

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

RESPONSE TO NOTICE TO THE PANEL AND REQUEST FOR SANCTIONS

Navah C. Spero, Esq., Specially Assigned Disciplinary Counsel (“Special Disciplinary Counsel”) responds to Respondent’s Notice to the Panel as follows:

Introduction

Respondent has chosen not to follow the process laid out by this Hearing Panel to resolve the pending discovery dispute. To date, he has not provided revised discovery responses or additional documents, even though this Hearing Panel already extended his deadline to do so. In addition, Respondent’s statements to the Hearing Panel in the Notice to the Panel are not accurate. Special Disciplinary Counsel asks the Hearing Panel to preclude Respondent from (1) relying on any defense for which he has refused to provide documents and (2) introducing any documents at the hearing that have not been produced to date.

Background

On April 14, 2021, this Hearing Panel issued a scheduling order requiring the parties to exchange all documents no later than June 25, 2021. Mr. Watts did not provide any written discovery prior to June 25. Respondent late filed his written responses to discovery on July 7, 2021, but did not provide any documents. Although not obligated to under A.O. 9, Special Disciplinary Counsel met and conferred with Mr. Watts to attempt to resolve the discovery dispute, but was unable to do so. Special Disciplinary Counsel filed a Request to Resolve Discovery Dispute on July 16, 2021.

On August 9, 2021, the Hearing Panel issued an order requiring (1) Special Disciplinary Counsel to submit a set of revised requests within five business days of August 9, 2021, (2) Respondent to respond to those requests within ten business days of August 9, 2021, and (3) Respondent and Special Disciplinary Counsel to meet and confer within fifteen business days of August 9, 2021. On August 13, 2021, Special Disciplinary Counsel provided a revised set of requests and an explanation of which requests could be sufficiently resolved with a response that no documents existed. Those revised requests, along with the cover letter explaining them are attached as Exhibit A. Respondent sought a three day extension of his intermediate deadline to August 26, 2021, but told the Hearing Panel he would be prepared to meet and confer with Special Disciplinary Counsel on August 30, 2021, the fifteenth business day. The Hearing Panel granted this request.

Respondent did not provide any written response to Special Disciplinary Counsel on August 26, 2021. Nor did he respond to Special Disciplinary Counsel's request to set an appointment to meet and confer on August 30, 2021. At approximately 2:02 p.m. on August 30, 2021, Respondent sent Special Disciplinary Counsel an e-mail that stated "I have reviewed all your requests and my original responses, again, and conclude that I can provide documents or denials (for lack of documentation) by tabs for ease of review – for all requests except No. 5 – your request for income statements for the firm." Exhibit B. In the e-mail, Respondent further explained his objection to Request 5 and stated he would be available for a meet and confer discussion the remainder of the afternoon. *Id.* The e-mail had no attachments.

Special Disciplinary Counsel replied by e-mail at 3:12 p.m. on August 30, 2021, explaining that Respondent failed to follow the process set out by the Hearing Panel – Special Disciplinary Counsel still was not in possession of a set of revised responses, making it

impossible to meet and confer about the substance of any response except Request 5. Exhibit B.¹ Special Disciplinary Counsel and Respondent spoke on the phone at approximately 4:00 p.m. Special Disciplinary Counsel told Respondent that the only issue ripe for resolution at that time was the dispute related to Request 5. After a discussion, the parties were unable to resolve that issue because Respondent insisted that sanctions-related discovery was untimely, despite the Hearing Panel's April 14, 2021 schedule. During that call, Special Disciplinary Counsel asked Respondent when he could provide her with the revised responses to discovery and the additional documents referenced in his e-mail. Respondent could not provide a timeline for producing the responses was required to produce on August 26, 2021.

Special Disciplinary Counsel then informed Respondent that she would notify the Hearing Panel of Respondent's failure to comply with the Hearing Panel's August 9, 2021 Order. Respondent filed his Notice to the Panel late afternoon on August 30, 2021.

Argument

Respondent is refusing to participate in the discovery process established by the Panel. Respondent failed to submit a revised response to Special Disciplinary Counsel's revised requests to produce. Notably, Respondent previously asked for three additional days to complete his responses. He did not complete the responses in those three days, nor did he do so by August 30, 2021. Respondent states in the Notice to the Panel that he worked on his discovery responses "all last weekend," but has no work product to show for it and cannot provide a date certain

¹ The e-mail stated: "What you provided below today is not a revised response to my revised requests. It is a statement that you will provide those in the future. Absent this response, it's impossible for me to let the panel know whether any disputes remain. Unless I have something in writing today, I will file something with the panel tomorrow and let them know that we are not able to complete the process set out by the panel because you have not followed its order." Exhibit B.

within which he will provide the responses to Special Disciplinary Counsel. Respondent has not provided a single document as part of the discovery process in this matter, despite having twice requested and received extra time.

In addition, Respondent's Notice to the Panel misrepresented Special Disciplinary Counsel's position as it relates to the parties' discovery dispute. Specifically, the following statement in Respondent's Notice to the Panel is incorrect: "Respondent's continued work on the discovery has reduced the disputes with Counsel to one issue: The request for income statements." Both in her e-mail and during the call between Special Disciplinary Counsel and Respondent, Special Disciplinary Counsel made it clear that the discovery dispute has not been narrowed at all – she does not know which issues remain outstanding because she has not seen Respondent's responses to the revised discovery requests. Yet, Respondent has now represented to the Hearing Panel that only one dispute remains – Request 5, which seeks "documents sufficient to identify Your compensation from Your Firm for the years 2014-2020."² This issue is indeed disputed, but it is certainly not the only remaining dispute at this time.

This case is now two months beyond the initial deadline to produce documents. The parties are no further along in discovery than they were on June 25, 2021.³ Special Disciplinary Counsel seeks to move this case along to a conclusion rather than allow Respondent to continuously delay it. Special Disciplinary Counsel asks the Hearing Panel to impose a sanction

² Again, contrary to Mr. Watts' representation to the Hearing Panel and in his e-mail, it does not seek the Watts' Law Firm's income statements. It seeks Mr. Watts' compensation from his firm.

³ Special Disciplinary Counsel will be filing a separate motion to extend the deadlines contained in paragraphs 8-11 in the April 14, 2021 scheduling order because it has not been possible to proceed with certain aspects of the case.

on Respondent for refusing to participate in good faith in the discovery process. As a sanction, Special Disciplinary Counsel asks the Hearing Panel to preclude Respondent from relying on any defense set forth in his Answer for which he has refused to provide discovery. This would include all arguments related to documents that would have been produced pursuant to requests 1-7, 9-11, 15-19, 22-25, 27-33, 35-37, 39-40, ⁴ Exhibit A, and to further preclude the introduction of any document by Respondent that was not previously exchanged in discovery or during the investigation.

Dated: Burlington, Vermont
September 1, 2021

/s/ Navah C. Spero

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⁴ Alternatively, upon request Special Disciplinary Counsel can submit a supplemental memorandum detailing the arguments set forth in the Answer that would be precluded.

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August 13, 2021

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E-MAIL

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Re: PRB File Nos. 2019-102 and 2020-011

Dear Mr. Watts:

I write in response to the Order Regarding Motion to Resolve Discovery Dispute, dated August 9, 2021. Enclosed with this letter is a revised chart setting forth each document request, your response to each request and the reason I seek to compel the documents. The information in the third column, explaining why I seek to compel the documents has been revised for all but one or two responses.

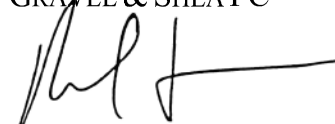
The following document requests, found in the first column, have been revised or the scope narrowed: 18, 19, 35. Request 6 is now covered by a subpoena to those companies, but your cooperation with that subpoena may be necessary. In addition, for the following requests, it would be sufficient to identify documents you have previously produced, state that you have searched your paper and electronic files, and indicate that there are no additional responsive documents: 8, 12, 13, 14, 20, 21, 26, 34, 38.

If anything about the attached chart is unclear, please let me know. Otherwise, I will assume that you understood which requests were modified and my explanations.

I look forward to receiving your response on Monday, August 23rd, per the Panel's order. I propose a call to discuss the matter on August 30, 2021. I am free at 9:00 a.m. or any time from 12:00 p.m. to 5:30 p.m.

Very truly yours,

GRAVEL & SHEA PC



Navah C. Spero

NCS:ibb
Enclosure

EXHIBIT

A

No.	Request	Response	Reason for Request to Compel
1.	Produce any and all Documents related to instances in which You were subject to disciplinary action before a professional responsibility regulatory body.	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	This request is relevant to sanctions. A prior disciplinary record can be an aggravating or mitigating factor. ABA Standards for Imposing Lawyer Discipline, § 9.22. Respondent does not need to produce documents that are public, but all non-public documents are responsive and relevant. Respondent has not produce any documents responsive to this request.
2.	Produce any and all Documents related to instances in which You were notified by a professional responsibility regulatory body that a complaint was filed against You.	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	This request is relevant to sanctions. A prior disciplinary record can be an aggravating or mitigating factor. ABA Standards for Imposing Lawyer Discipline (“ABA Standards”), § 9.22(a). Respondent does not need to produce documents that are public, but all non-public documents are responsive and relevant. It is also relevant to Respondent’s state of mind around providing false information to Special Disciplinary Counsel and his prior experience with these types of investigations. Respondent has not produce any documents responsive to this request. <i>See, e.g.,</i> Answer to Petition, ¶ 26.
5.	Produce Documents sufficient to identify Your compensation from Your Firm for the years 2014-2020.	Objection - the request as not relevant to the allegations of the Petition, proportional to the needs of the matters under consideration, helpful to the panel in its deliberations and constitutes an invasion of privacy and secure proprietary information.	This request is related to sanctions factors. ABA Standards, § 9.22(b). Whether Mr. Watts benefited from his mishandling of client funds goes to whether he had a selfish or dishonest motive.
6.	Produce all phone records for You, Your Firm, and any other phone You used to communicate with clients from August 2017 through April 2019. To address the confidentiality of all other clients besides G.A., the records may be redacted to remove all but the last four digits of the other clients’ phone numbers.	Objection – the request as not relevant to the allegations of the Petition, proportional to the needs of the matters under consideration, helpful to the panel in its deliberations and constitutes an invasion of privacy and secure proprietary information. Further, Respondent’s firm has not retained phone bills or statements	Mr. Watts conveyed that he would continue to try to obtain these documents. It appears he is no longer doing so. Special Disciplinary Counsel is about to issue a subpoena for these records. If Mr. Watts cooperates with this subpoena, then this issue is likely moot, but Special Disciplinary Counsel will raise the issue again is necessary.

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		because payments are made online without paper statements.	
7.	Produce all Documents related to the analysis You conducted in 2018 that led You to the conclusion that G.A.’s claim for violation of the implied covenant of good faith and fair dealing would not survive the motion for judgment on the pleadings filed by the defendant in that matter.	First, the decision was based on Respondent’s professional judgment that the claim was legally and factually unsupported by the evidence produced during discovery, contrary to the client’s initial factual claims that led Respondent to accept the case. Second, covenant of good faith and fair dealing applies only when it is supporting by or related to a contractual relationship between the parties. The client reported that, as a matter of standard practice that the defendant relied on the voting of piers to determine promotions and always retained the ballots submitted by the employee interviewers. So, for the claim, we were banking on that point – the defendant’s standard practice (which could be shown as an implied contract) and the ballots would be in evidence to prove the defendant ignored them in selecting the other candidate for the promotion, violating the implied employment contract and, thus, covenant. Contrary to the client’s initial interview claim and throughout the litigation, by the time we progressed through discovery and depositional process, the defendant appeared to comply with its prescribed employee promotion process. There	This request relates to sanctions and Respondent’s credibility. Respondent claims in the answer that while he initially thought G.A. had a good claim for violation of the implied covenant of good faith and fair dealing, he later changed his mind. He notes in his answer that “As Respondent worked through the evidence to oppose the motions, it became clear that the covenant claims would not prevail [.]” Answer to Petition, ¶ 45. During his interview with Special Disciplinary Counsel Respondent stated that a Vermont Supreme Court case was decided between when he filed the amended complaint and the defendant filed its dispositive motion. that changed his view of the merits. Special Disciplinary Counsel seeks documents related to these contradictory assertions, to test the veracity of these explanations of Respondent’s unilateral dismissal of this claim. In addition, false statements during the course of a disciplinary proceeding can be an aggravating factor for sanctions. ABA Standards, ¶ 9.22(f). During the initial call to resolve this dispute, Mr. Watts indicated there are cases that he referred to and that are relevant.

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		<p>was no independent testimony or documentation supporting the client's claim that the defendant had violated its promotion process. Hence, the covenant claim would be dismissed and might damage the court's view of the contract claim itself. At one of the last depositions, I advised the client that it was my legal evaluation and judgment that we should not pursue it. He seemed to understand and did not protest.</p>	
8.	<p>Produce all Documents related to any financial transaction You undertook in Your trust account or operating account any time after You received the December 19, 2018 letter written by Michelle Kainen, Esq., CPA, regarding the audit of Your trust account to correct or respond to the issues identified in the December 19, 2018 letter.</p>	<p>The Respondent overhauled the firm's accounting practices by eliminating the refundable retainers that had been offered to clients prior to the Kainen audit. Thus, no client funds were received into the trust account after that date – as noted in Ms. Kainen's letter, which is in evidence. Any remaining client funds were returned to the clients. No client lost any money nor did Respondent keep any such funds.</p>	<p>Mr. Watts' primary defense as it relates to the allegations about his improper trust accounting and handling of retainers is that Ms. Kainen conducted an audit that covered this time period, absolving him of all allegations. This is not correct. Ms. Kainen's 2018 spanned from October 2017-November 2018. G.A.'s retainer was given to Mr. Watts in August 2017, and his case was over no later than March 2019. The retainer was not returned until August 2020. Critically, had Mr. Watts properly accounted for and returned to his trust account the retainers he had collected that predated Ms. Kainen's audit, G.A.'s retainer may have been returned promptly. The delay in returning Mr. Alibozek's funds is directly related to Mr. Watts choice not to apply Ms. Kainen's findings to retainers he had accepted before the time period of Ms. Kainen's audit. If Respondent took any action to apply Ms. Kainen's findings to his accounts more broadly, that is relevant to the allegations in this case.</p> <p>During the initial call to resolve discovery disputes, Mr. Watts stated that he does not have any documents</p>

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			<p>responsive to this request because he did not do anything to remedy issues raised by Ms. Kainen besides changing his practice as it relates to retainers. If Mr. Watts changes his response to no responsive documents, that would be sufficient.</p>
9.	<p>To the extent not already produced in response to Request 8, produce all Documents related to any financial transaction You undertook in Your trust account and operating account any time after You signed the February 21, 2019 Stipulation of Facts and Jointly Proposed Conclusions of Law in PRB File No. 2019-006 to correct or respond to the issues identified therein.</p>	<p>Please refer to Response 8.</p>	<p>See explanation to Request 9. Respondent provided the same response in the initial discussion.</p>
10.	<p>Produce all Documents related to G.A.'s retainer, including without limitation Documents reflecting where it was deposited, Documents reflecting any transfer of the retainer funds at any time, Documents reflecting Your record-keeping for those funds, and Documents reflecting Your return of the retainer funds to G.A. in 2020.</p>	<p>Objection - The documents have already been produced to Counsel as part of the Kainen audit documentation, the settlement and the conclusion of the PRB 2019-006 matter.</p>	<p>These documents are relevant to this case because Special Disciplinary Counsel still does not know what happened to G.A.'s retainer. For example, when was it transferred out of the trust account? What were the funds used for? The answers to these questions related directly to the allegations in this case and could factor into the appropriate sanctions. In addition, Mr. Watts has statements in his Answer to the Petition about his financial record keeping that are not accurate and these records would assist with uncovering that. Answer to Petition, ¶ 16 (stating there was no "sinister attempt to hide" the transfer of G.A.'s retainer between accounts and that it "was clearly recorded in respondent's financial records, as the audit established[.]" when the audit did not in fact establish this).</p> <p>Mr. Watts has produced a few documents responsive to this request, such as G.A.'s check for the retainer and the return check to G.A., but little else. In the initial</p>

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			<p>discussion, Respondent said he would look to see if he has additional documents, but never followed up. Mr. Watts’ objection is also incorrect as a factual matter. The time period of the audit was November 1, 2017 – October 31, 2018. These documents were not provided to Ms. Kainen because G.A.’s retainer was not included in her audit – it was deposited in August 2017, and presumably removed from the trust account before the audit, and returned long after the audit concluded in 2020.</p>
11.	<p>Produce all Documents that show that any retainer You received from 2015 through 2019 was placed in Your trust account and held there for the duration of the litigation.</p>	<p>Objection - The Respondent already been produced the requested materials to Counsel as part of the Kainen audit documentation, the settlement and the conclusion of the 2019-006 matter.</p>	<p>The relevance of these documents is described above in response to request 10. In addition, this request relates to sanctions. One aggravating factor is “a pattern of misconduct.” ABA Standards, § 9.22(c). If there are other clients whose retainers were improperly handled, that is relevant.</p> <p>Respondent has not previously produced any documents responsive to this request. During the initial call, Respondent said he would look for all bank account statements he has for this time period. This request is relevant because it relates to Respondents’ statements about what his typical process was for retainers, both during his interview and in his answer. <i>See e.g.</i>, Answer to Petition, ¶ 10 (stating that Mr. Watts “reasoned that preparation, service and filing of the complaint and summons as well as the related discovery requests consumed the retainer.”). These documents should be easy to obtain – the bank statements for Mr. Watts’ trust and operating accounts for this time period would be sufficient and would satisfy the request.</p>
12.	<p>Produce all Documents to support Your claim made in response to Counts I and IV of the Petition that G.A. “besieged</p>	<p>Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.</p>	<p>Requests number 12, 13, and 14 seek documents related to statements Respondent made in his answer. These statements are not supported by previously provided</p>

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	one of the firm's paralegals multiple times with inquiries about the matter and the summary judgment process and demanded the paralegal provide the same explanations to his wife."		documents. These statements may ultimately be irrelevant, but the veracity of the statements will remain relevant. Respondent has previously produced some e-mails between G.A. and Respondent's office, but not all. Special Disciplinary Counsel asked Mr. Watts to confirm that all documents (especially internal and external e-mails) responsive to this have been produced. He has not responded to that request to check. A change in Respondent's answer to state there are no responsive documents would be sufficient.
13.	Produce all Documents related to Your assertion in response to Count IV that G.A. "contacted Respondent and the firm's paralegal multiple times by telephone, seeking explanations of each step in the litigation process."	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	<i>See</i> response to request 12.
14.	Produce any Documents related to Your assertion in response to Count IV that G.A. was "demeaning and condescending to the paralegal, a female."	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	<i>See</i> response to request 12.
15.	Produce all notices of depositions for G.A. or any other Documents setting forth the date of G.A.'s deposition.	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	These documents are relevant because Respondent ties certain conversations and events to the occurrence of particular depositions, and Special Disciplinary Counsel does not have these deposition notices to establish a time line. <i>See, e.g.</i> , Answer to Petition, Response to Count I. Respondent has not produced the file for G.A. and J.H. in their entirety. These documents specifically have not been produced.
16.	Produce all written communications between G.A. or G.A.'s wife on the one	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	This request is relevant to many of the allegations and responses in this case related to what Respondent told G.A. about the quality of his case, his payment

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	hand and any Person at Your Firm on the other hand.		obligations and his retainer. <i>See, e.g.</i> , Answer to Petitioner, ¶ 45. In addition, Respondent has represented to the Panel that his firm’s paralegal “received 30 emails each week from the client[.]” <i>Id.</i> at Response to Count IV. Respondent has only produced a handful of e-mails related to billing, numbering fewer than 30. This calls into question that all e-mails have been provided.
17.	Produce all written communications from You or any Person at Your Firm to any other Person at Your Firm related to G.A.’s case.	[No response provided.]	Response needed. The relevance of these document is similar to request 16.
18.	Produce all written communications between You or any Person at Your Firm with any third-party related to the motion for judgment on the pleadings filed in G.A.’s case and G.A.’s retainer.	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	This request has been narrowed from the original, which requested all communications. Instead, it seeks communications related to two distinct counts in the Petition. Respondent has previously produced some documents responsive to this request, but not all.
19.	Produce the underlying, contemporaneous timekeeper records and/or expense records for the \$1,215.09 set forth in the response to Count V.	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation.	This request is revised to include documentation of expenses. Respondent has produced the bill to the client charging these amounts and some underlying invoices, but not all. In addition, Respondent’s answer states the “\$1,215.09 charge was fully documented according to time devoted to the case.” Answer to Petition, Response to Count V. The number in the Petition refers to expenses, not time spent on the case. However, Mr. Watts should produce whatever he is referring to here. If it is time records, then provide the underlying billing software information. If it is expense records, provide all receipts.
20.	Produce all Documents related Your claim in response to Count V that “The \$3,400 charge was at a discounted rate.”	Objection – The Respondent has already produced all such materials to Counsel pursuant to her investigation, including all the billing and payment records.	Respondent has produced the bill to the client, but not the underlying software record, which is what is being requested here. This is relevant because Respondent has claimed there was a discounted rate and Special Disciplinary Counsel seeks the documents to

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			<p>substantiate that statement. If Respondent identifies the documents previously produced, confirm that he has searched his firm's e-mail system, paper files and computer files for responsive documents, and then state there are no additional documents that would be sufficient.</p>
21.	<p>For each hourly employment litigation case You have worked on since 2010, produce Documents sufficient to show the total amount of legal fees You charged for each case and the phase of litigation at which each case was resolved.</p>	<p>Objection – The request is for eleven years of information that is beyond the scope of the Petition and delves into client files no longer in the firm's possession or control as our practice is to return all files to the clients at the conclusion of each case.</p>	<p>This response is relevant because it relates directly to the issue of estimates provided to J.H. Special Disciplinary Counsel has alleged multiple estimates were made in bad faith. Respondent has responded by saying the estimates were made in good faith and there were unexpected costs/time for this litigation. <i>See, e.g.,</i> Answer to Petition, ¶ 61. As a result, the fees Respondent charged previously to handle employment litigation cases is relevant to his state of mind in providing the estimates.</p> <p>In addition, the statement that it is Mr. Watts' practice to return all files to clients is not credible. As an example, Respondent did not return G.A.'s file to him. Additionally, this requests asks for "documents sufficient to show" the fees, etc., not all documents. Even if the file has been returned, there is likely digital documentation in Respondent's possession, such as bills and payment records.</p> <p>To limit the burden for this request, Special Disciplinary Counsel has offered to discuss a different time limitation if after review of his files, Respondent identifies too many cases.</p>
22.	<p>Produce all Documents related to any estimates of legal fees and expenses You have made in other hourly employment litigation cases.</p>	<p>Objection – The request is for eleven years of information that is beyond the scope of the Petition and delves into client files no longer in the firm's</p>	<p>Respondent's practice of estimating fees is directly at issue in this matter, making this highly relevant. Three of his estimates in this matter were suspiciously similar to each other. <i>See also</i> Response to Request 21. In</p>

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		possession or control as our practice is to return all files to the clients at the conclusion of each case.	addition, this information would be maintained in e-mails, which are retained digitally.
23.	Produce all Documents supporting Your contention in response to Paragraph 24 of the Petition that You or anyone from the Firm spoke to G.A. about his retainer after Your representation of G.A. ended.	Objection – The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the billing and payment records and related emails.	Respondent has claimed at various times that he and/or someone from his office spoke to G.A. and/or his wife about returning the retainer to G.A. in a timely manner. Special Disciplinary Counsel has no documentation of these calls and it is disputed that they happened, making any documentation of these calls relevant to the Petition. Respondent has not previously produced any documents responsive to this request.
24.	Produce all Documents You reviewed or consulted prior to stating in Your July 24, 2020 letter that You had already returned G.A.’s retainer to him.	Objection - Respondent reviewed correspondence with G.A. that has already been produced to Counsel and spoke with the client, as observed in the referenced letter.	Count VII of the Petition alleges that Respondent was not truthful in the investigation, and this request asks for documents connected to that dishonest. Respondent has not previously produced or identified any documents responsive to this request.
26.	Produce all Documents related to Your statement in response to paragraph 36 of the Petition that You “advised the client that his pattern of delayed payments might cause postponement of activities that would cause the balance to increase; that the remedy would be withdrawal.”	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	These documents are directly relevant to Count IV. Respondent has previously produced some documents responsive to this request, but his Answer to the Petition implies that there are more. If he could identify the documents previously produced, confirm that he has searched his firm’s e-mail system, paper files and computer files for responsive documents, and then state there are no additional documents that would be sufficient.
27.	Produce all Documents related to Your statements in response to paragraph 45 of the Petition, including any notes of conversations and e-mails with any Person related to those factual assertions.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	The response to paragraph 45 is long and covers a number of facts Respondent asserts as part of his defense. For example, it asserts that Respondent spoke to G.A. about the motion for judgment on the pleadings. G.A. disputes this. Respondent has not previously produced documents responsive to this request.
28.	Produce the memorandum referenced in response to paragraph 51 of the Petition.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation,	The document referenced in Paragraph 51 of the Answer to the Petition appears to be part of Respondent’s

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		including all the communications and voluminous amounts of emails.	defense. This documents has not been produced previously.
29.	Produce all Documents related to the calculations You created, per Your response to paragraph 55 of the Petition.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	This request is relevant to the allegations in Count VI and the estimates Respondent provided to J.H. Counsel has seen estimates but not the calculations that led to them. Respondent has now stated that there are calculations. Respondent has not previously produced any documents responsive to this request.
30.	Produce all Documents related to any estimate of fees and expenses You provided to J.H., including Documents related to any calculations You made and Documents You relied on in creating the estimates.	Objection - The Respondent already produced all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	See Request 29.
31.	Produce any list of witnesses You created during the course of J.H.'s case and the date that list was created.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	This request is relevant because part of Mr. Watts' defense to the allegation that he provided a client with misleading estimates is that the identity of witnesses changed after the estimates were created. <i>See Answer to Petition, ¶ 65.</i> In addition, the estimates identified numbers of witnesses, making contemporaneous witness lists relevant. Respondent has not previously produced any documents responsive to this request.
32.	Produce all Documents related to the decision to retain an expert in J.H.'s case, including communications between You and J.H. regarding the cost of an expert.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	The timing and terms of the expert retention are relevant to the fee estimates. All but the last one do not include an expert expense. Respondent has not previously produced any documents responsive to this request.
33.	Produce all Documents related to Your assertion in response to paragraph 67 of the Petition that the expert retained by You for J.H.'s case would not charge for his services.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	This request is relevant to Respondent's statement and explanation for why he did not estimate fees for the expert. That statement is contradicted by other documents Respondent previously provided, including the expert's invoice. Respondent has not previously produced any documents responsive to this request.

No.	Request	Response	Reason for Request to Compel
34.	Produce all Documents related to Your assertion in response to paragraph 24 of the Petition that “Respondent indicated he would not charge for travel to the two west coast conferences with the client, not travel to depositions, the mediation or other in-state events.”	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	This is relevant to Respondent’s asserted defense to overcharging J.H, i.e. that she misunderstood the suggested discount. <i>See</i> Petition, ¶ 74. Documents that were produced previously do not support Respondent’s assertion. If Respondent has additional documents, they should be produced. If Respondent identifies the documents previously produced, confirm that he has searched his firm’s e-mail system, paper files and computer files for responsive documents, and then state there are no additional documents that would be sufficient.
35.	Produce all Documents related to the allegations in paragraphs 78 and 79 of the Petition.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	Paragraphs 78 and 79 relate to Respondent’s agreement to provide a 50% discount on certain time and then his refusal to abide by that agreement. Special Disciplinary Counsel will limit her request to discovery schedules, requests to extend the schedule, and communications indicating a refusal to produce documents. Respondent has not previously produced any documents responsive to this request.
36.	For those depositions that occurred in Boston, MA, Amherst, MA and Rochester, NY, produce all notices of depositions, subpoenas and e-mails scheduling the time and date of those depositions.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails and pleadings.	These documents are relevant to Respondent’s defense to these allegations, which includes an assertion that the hotels he stayed at were the only ones available at the time he was booking them. Answer to Petition, ¶ 80(a). Without knowing when the dates for these depositions were set, it is impossible to investigate the veracity of this statement. Respondent has not previously produced any documents responsive to this request.
37.	Produce all Documents related to Your assertions in response to the allegations in paragraph 80 of the Petition that “a) The hotels were not ‘luxury,’ they were the only facilities available at the time; respondent was forced to stay an extra night because the return coach had	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails and expense statements.	There are a number of defenses in these paragraphs and these documents are relevant to evaluating these defenses. Respondent has not previously produced any documents responsive to this request, other than invoices.

No.	Request	Response	Reason for Request to Compel
	already departed Boston; b) There were no charges for ‘unreasonable amounts’ for food and no charges at all for alcohol; hence receipts were not required.”		
38.	Produce all Documents related to Your assertion in response to paragraph 87 of the Petition that “The engagement letter the client agreed to provided for the deduction of expenses from the retainer at the conclusion of the representation.”	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	The only document previously produced was the engagement letter. It does not say what Respondent indicates in his response to paragraph 87. If there are additional documents, Respondent should be ordered to produce them. If Respondent identifies the documents previously produced, confirm that he has searched his firm’s e-mail system, paper files and computer files for responsive documents, and then state there are no additional documents that would be sufficient.
39.	Please produce any policies, rules, intra-office memoranda or related Documents created in response to the audit conducted by Michelle Kainen, Esq., CPA in 2018. This includes all e-mails or other intra-office communications related to any changes in policies.	Objection - The Respondent already produce all such materials to Counsel pursuant to her investigation, including all the communications and voluminous amounts of emails.	The requested documents are relevant to whether Respondent properly responded to his previous sanction for misconduct and whether he made changes to protect client funds. Respondent has not previously produced any documents responsive to this request.
40.	If you retain a testifying expert, please produce for each testifying expert: their resume or C.V., their file for this matter, all documents reflecting assumptions made for purposes of arriving at an opinion; all documents the expert relied on in forming an opinion and the expert’s file.	Respondent has not retained a testifying expert.	Respondent previously identified Kaveh Shahi, but now states Mr. Shahi is not testifying. If that changes, then Special Disciplinary Counsel will renew this request.

From: Navah C. Spero
Sent: Monday, August 30, 2021 3:12 PM
To: 'Norman Watts'
Subject: RE: PRP MEET-AND-CONFER SESSION

Hi Norman,

The e-mail below does not comply with the panel's order. Specifically, the August 9, 2021 order stated that you would have ten business days from the date of the order to "provide revised responses to the requests." The recent extension gave you until Thursday. You provided nothing by Thursday. What you provided below today is not a revised response to my revised requests. It is a statement that you will provide those in the future. Absent this response, it's impossible for me to let the panel know whether any disputes remain. Unless I have something in writing today, I will file something with the panel tomorrow and let them know that we are not able to complete the process set out by the panel because you have not followed its order.

As it relates specifically to Request 5, your response is inconsistent with the Panel's scheduling order, dated April 14, 2021, which stated in paragraph 7: "All discovery, including all discovery relating to the issue of sanctions, shall be completed by July 30, 2021." Request 5 is relevant to sanctions. I do not agree with your argument that "there is a better way" to conduct discovery on this point. But even if you were correct, that does not excuse you from responding – Special Disciplinary Counsel has appropriately requested it, it's relevant, and you are therefore required to respond.

Because you haven't followed the Panel's order, we cannot meet and confer today. I'll call you shortly to discuss next steps.

Best,
Navah

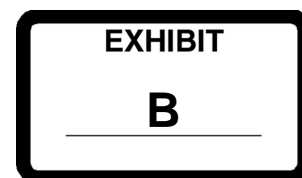
From: Norman Watts
Sent: Monday, August 30, 2021 2:02 PM
To: Navah C. Spero
Subject: PRP MEET-AND-CONFER SESSION

Navah -

I have reviewed all your requests and my original responses, again, and conclude that I can provide documents or denials (for lack of documentation) by tabs for ease of review – for all requests except No. 5 – your request for income statements for the firm.

First, it is premature for us to produce any such documentation and, second, there is a better way to ascertain whether I "benefited from" any "mishandling of client funds."

My reading of the case decisions establishes that the step, if it is proper, is to be undertaken after the misconduct decision. *In re Robinson*, 209 A.3d 570 ¶ 60. (Vt 2019) ("After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose.'..."). (citing §§ ABA Standards 9.1, 9.2 & 9.3).



And, the language of the standard you cited, 9.22(b), does not support your request for income statements – “dishonest or selfish motive” – because there is no way to establish motive through income statements even if you delve deeply into banking statements. Even then, they do not identify the source of the deposits. A better way is to simply review our accounting sheets for both clients. I believe we already provided those but will do so again in the tabbed package I will be sending.

Under the circumstances, it seems the only “dispute” regards Request No. 5.” So further discussion is not necessary. If you disagree I may be reached at my cell (802-738-9991) for the rest of the day. I have a deposition tomorrow but can discuss further any time Wednesday except 11a-12p.

NW

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STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts
PRB File Nos. 2019-102 and 2020-011

CERTIFICATE OF SERVICE

I, Navah C. Spero, Esq., certify that, on September 1, 2021, I caused to be served my
Response to Notice to the Panel and Request for Sanctions as follows:

Via E-mail

Norman Watts, Esq.
Watts Law Firm, PC
P.O. Box 270
Quechee, VT 05059
nwatts@wattslawvt.com

Dated: Burlington, Vermont
September 1, 2021

/s/ Navah C. Spero

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