

**STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY PROGRAM**

**In Re: PRB File No. 021-2022
Theodore Kennedy, Esq., Respondent**

**Motion for Protective Order Regarding Filing of Stipulated Findings of Fact and
Recommended Conclusions of Law and Sanctions**

Now Comes the Respondent, Theodore Kennedy, by and through his attorneys, Heilmann, Ekman, Cooley & Gagnon, Inc., and hereby requests that the Panel enter a Protective Order pursuant to the Supreme Court Administrative Order No. 9, Rule 16(E). The Respondent and Special Disciplinary Counsel have reached an agreement concerning the submission for the Hearing Panel's consideration of Stipulated Findings of Fact and Recommended Conclusions of Law and Sanctions. The Stipulation contains facts, recommended conclusions of law and recommended sanctions, which include both a public reprimand and private admonition. As set forth below, Respondent requests that all facts, conclusions of law and sanctions related to the private admonition not be made public.

Under the rules,

All Professional Responsibility proceedings and all records pertaining thereto formally submitted to a hearing panel after the filing of formal charges or stipulation shall be public unless the complainant, disciplinary counsel, or respondent obtains from a hearing panel or the Board a protective order for specific testimony, documents, or records.

Administrative Order No. 9, Rule 16(B). However, "to protect the interests of...the respondent, the hearing panel...may, upon application and for good cause shown, issue a protective order prohibiting the disclosure of specific information and direct that the proceedings be conducted so as to implement the order..." Administrative Order No. 9, Rule 16(E).

Here, the Parties have reached an agreement concerning proposed discipline that recommends to the Panel that Respondent be disciplined in the form of a public reprimand and a private admonition for violations of the Vermont Rules of Professional Conduct. The agreement is set forth in a single document labeled “Stipulated Findings of Fact and Recommended Conclusions of Law and Sanctions” and contains proposed facts, conclusions of law and sanctions related to both the recommended public reprimand and private admonition. To protect the Respondent from disclosure to the public of information related to the private admonition, he hereby proposes to submit two versions of the Stipulated Findings of Fact and Recommended Conclusions of Law and Sanctions for the Hearing Panel’s consideration. One version will contain an unredacted copy for the Hearing Panel’s viewing only and will include information related to the recommended public reprimand and private admonition. The other version will fully redact all facts, conclusions of law and sanctions related to the recommended private admonition. Respondent requests that only the redacted version appear in the public record. Special Disciplinary Counsel Ian P. Carleton does not object to this request.

Notwithstanding the above, Respondent recognizes that, if the Hearing Panel approves the Stipulated Findings of Fact and Recommended Conclusions of Law and Sanctions, information concerning the private reprimand will be made public but shall not otherwise refer to or identify the Respondent by name.

WHEREFORE, the Respondent respectfully requests that the Hearing Panel grant his request and issue a protective order as set forth above. The Parties will submit the proposed Stipulations for the Hearing Panel’s consideration after the Hearing Panel issues a decision on the Motion for Protective Order.

Dated at Burlington, Vermont this 20th day of April 2023.

THEODORE KENNEDY, ESQ.

By: /s/ Evan Foxx

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