

STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY BOARD

In Re: C. Robert Manby Jr.  
PRB File No. 2019-089

**MOTION TO RECUSE AND TO STRIKE**

Respondent, in compliance with the Hearing Panel's Ruling on Parties Proposed Stipulation of Facts dated March 6, 2019 (the Ruling) requests Hearing Panel 2 recuse itself from this matter. Hearing Panel 2 has reviewed numerous exhibits improperly submitted which should not be considered by the finder of fact in this matter. As pointed out in the Ruling "Disciplinary Counsel's extensive citation to various exhibits, apart from the statements of fact set forth in the stipulation, is not consistent with the procedure set forth in Rule 11(0)(5)." In reviewing the various exhibits, the panel could not help but form opinions. In reviewing the exhibits, the panel formed unconscious biases. The opinions and biases formed from exhibits that were not properly before the panel, and should not be allowed in evidence, clearly presents a problem which can only be corrected by a hearing before a fresh, untainted panel. To avoid conscious or unconscious bias or the appearance of prejudice, Respondent requests the hearing panel be recused.

A petition of misconduct was filed August 5, 2020 (the petition). The petition as filed will or could carry forward to any new panel the same bias. The petition alleges "Facts" which Respondent believes will be inadmissible in evidence. For instance, the petition alleges, at ¶ 40, the findings of another court in an action against a non-party. At ¶ 41 the petition alleges the supposed findings of an investigator which is inadmissible hearsay and should not be allowed in evidence through its inclusion in the petition.

Allegations of inadmissible “facts” should be struck by Hearing Panel 2 so that the new panel could review the case without first having to hear and form opinions on challenged evidence before ruling on its admissibility. Respondent moves Hearing Panel 2 allow Respondent to challenge alleged facts Respondent believes are inadmissible before the matter is assigned to a new panel.

Wherefore Respondent respectfully requests Hearing Panel 2 allow Respondent to object to the inclusion of inadmissible “facts” included in the petition, have inadmissible alleged facts struck from the petition and after such evidentiary rulings by Hearing Panel 2 transfer the case to a second panel for hearing.

Dated at Rutland, Vermont, August 14, 2020.

C. ROBERT MANBY JR.

By:

  
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