good, that it was required to have one, that it needed to clear trees for site preparation, and that clearing had already been denied by the PUC."

59. In In re Investigation Pursuant to 30 V.S.A. Sec. 30 & 209, the Vermont Supreme Court said that "the PUC concluded that developer's failure to comply with its regulatory

obligations harm the credibility and integrity of the process, resulting in harm to the statutory scheme and potential harm to public safety and welfare, the environment, and utility customers."

60. After an unsuccessful *Petition for Writ of Certiorari* to the United States Supreme Court, at least one of the business organizations owned and controlled by Thomas Melone paid the $5,000 fine.

Thomas Melone's Filings in the Public Utility Commission

61. On January 10, 2025, in proceedings in the Public Utility Commission regarding Apple Hill's application for a Certificate of Public Good, Thomas Melone said that all but two members of the Town of Bennington Select Board were in engaged in an active "cover-up conspiracy" and committed acts of "forgery," engaged in "counterfeiting," filed "false certifications to the state and federal government in violation of criminal statutes" and filed at least one "false statement with the [Public Utility] Commission."

62. Thomas Melone told the Public Utility Commission that he was "finalizing" a complaint to be filed in the United States District Court for the District of Vermont against the Town of Bennington for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1962(c).

63. A RICO complaint must describe "predicate acts," specific criminal offenses, that, when committed as part of a pattern, can be the basis for civil actions. "Predicate acts" are the building blocks of a RICO claim and must be linked to a criminal "enterprise" to constitute a RICO violation.

64. Mr. Melone never filed a complaint alleging "RICO" violations by the Town of

Bennington in any court.

65. On January 29, 2025, Thomas Melone alleged to the Public Utility Commission, but not to the Professional Responsibility Program, that "attorney Bent's representation [of the Town of Bennington] would be a violation of multiple rules of the Vermont and New York attorney Rules of Professional Conduct."

Thomas Melone's Email to Public Utility Commission Chair McNamara

66. On March 24, 2025, Thomas Melone sent an email to the members of the House Committee on Energy and Digital Infrastucture and the Senate Committee on Natural Resources and Energy.

67. In his March 24, 2025 email, Thomas Melone criticized Public Utility Commission Chair Ed McNamara as well as the Public Utility Commission.

68. In the March 24, 2025 email, Mr. Melone asserted that the Public Utility Commission had "weaponized and expanded" and "applied *retroactively*" [emphasis in original] what he described as the "single-plant rule" in order to deny a Certificate of Public Good to Chelsea.

69. Thomas Melone went on to say that the Public Utility Commission had made a "demonstrably *false claim*" [emphasis in original] with respect to Apple Hill and Chelsea.

70. He asserted that "[w]hat appears to matter to the PUC is political connections."

71. He asserted that "when the "single-plant" rule became an obstacle for Global Foundries' solarization of its campus, the PUC ditched the rule for them . . . ."

72. He then said: "The PUC's dangerous interpretative approach undermines the rule of law, and *inter alia*, violates Allco's due process and equal protection rights, is a paradigm of

arbitrariness, and is leading to even more litigation."

73. He then told the Legislative committees:

> The PUC continues to up the ante in the weaponization of the single plant rule. And Allco will continue to respond with more litigation challenges to the PUC.
>
> I look forward to the opportunity to answer questions and to provide a fulsome description of the litigation that has involved the Standard Offer program and that will continue.

74. On the same day, Thomas Melone sent a copy of his March 24, 2025 email to Public Utility Commission Chair Ed McNamara.

75. Thomas Melone did not send a copy of his March 24, 2025 email to any of the other parties in the proccedings involving Apple Hill's applications for a Certificate of Public Good.

76. On April 21, 2025, the Clerk of the Public Utility Commission issued a memorandum seeking comments on whether Mr. Melone's March 24, 2025 email violated the PUC's rule against ex parte communications.

77. Thomas Melone asserted that the Commission's ex parte rule violated his First Amendment rights.

78. On June 17, 2025, the Public Utility Commission ruled that Thomas Melone had violated the PUC's prohibition against ex parte communications with the Commission but declined to impose sanctions.

Thomas Melone's Opposition to the Bennington High Project

79. On January 28, 2025, the Bennington Select Board authorized the Town of Bennington to enter into a contract with Hale Resources, LLC regarding the development of the former

Bennington High School.

80. On February 25, 2025, Thomas Melone, knowing that the redevelopment of the former high school was a priority for the Town, and while acting as counsel for one of his business organizations, PLH, appealed Bennington's decision to enter into a contract with the developer to the Environmental Division of the Vermont Superior Court.

81. On February 27, 2025, the Town of Bennington moved to dismiss the appeal asserting that the Environmental Division lacked subject matter jurisdiction in that the appeal did not involve the granting or denial of a permit allowing land development to occur, a prerequisite for subject matter jurisdiction under 24 V.S.A. § 4471.

82. On February 28, 2025 the Environmental Division issued an entry order stating: "the court believes it lacks subject matter jurisdiction over this appeal and is prepared to dismiss the appeal sua sponte," but gave PLH until March 3, 2025 to file a response to the Bennington's *Motion to Dismiss*.

83. PLH filed at least one pleading opposing the Bennington's *Motion to Dismiss* for lack of subject matter jurisdiction.

84. On March 6, 2025, the Environmental Division dismissed PLH's appeal on the grounds that the court lacked subject matter jurisdiction.

85. At the time Thomas Malone caused PLH to appeal to the Environmental Division, Thomas Melone knew, or should have known, that the Environmental Division lacked subject matter jurisdiction.

86. Thomas Malone caused PLH to appeal the Environmental Division's dismissal of PLH's appeal to the Vermont Supreme Court.

87. Thomas Malone caused PLH to file suit against the Town of Bennington in the Vermont Superior Court, Civil Division, Chittenden Unit, alleging that Bennington's contract with the Bennington High developer was "municipal waste."

88. Thomas Melone and Michael Melone told agents and employees of the Town Bennington that PLH would withdraw the appeal from the dismissal of its action in the Environmental Division, withdraw the allegation of "municipal waste," and would not oppose the Bennington High project if the Town of Bennington withdrew its opposition to Apple Hill's petition for a Certificate of Public Good.

Merrill Bent's Complaint to the Professional Responsibility Program Regarding Thomas Melone

89. In March 2025, the Professional Responsibility Program received a written complaint from a Vermont attorney, Merrill Bent.

90. Ms. Bent alleged that both Thomas Melone and Michael Melone had, on multiple occasions, violated the Vermont Rules of Professional Conduct.

91. Ms. Bent said she had learned of the violations of the Rules while representing the Town of Bennington in (a) its opposition to Apple Hill's and Chelsea's applications for Certificates of Public Good and (b) efforts to develop the former Bennington High School.

92. In her complaint, Ms. Bent said she acted pursuant to her obligations under Rule 8.3 of the Vermont Rules of Professional Conduct.

93. Rule 8.3(a) mandates a report to the Professional Responsibility Program when a lawyer "knows that another lawyer has committed a violation of the Rules of Professional

Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

94. Screening Counsel Andrew R. Strauss reviewed Ms. Bent's report and informed Thomas Melone:

> In my judgment, the conduct which is the subject of the complaint appears to constitute misconduct that may require disciplinary sanctions. Therefore, pursuant to Rule 12.C of Administrative Order 9 [of the Vermont Supreme Court], I am referring the complaint to Disciplinary Counsel Jon T. Alexander.

Thomas Melone's Reply to Ms. Bent's Complaint

95. On April 23, 2025, Thomas Melone wrote a letter to Screening Counsel Strauss, and said "Attorney Bent's allegations are actionable defamation." Thomas Moore went on to say "the allegations in the complaint are not only meritless, but actionable defamation per se."

96. Thomas Melone then said "Bent's accusation is also actionable as a claim for false light."

97. Thomas Melone told Screening Counsel Strauss that he had heard that a paralegal who had been employed by Ms. Bent's firm had been "verbally accosted by "[Merrill Bent]." (Brackets in original.)

98. Thomas Melone's statements suggested or implied that Ms. Bent had treated at least one employee of her law firm improperly.

99. Thomas Melone then told screening counsel Strauss "I do not have direct information as to which of the four partners [in Ms. Bent's firm] was accused of abusive behaviors."

100. Thomas Melone did not tell Mr. Strauss why he had included the allegation that Ms. Bent had "verbally accosted" a female employee.

101. In his April 23, 2025 letter, Thomas Melone told Screening Counsel Strauss that Vermont

Rule of Professional Conduct 3.7 "prohibited [Ms. Bent] from representing the Bennington Select Board."

102. Thomas Melone has never filed a complaint against Ms. Bent with the Professional Responsibility Program.

Thomas Melone's Communications With Ms. Bent's Clients

103. On April 23, 2025, at a time when Ms. Bent represented the Town of Bennington, and Thomas Melone knew that Ms. Bent represented the Town of Bennington, Thomas Melone sent the following email to Ms. Bent and various elected officials and employees of the Town:

> Attached you will find the response that I submitted to the Professional Responsibility Board in response to the ethics complaint against me. I am now finalizing the defamation suit which I expect will be able to be filed next week. See excerpt attached as well.

104. Thomas Melone attached not only his April 23, 2025 letter to Screening Counsel Strauss, but also included what he called an "excerpt" from a "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights."

105. Thomas Melone was the author of the "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights."

106. The "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights" listed both Ms. Bent and the Town of Bennington as defendants.

107. Thomas Melone told the recipients of the email that he would file the "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights" in the United States District Court for the District of Vermont.

108. The "excerpt" from the "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights" also stated:

> Plaintiff alleges that Bent filed the PRB Complaint on behalf of the Town of Bennington.

109. The "excerpt" from Thomas Melone's "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights" does not disclose how he came to the conclusion that Ms. Bent filed her complaint "on behalf of the Town of Bennington."

110. At the time Thomas Melone sent the "Complaint for Defamation, Injurious Falsehood in Violation of Civil Rights," no official, agent or employee of the Town of Bennington, other than Ms. Bent, was aware that Ms. Bent had filed a confidential complaint with the Professional Responsibility Program.

111. When asked by Ms. Bent to stop communicating with officials, agents and employees of the Town of Bennington, Thomas Melone refused to do so.

112. In emails to Mr. Bent, Thomas Melone asserted that he had the right to communicate with Bennington officials and employees because of the First Amendment right to petition the government for the redress of grievances.

113. On multiple dates in 2025, Thomas Melone sent additional emails to Bennington officials and employees.

Count I
Thomas Melone's Claims in the Public Utility Commission that the Town of Bennington and its Officials, Agents and Employees Engaged in Criminal Conduct
Violation of Rules 3.5(d), 4.3, 4.5 and 8.4(d)

114. Conflict Disciplinary Counsel restates paragraphs1through 113.

115. Thomas Melone's claims in filings in the Public Utility Commission 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 criminal statutes," and filed "false statements with the [Public Utility] Commission" and Thomas Melone's claim that the Town and its officials and employees were liable to him or his business organization for violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1962(c) violated:

a) Rule 3.5(d) in that it was undignified or discourteous conduct which was degrading or disrupting to a tribunal;

b) Rule 4.3 in that it showed a lack of candor toward a tribunal, the Public Utility Commission, in that Thomas Melone's statements were false statements of law and fact;

c) Rule 4.5 by threatening to present criminal charges in order to obtain advantage in a civil manner, his companies' applications for Certificates of Public Good; and

d) Rule 8.4(d) in that it was conduct prejudicial to the administration of justice

Count II
Thomas Melone's Communications with ML and DG
Violation of Rules 4.5 and 8.4(d)

116. Conflict Disciplinary Counsel restates paragraphs1through 113.

117. In his communications with ML and DG, Thomas Melone violated:

a) Rule 4.5 by threatening to present criminal charges in order to obtain advantage in a civil manner, his companies applications for Certificate of

Public Goods; and

b) Rule 8.4(d) in that it was conduct prejudicial to the administration of justice.

COUNT III
Thomas Melone 's Site Preparation Without a Certificate of Public Good and His "Not Credible" Testimony in the Public Utility Commission
Violation of Rules 3.5(d), 4.3 and 8.4(d)

118. Conflict Disciplinary Counsel restates paragraphs1through 113.

119. In his company's site preparation without a Certificate of Public Good and his "not credible" testimony in the Public Utility Commission, Thomas Melone violated:

a) Rule 3.5(d) in that it was undignified or discourteous conduct which was degrading or disrupting to a tribunal;

b) Rule 4.3 in that it showed a lack of candor toward a tribunal, the Public Utility Commission, in that Thomas Melone's statements were false statements of fact and law; and

c) Rule 8.4(d) in that it was conduct prejudicial to the administration of justice

Count IV
Thomas Melone's March 24, 2025 Email to
Public Utility Commission Chair Ed McNamara
Violation of Rule 3.5(b)(1)

120. Conflict Disciplinary Counsel restates paragraphs1through 113.

121. Thomas Melone's March 24, 2025 email to Public Utility Commission Chair Ed McNamara violated:

a) Rule 3.5(b)(1) in that it was an ex parte communication with a person

acting in a judicial or quasi-judicial capacity; and

b) Rule 8.4(d) in that it was conduct prejudicial to the administration of justice.

Count V
Thomas Melone's Conduct With Respect to the Bennington High Project
Violation of Rules 3.1, 3.3(a)(1), 4.4(a) and 8.4(d)

122. Conflict Disciplinary Counsel restates paragraphs1through 113.

123. In the manner and means Thomas Melone used in his opposition to the Bennington High Project, Thomas Melone violated:

a) Rule 3.1 in that Thomas Melone brought or caused to be brought a legal proceeding in the Environmental Division when there was no basis in law to assert that it had subject matter jurisdiction over the matter;

b) Rule 3.3(a)(1) in that Thomas Melone demonstrated a lack of candor to both the Environmental Division and the Vermont Supreme Court by making false statements of law regarding the subject matter jurisdiction of the Environmental Division;

c) Rule 4.4(a) in that Thomas Melone used means and methods that had no substantial purpose other than to delay or burden a third person, the Bennington High developer; and

d) Rule 8.4(d) in that Thomas Melone's conduct was conduct prejudicial to the administration of justice.

Count VI
Thomas Melone's Statements to Screening Counsel Strauss with Respect to Merrill Bent's Complaint to the Professional Responsibility Program
Violation of Rules of Professional Conduct 3.3(a)(1), 4.4(a) and 8.4(d)

124. Conflict Disciplinary Counsel restates paragraphs1through 113.

125. Thomas Melone's claim to Screening Counsel Straus that Ms. Bent had verbally accosted an employee of her law firm, his threats to sue Ms. Bent for defamation *per se*, his disclosure of Ms. Bent's complaint to officials, agents and employees of the Town of Bennington and his claim in in the Public Utility Commission that Ms. Bent violated the Rules of Professional Conduct violated:

a) Rule 3.3(a)(1) in that he showed a lack of candor toward the Professional Responsibility Program by making a false statements of law, specifically that Ms. Bent was liable for defamation per se, when he knew or should have known that Rule 12 of The American Bar Association's *Model Rules for Lawyer Disciplinary Enforcement* provides that communications to the Program, hearing committees or disciplinary counsel relating to lawyer misconduct are absolutely privileged and no lawsuit predicated thereon may be instituted against any complainant or witness; and

b) Rule 4.4(a) in that they showed disrespect for Ms. Bent's rights and he used means that had no substantial purpose other than to embarrass, delay, or burden Ms. Bent; and

c) Rule 8.4(d) in that he engaged in conduct prejudicial to the administration of justice by attempting to harass or intimidate a complaining witness, Ms. Bent.

Count VII
Thomas Melone's Email to Officials and Employees of the Town of Bennington
Violation of Rules 4.2 and 8.4(d)

126. Conflict Disciplinary Counsel restates paragraphs1through 113.

127. Thomas Melone knew or should have known that Administrative Order 9 expressly provides that proceedings in the Professional Responsibility Board are confidential until such time as a Hearing Panel makes a finding of probable cause.

128. Thomas Melone knew or should have known that Rule 4.2 bars a lawyer from communicating with a person represented by counsel.

129. While Rule 4.2 generally protects represented government entities from unconsented contacts by opposing counsel, there is an important exception to that "no contact" rule arising from the constitutional right to petition the government and the derivative public policy of ensuring a citizen's right of access to government decision makers. As a result, Rule 4.2 permits a lawyer representing a private party in a controversy with the government to communicate about the matter with government officials who have the authority to take or to recommend action in that matter, provided that the sole purpose of the lawyer's communication is to address a policy issue, including settling the controversy.

130. Thomas Melone's communications with officials and employees of the Town of Bennington violated:

a) Rule 4.2 in that Thomas Melone's communications were not limited to Town officials who had authority to take or to recommend action in connection with Ms. Bent's complaint to the Professional Responsibility

Program, as there was no Town official who had authority to take or recommend action in connection with Ms. Bent's complaint; and

b) Rule 8.4(d) in that he engaged in conduct prejudicial to the administration of justice by attempting to harass or intimidate a complaining witness in proceeding before the Professional Responsibility Program, Ms. Bent.

Count VIII
Thomas Melone's Persistent and Deliberate
Violations of The Rules of Professional Conduct
Violation of Rule 8.4(d)

131. Conflict Disciplinary Counsel restates paragraphs1 through 113.

132. Over course of many years in a variety of forums, including but not limited to the Vermont Public Utility Commission, the Vermont Superior Court, the Vermont Supreme Court and the United States Court of Appeals, Thomas Melone persistently and deliberately violated the Rules of Professional Conduct and persistently induced his son, Michael Melone, to violate the Rules of Professional Conduct.

133. The Vermont Supreme Court stated in In Re James Weston Wright, 131 Vt. 473 (1973), that when there is a "consistent pattern . . . emerging from a series of several transactions, it seems clear that what might be in a single instance only poor judgment sans evil intent or direct motive becomes a condemnable course of conduct amounting to ethical unfitness . . . ."

134. This *Petition of Misconduct* show a consistent pattern emerging from several events of intentional misconduct that was prejudicial to the administration of justice in violation of Rule 8.4(d).

Dated: September 4, 2025

Michael F. Hanley
Conflict Disciplinary Counsel
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STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

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

CERTIFICATE OF SERVICE

I certify that on September 26, 2025, following a finding of probable cause, I filed a Petition of Misconduct regarding Thomas M. Melone with the Professional Responsibility Program by depositing the same in the United States Mail, postage prepaid, First Class, addressed to:

Merrick Grutchfield, Program Administrator
109 State Street
Montpelier, VT 05609-0701

and also by sending the same to her via email at:

merrick.grutchfield@vermont.gov

with copies to the Respondent via United States Mail, postage prepaid, First Class, addressed to:

Thomas M. Melone
157 Church Street, 19th floor
New Haven, CT 06510

the address shown on his last licensing statement and by email to:

Thomas.Melone@gmail.com

Dated: September 26, 2025

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