

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

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

ORDER ON MOTION TO EXTEND SCHEDULING ORDER

On January 8, 2021, after consideration of the parties' separate proposed scheduling orders, the Hearing Panel issued a Scheduling Order in the above matter. Respondent has moved to extend all of the deadlines set forth in the Scheduling Order by thirty days based on the fact that the deadlines in paragraphs 1 and 2 of the Order had passed by the time the Order was issued on January 8, 2021.

It is unfortunate that issuance of the Scheduling Order was delayed. However, while it is true that two of the deadlines had passed as of that date, Respondent has not justified his request for an across-the-board enlargement of the deadlines.

Paragraph 1 of the Order set a deadline of December 30, 2020 for Respondent to provide responses to Disciplinary Counsel's October 2, 2020 Requests for Production of Documents and, in addition, for any further requests for production to be served by the parties. To begin with, it must be noted that Respondent's proposed scheduling order did not request an enlargement of time by which to comply with the requests for production. This absence of a requested deadline occurred against the backdrop of the requirement in A.O. 9, Rule 15(B)(1) that "[w]ithin 60 days following the filing of an answer, disciplinary counsel and respondent . . . shall comply with reasonable requests for production of (a) non privileged documents" Respondent filed his answer on August 25, 2020. Thus, even under an interpretation of Respondent's obligation with respect to the October 2, 2020 requests for production that is most favorable to Respondent, he had only until December 2, 2020 to respond.

Because, in contrast to Respondent's failure to propose any extension of time, Disciplinary Counsel proposed a deadline of December 30, 2020 for the responses to be submitted, the Panel adopted the date proposed by Disciplinary Counsel. Respondent was on notice that the Panel could order that date. He should have been working towards compliance with that date. He has not justified the requested extension. In its discretion, the Panel will allow Respondent 7 days from the date of this Order to serve its responses. That enlargement of time does not require enlarging any other deadline in the Scheduling Order.

Paragraph 2 set the same deadline of December 30, 2020 for the parties to exchange the names and addresses of all persons having relevant knowledge and/or witnesses. Respondent's December 14, 2020 proposed scheduling order proposed a deadline of December 31, 2020 for "each party [to] identify persons having knowledge of relevant facts." Disciplinary Counsel proposed a deadline of December 30, 2020. Thus, the deadline in the Order was essentially the same as both parties proposed. It also bears noting that A.O. 9, Rule 15(B)(1) required the parties to exchange the names and addresses of all persons having knowledge and/or witnesses within 20 days following the filing of Respondent's answer on August 25, 2020. Having proposed the deadline of December 31, 2020 and in light of Rule 15(B)(1), it was incumbent on Respondent to work towards compliance with that date; he had no reason to expect that more time would be allowed for compliance.

Accordingly, the request to extend that date will be denied.


ORDER


Paragraph 1 of the Scheduling Order is hereby amended to require compliance no later than seven business (7) days from the date of this Order. To the extent that Respondent has requested an additional enlargement of time with respect to Paragraph 1, it is DENIED. Respondent's requests for

enlargement of time with respect to all of the remaining paragraphs of the Scheduling Order are
DENIED.

Dated this 14th day of January of 2021.

Hearing Panel No. 2

By: 
James A. Valente, Esq., Chair

By: 
Amelia W.L. Darrow, Esq.