

**2002**  
**State**  
**of**  
**the**  
**Attorney**  
**Discipline**  
**System**  
**Report**

**Honorable Deborah T. Poritz**  
Chief Justice  
Supreme Court of New Jersey

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Director  
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May 20, 2003

**TO THE HONORABLE CHIEF JUSTICE  
AND ASSOCIATE JUSTICES OF THE SUPREME COURT**

I am pleased to enclose the State of the Attorney Discipline System Report for 2002.

This year's report celebrates 20 years of service by the Random Audit Compliance Program (RAP) to the Court, the bar and the public. RAP checks compliance with trust account responsibilities at private law firms throughout the state. Chapter One reflects the many accomplishments of our program, which is heralded throughout the country as one of the best of its kind. Its primary purpose is to educate the bar on attorneys' fiduciary responsibilities. The program also gives assurance to the public that lawyers' handling of clients' trust funds is being pro-actively monitored in New Jersey. The staff has performed with great vigilance and sensitivity. As a result, the program has earned the respect of the bar and the public.

On the disciplinary front, 2002 was unparalleled in terms of the number of sanctions meted out. The Court disciplined an all-time high of 267 attorneys, imposing 226 final sanctions and 41 emergent actions. Discipline was up in every sanction category: disbarments by the court increased 82%, disbarments by consent were up 10%, suspensions gained 35%, reprimands grew by 17% and admonitions increased by 23%.

For the third year in a row, the number of grievances docketed also increased, as 1,472 were docketed in 2002. These increases continue to put pressure on the disciplinary system to perform better to meet the Court's investigative and hearing goals. While the efforts were there, the disciplinary system was not able to keep pace and dispositions did not exceed the number of new cases added. In fact, over the last three years the pending caseload at year-end grew, from 1,093 in 1999 to 1,215 in 2000, to 1,269 in 2001 to 2002's year-end total of 1,314. The backlog of the Office of Attorney Ethics' (OAE) Complex Group also continues to grow, due to personnel losses of experienced forensic investigators and auditors and increasing caseloads over the past three years. The Court's reallocation of two investigators from the OAE's District Group will help to deal with this backlog beginning in 2003. However, it is likely that more resources will be required for 2004.

The Attorney Fee Arbitration Program continues to benefit attorneys and clients by providing the speedy and confidential resolution of disputes over lawyers' bills. Fee committees ruled on over \$20.3 million dollars in disputed legal fees in 2002. For the fourth year out of the last five, our fee program cleared its calendar by disposing of more matters than were docketed. Great credit goes to the over 290 attorneys and public members who volunteer their time to serve the Court in this important endeavor.

Respectfully submitted,

David E. Johnson, Jr.  
Director

DEJ/gms



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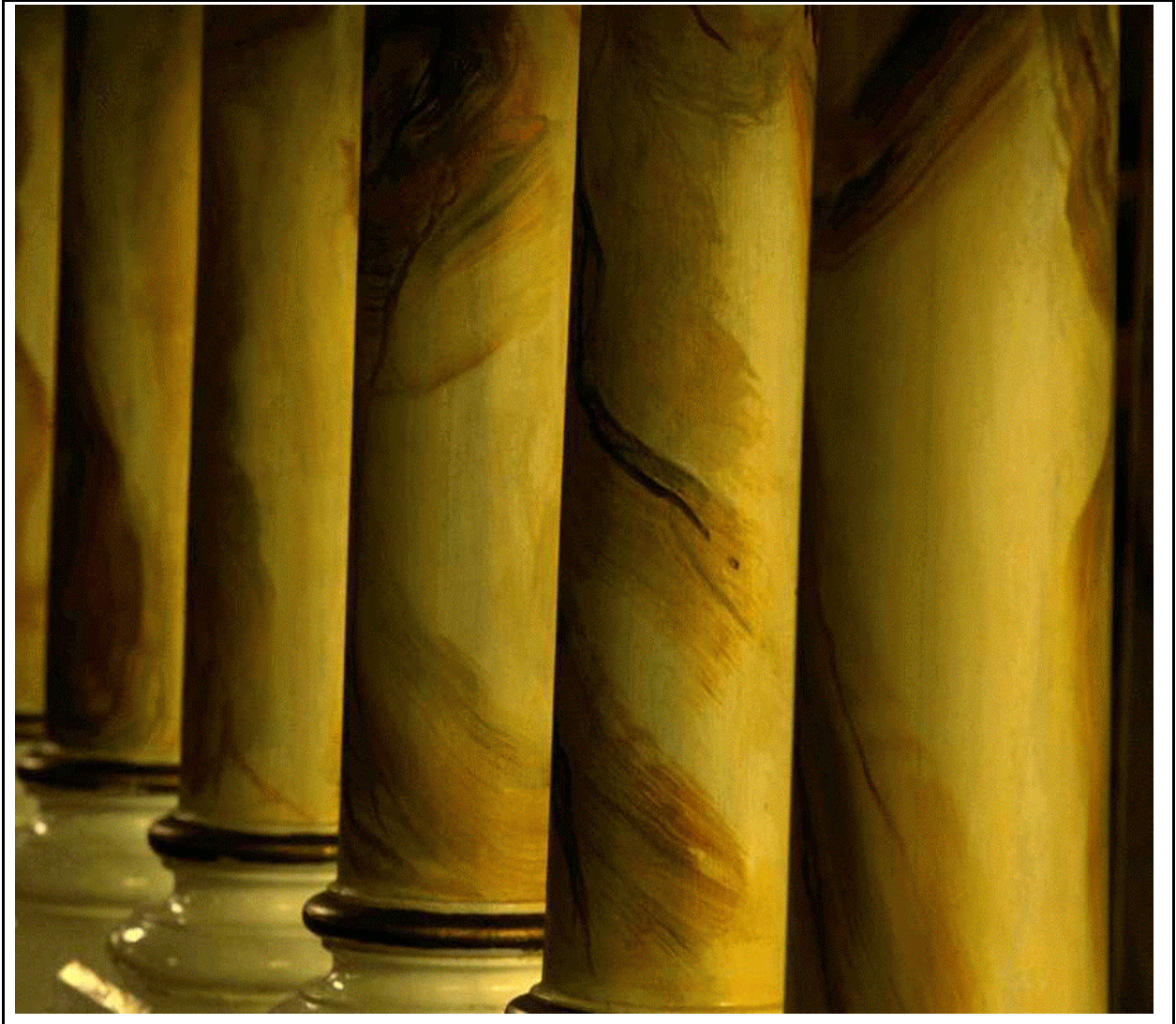
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# **RANDOM AUDIT COMPLIANCE PROGRAM**

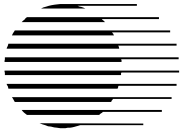
## **Chapter One**





“A lawyer’s character is not to be determined by his transactions with the strong but by his dealings with the weak. It is not the integrity occasioned by compunction, but the moral fiber revealed in the midst of temptation that is the true measure of a man.”

Chief Justice Arthur T. Vanderbilt  
*In re Honig*, 10 *N.J.* 252, 259 (1952)



# TWO DECADES OF PROGRESS

In 2002, the Director of the Office of Attorney Ethics announced the conclusion of two decades of progress in administering the Supreme Court's Random Audit Compliance Program. The Supreme Court has been at the forefront in developing proactive programs, such as the random program, to increase attorney accountability and responsibility for handling clients' trust funds. The random program began auditing private practice law firm trust accounts in 1981. At the end of 2001, the program celebrated the 20<sup>th</sup> year of its existence as a primary mechanism for enhancing public protection by insuring that law firms know and follow stringent accounting practices for handling clients' trust funds. At the same time, the Director noted that significant challenges, requiring additional resources, remain to be met as we enter the 21<sup>st</sup> Century. This chapter analyzes the past

progress achieved, as well as the significant job ahead if New Jersey is to continue to meet its fiduciary obligation to protect the public, educate the bar and detect those few dishonest lawyers who cause harm to our entire profession.

New Jersey's program is one of only seven operational random auditing programs in the country. It was the fourth such program adopted in the United States. Of the states conducting random audits, New Jersey has by far the largest lawyer population at 75,177, ranking 6<sup>th</sup> in the country in that category, according to a July 2002 survey. The other states with operational random programs today are: Delaware, Hawaii, Iowa, New Hampshire, North Carolina and Washington.

Among the many accomplishments cited by the Director, are the following areas (**Figure 1**) that are more fully described in this chapter.

## Highlights of Program Accomplishments

- ◆ Improved Accounting Compliance By Lawyers
- ◆ Important Additions & Improvements to Record Keeping Rule
- ◆ Securing Advisory Opinions Clarifying Fiduciary Obligations
- ◆ Evolution From Manual to Computerized Accounting Systems
- ◆ Acceptance and Recognition By the New Jersey Bar
- ◆ Increased Trust Account Awareness and Education
- ◆ Publication of Attorney Trust Accounting Handbook
- ◆ Mandatory Trust Account Education For Lawyers
- ◆ Publication of a Trust Accounting Brochure
- ◆ Detection of Serious Attorney Misappropriation

**Figure 1**

Today, its staff of five full-time auditors and one support staff serve a greatly expanding private practice bar. In 1984, one of the earliest years of the Office of Attorney Ethics

program for which statistics are available, the number of law firms in private practice was 7,607. By year-end 2001, the number of firms has almost doubled to 13,941.

The focus of the random program is to randomly select and audit law firms who engage in the private practice of law in the state. All law firms in this state are required to maintain trust and business accounts in their practices so that clients' trust funds can be protected at all times. These accounts are required to conform to a detailed record keeping rule, *Rule 1:21-6*. That rule, together with generally accepted accounting principles, Rule of Professional Conduct 1.15, case law

and advisory opinions, provide guidance to lawyers on how to fulfill their fiduciary responsibilities in safekeeping clients' trust monies and other property. Random auditors visit the law firms and conduct a limited scope financial review of attorney trust and business accounts, including test-checking transactions as deemed appropriate in order to verify that law firms are meeting their responsibilities to the public and the Supreme Court.



## ACHIEVEMENTS HIGHLIGHTED

Over the decades of the 1980's and 1990's, the random program has accomplished much. The results of its efforts strengthen bar

accountability and public confidence, as law firms' accounting practices are carefully scrutinized and clients' trust funds are checked.

### Improved Compliance

Proper attorney trust and business accounting in New Jersey has improved substantially over the 20 years during which the program has been operational. Improvements in some of the most common trust accounting deficiencies detected by the program are shown in **Figure 2**. Attorneys must maintain their trust and business records, not only in accordance with our detailed Record Keeping *Rule 1:21-6*, but also, as stated in that rule, in accordance with generally accepted accounting practices. Previously, over 46% of attorneys failed to maintain cash receipts books, as required by the rule. By the turn of the century, that number was reduced to 15%, an overall improvement of 31%. Likewise, in 1988, 40% of attorneys failed to keep cash disbursements books, another rule requirement. By 2000, that figure improved by 25% to stand at only 15%. Attorneys are required to use the universal phrase "Attorney Trust Account" on all trust account checks and deposit slips. This requirement avoids confusion with other specialized accounts such as escrow, estate and similar accounts. Improper trust account designations occurred in 44% of all audits in 1988. By 2000 that number was cut by greater than half, a reduction of 23%. An especially important deficiency is the proper reconciliation of clients' trust ledgers to the bank statement. During the period 1988 to 2000, the rules require that attorneys reconcile their accounts at least quarterly. The random program found that many attorneys perform only a simple bank reconciliation.

However, it is important to reconcile the individual client trust ledgers to the bank statements as well. The program has achieved a 15% reduction in this deficiency, from 45% in 1988 to 30% in 2000. Recently, the random program recommended and the Supreme Court approved increasing the frequency of reconciliations. Law firms are now required to reconcile accounts on a monthly basis. Attorneys are allowed to maintain a small amount of their personal funds in the account to cover bank charges. However, they must account for these funds by maintaining a ledger card in the name of the attorney. In the past, 32% failed to maintain these records. By 2000, that deficiency was reduced by 12% and now stands at 20%. It is also essential for attorneys to maintain client ledger sheets for each trust client, showing all withdrawals from and deposits to each client's matter. In past years 22% did not. That deficiency has been reduced by more than half by calendar year 2000 and stands at 10%. The lack of detail, both on deposit slips as well as on client ledger accounts, is another common deficiency. Its significance lies in maintaining a proper audit trail so that the source and propriety of transactions can be easily reviewed. Both of these items have been reduced by 9% and 8%, respectively. Client ledgers should ultimately be zeroed out by properly disbursing all funds. In 1988, 20% of all client ledgers had debit balances. As of the end of 2000, that percentage has been reduced to 12%. Before an attorney draws on client trust funds, he/she must know the overall amount of trust

## Increased Accounting Compliance

Deficiencies	1988	1992	2000	Change
No cash receipts book	46%	35%	15%	31%
No cash disbursement book	40%	35%	15%	25%
Trust Account designation improper	44%	31%	21%	23%
Clients' ledgers not reconciled to bank statement	45%	36%	30%	15%
No ledger showing attorney funds in account	32%	26%	20%	12%
No individual client's ledger prepared	22%	14%	10%	12%
No detailed deposit slips	17%	6%	8%	9%
Client ledger accounts not descriptive	49%	28%	41%	8%
Client ledger accounts with debit balances	20%	5%	12%	8%
No checkbook running balance	24%	17%	16%	8%
Outstanding Trust balances for extended time	41%	34%	35%	6%
Non-attorney authorized to sign trust checks	5%	2%	2%	3%
Commingling personal funds with trust funds	7%	5%	7%	0%

**Figure 2**

funds in the trust account. In the past, 24% of attorneys failed to maintain a running trust balance. That percentage has been reduced by 8% to 16%. Over time it is not unusual for individual client trust accounts to contain small individual balances that remain unresolved for an extended period of time. This is not desirable, however, as the money should be paid to whomever it belongs. Such balances also hinder the quarterly reconciliation process. A 6% reduction in non-compliance with this principle has been achieved. The handling of trust funds is a non-delegable fiduciary duty. Only attorneys can sign trust checks or authorize trust

withdrawals. While this deficiency was never a large problem (1988 – 5%), it should not occur at all. By the turn of the century this deficiency appears in only 2% of all audits.

Coupled with the various educational components described in the succeeding section of this report, the Random Audit Program is meeting its charge to see that attorneys are provided with the knowledge that they need to meet their trust and business accounting responsibilities to the public.

## Initiatives And Improvements

The Random Audit Program has accomplished much more than enhanced compliance with the court rules. Positive benefits to the entire bar have resulted in several areas, such as court Office of Attorney Ethics

rule changes, new advisory opinions, and educational and informational improvements. The following schedule illustrates some of the positive by-products that occurred as a result of random audits.

## Year

## Description

<b>Annually</b>	Provide copy of detailed Record keeping <i>Rule 1:21-6</i> with each annual distribution of Annual Attorney Registration Statement.
<b>2002</b>	Comprehensive update to Record keeping <i>Rule 1:21-6</i> , including computerized records, monthly reconciliations, ATM withdrawals and electronic funds transfers. Image processed cancelled checks and bank statements on compact disks approved by Supreme Court.
<b>2000</b>	Secured Advisory Opinion No. 687 - Official Checks - provides guidance to attorneys who receive these types of checks for real estate closings.
<b>1998</b>	Published Trust and Business Accounting for Attorneys (4th Edition) - This is the definitive practicing attorney accounting work for lawyers. It has been cited with approval nationally.
<b>1997</b>	Conducted pilot program for Imaged Processed Checks Pilot Program - Responsibility to monitor financial institutions' use of returning image-processed copies of canceled checks in lieu of the original items. Created Brochure - "New Jersey Attorney's Guide to the Random Audit Program and Attorney Trust Accounts and Record Keeping" - Sent to all attorneys with the 1997 billing statement. This brochure is an aid to attorneys and is mailed out to each law firm prior to every random audit.
<b>1994</b>	Published Trust and Business Accounting for Attorneys (3rd Edition).
<b>1988</b>	Published Trust and Business Accounting for Attorneys (2nd Edition).
<b>1987</b>	Successfully petitioned New Jersey Supreme Court to create Mandatory Accounting Component of Skills Training (3 hrs.) required by the Supreme Court of New Jersey as part of New Jersey's Skills & Methods mandatory program for newly admitted attorneys to assure basic understanding of trust and business accounting responsibilities. Initiated Court Rule Change – <i>R. 1:21-6(i)</i> "Unidentifiable and Unclaimed Trust Fund Accumulations and Trust Funds Held for Missing Owners" - This rule provided the first mechanism in New Jersey for proper handling of unidentified, unclaimed trust monies remaining in attorney trust accounts.
<b>1986</b>	Published Trust and Business Accounting for Attorneys by OAE Director (1st Edition) Initiated part of Court Rule Change – <i>R. 1:20-19</i> "Appointment of Attorney-Trustee to Protect Clients' Interest" - The rule authorizes the appointment of an Attorney Trustee to manage trust funds of attorneys who die, become disabled, abandon their law practice, or are suspended or disbarred. Developed "Outline of Record Keeping Requirements Under <u>R.1:21-6</u> " describing how to comply with our mandatory accounting rules. It is distributed to all law firms audited.
<b>1984</b>	Secured Advisory Opinion No. 609 - "Postdating Trust Account Settlement Checks" - This opinion prohibits postdating trust checks. Initiated Court Rule Change – <i>R. 1:21-6(a)</i> - To insure uniformity in identification of client trust funds, this rule requires uniform Designations of all trust accounts as "Attorney Trust Accounts".
<b>1980 - 81</b>	Initiated Court Rule Change – <i>R. 1:21-6(b)(8)</i> - This rule was modified to require quarterly reconciliations by all attorneys of attorney trust and accounts. Developed first computerized database of private practice law firms from which random selections for audits could be made.

## Recognition By Bar

After the initial break-in period in 1981, which involved some trepidation by the practicing bar, the program has received wide acceptance and praise from the individual attorneys who have been the subject of audits. Perhaps the best evidence as to the effectiveness of the Random Audit Program and the overwhelming acceptance of the program by practicing members of the private bar can be found by examining a sampling of actual responses received from lawyers and law firms describing their audit experiences. Almost all compliance audits result in the issuance of a deficiency

letter by the program notifying the lawyer or law firm of the areas not in compliance with the court rules. The attorney or law firm must respond to the program in writing within 45 days and certify that the deficiencies have been corrected. With this response, the case is administratively closed. Each year many attorneys voluntarily provide their opinion of the audit experience in their response to the audit deficiency letter. These opinions are completely unsolicited by the random program. Listed below are samples of these comments in their own words.

**2002**

*"I would like to take a moment to acknowledge the professionalism of your (auditor). Not only was she a consummate professional at all times, but her knowledge and information was not only refreshing, but also an (educational) reminder on an important subject which gets overlooked by many in this profession."*

A PASSAIC COUNTY SOLE PRACTITIONER

**2001**

*"Before closing, I wish to thank you and also your staff auditor for your helpful guidance in facilitating compliance by this office. I believe some of the other suggestions which were offered during the course of the audit were particularly helpful and I did want to express my appreciation for the same."*

AN ATLANTIC COUNTY SOLE PRACTITIONER

**2000**

*"We all appreciate the professional manner in which the audit was conducted by (your auditor) and hereby express our thanks to her and your office. In addition, as a result of the educational aspect of the audit, positive changes were made. For this we also thank you."*

MORRIS COUNTY THREE-PERSON FIRM

**1999**

*"My trust account has always been scrupulously monitored. I always make sure that receipts and disbursements "zero out." Also, the monthly bank statement's returned checks are accounted for and reconciled.*

*However, (your auditor) brought to the office a clearer method of monthly reconciliation and balance information. (The auditor's) worthwhile recommendations have been duly noted and implemented by my bookkeeper. I appreciate the assistance your office has provided mine."*

A TWO-PERSON LAW FIRM FROM BERGEN COUNTY

**1998**

*"I wholeheartedly support the educational benefit of this process as well as find it comforting that the integrity of the New Jersey (Bar) and the ability of the public to rely upon attorneys to properly handle funds entrusted to them is being so diligently and aggressively maintained.*

\*\*\*

*Again, I wish to express my appreciation to (your auditor) for her professionalism, diligence, patience and thoroughness throughout this process and know that the public and the Bar are being greatly benefited by her dedication."*

A SOLE PRACTITIONER FROM PASSAIC COUNTY

**1997**

*"(I) wanted your office to be aware of how helpful (your auditor) was when she visited my office in September. She was extremely patient, polite and constructive in her suggestions. Most attorneys are somewhat wary of your office. They should realize that your people are there to help us do our jobs more efficiently."*

A MONMOUTH COUNTY SOLE PRACTITIONER

**1996**

*"I would like to take this opportunity to express my complete satisfaction with (your) Program...(The) Auditor was very knowledgeable, considerate and most of all helpful. She was able to give me many good methods to trim my workload and make compliance with your record keeping requirements more simple. She is a great asset to your staff."*

A THREE-PERSON HUDSON COUNTY FIRM

**1995**

*"Like many other attorneys in the state, I had expected a monster to visit my office and then be put through hell. Instead the audit was conducted by a very intelligent young auditor who conducted herself in a very professional manner during the stay. During the final interview she explained the problems with my books and/or ledgers, and gave me some guidance on how to take corrective steps to help myself. She is to be commended."*

A SOLE PRACTITIONER FROM HUDSON COUNTY

**1993**

*"I would like to take this opportunity to advise you that both my staff and I found (your auditor) to be both professional and at the same time personable. She was able to perform her task without any disruption of the workings of my office. She was actually quite helpful. I found her to be proof positive that the random audit program is designed to be a cooperative program of assistance to the lawyer. You and (your auditor) are to be congratulated and thanked in this regard."*

A TWO-PERSON HUDSON COUNTY LAW FIRM

**1992**

*"As someone with virtually no accounting background, I was pleased to find that the audit revealed that in some instances I was keeping unnecessarily complicated and extensive records. The fact that I will be able to modify my bookkeeping to make it more efficient, to comply with the requirements of the Rule, and also to take up less time, is frankly a bonus that I would not have expected from an audit process."*

A SOLE PRACTITIONER FROM BERGEN COUNTY

**1991**

*"I would like to thank (your auditor) for his patience and courtesy during the audit and since I am the partner responsible for overseeing the trust account, I appreciate the practical tips he gave me to make the updating and report processes easier to manage. If you require any additional information, please advise me."*

A THREE-PERSON LAW FIRM FROM UNION COUNTY

**1990**

*"The professionalism, sincerity, and concern for the welfare of the attorneys by ... your staff...is to be applauded. I personally wish to thank you and them for bringing to our attention these shortcomings. Contrary to the popular misconception prevailing, I am happy to say the experience was a pleasant undertaking, educational, and most informative."*

A SEVEN MEMBER UNION COUNTY LAW FIRM

1989

*"The Random Compliance Audit Program assisted me in improving my record keeping. The Program provides a safeguard against intentional wrongdoing and unintentional lapses in meeting Record Keeping requirements. I can now personally attest to the benefits of the Random Compliance Audit Program to the Bar of the State of New Jersey. Thank you for your assistance."*

A BERGEN COUNTY SOLE PRACTITIONER AND  
CERTIFIED PUBLIC ACCOUNTANT

1988

*"I would like to express my thanks and appreciation to your office, and in particular to (the auditor) for his recommendations made during the audit. His recommendations and instructions along with the pamphlet prepared by your office have been most helpful and have made our bookkeeping more efficient."*

A SUSSEX COUNTY ATTORNEY

1987

*"Before responding to your communication, I do want to point out that the audit itself went very well, your auditor was extremely courteous and helpful and, quite frankly, we learned quite a few things about better record keeping (which we should have known all along). I, therefore, would like to point out that notwithstanding the fear that all attorneys have concerning such a random audit, it was extremely helpful and certainly the program itself is very worthwhile."*

A SOLE PRACTITIONER

1986

*"This audit has been a healthy influence on my record keeping. I had actually retained the services of a bookkeeper approximately one month prior to the audit. With the suggestions of your auditor my bookkeeper has now developed a system for my trust account, which, I feel, adequately protects trust funds from erroneous application and erroneous disbursement. The bookkeeping system is now being programmed for computer application and I will soon be purchasing a computer for that purpose."*

A SOLE PRACTITIONER

1985

*"I would like to take this opportunity to commend your office and in particular the member of your staff who conducted the random audit of our firm for the excellent professional manner in which same was handled. Contrary to some comments I have heard in the past, I found your representative was most helpful, reasonable and cooperative and the random audit indeed served as the educational process which it was intended to serve. Furthermore, as result of our transferring funds from the Collection Trust Account which had accumulated through the years, our cash position was substantially improved."*

A MEMBER OF A SEVEN-MEMBER LAW FIRM

1984

*"I wish to extend my appreciation for the professional manner in which your staff conducted the audit, and I also appreciate the suggestions that were made to me and my staff. I wholeheartedly endorse this program and would hope that the rest of the Bar feels the same way."*

A SOLE PRACTITIONER

## Trust Accounting Education

**A**s an integral part of the random program,  
New Jersey has developed a systematic

process for educating all lawyers on proper trust and  
business accounting procedures. Since 1987, the



Supreme Court mandates that each newly admitted attorney take a three-hour course on this important subject. This course is given several times per year and is conducted by the New Jersey Institute for Continuing Legal Education.

In addition, the Director of the Office of Attorney Ethics has published a book entitled "Trust and Business Accounting for Attorneys (4th Edition 1998)," which is available to all attorneys directly from the Institute for Continuing Legal Education. This work has been cited with approval outside this state. The Board of Professional Responsibility of the Supreme Court of Tennessee adopted the treatise in part in its Formal Ethics Opinion 89-F-121 entitled "The Mechanics of Trust Accounting." The California State Bar also produced a handbook in 1993 based upon New Jersey's work and the Attorney Registration and Discipline Commission of the Supreme Court of Illinois also received permission to use the New Jersey book in 2001 as the basis for its Client Trust Account Handbook.

Annually, all lawyers receive an attorney registration statement that requires all private practitioners to list their primary trust account and primary business account and to certify their compliance with the record keeping requirements of *Rule 1:21-6*. Included in that mailing almost every year is a reproduction of *Rule 1:21-6*.

The random program publishes a brochure entitled "New Jersey Attorney's Guide to the Random Audit Program and Attorney Trust Accounts and Record Keeping." Beginning in 1996, that brochure is sent to all private practice law firms, together with the initial letter scheduling a random audit. In 1997 the brochure was mailed to all New Jersey admitted attorneys with the 1997 Annual Attorney Registration Statement.

Finally, at the conclusion of each audit, all law firms randomly audited are provided with a written "Outline of Record Keeping Requirements Under *Rule 1:21-6*" Developed by the random program, this outline not only includes a summary of the substantive accounting requirements, but, in addition, contains samples of all required receipts and disbursement journals, client trust ledgers and reconciliation formats.

As part of the educational process, the Director of the Office of Attorney Ethics has developed seven key concepts (**Figure 3**) that help lawyers understand basic concepts about proper trust accounting procedures. These key concepts are explained in detail in the mandatory course required of all newly admitted attorneys. Additionally, these keys form the cornerstone of the "Trust and Business Accounting for Attorneys" book.

## Key Concepts In Trust Accounting

- ◆ Separate Clients Are Separate Accounts
- ◆ You Can't Spend What You Don't Have
- ◆ Timing Is Everything
- ◆ Always Maintain an Audit Trail
- ◆ Trust Accounting Is Zero-Based Accounting
- ◆ There Is No Such Thing as a Negative Balance!
- ◆ You Can't Play the Game Unless You Know the Score

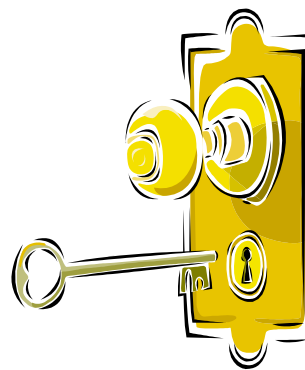


Figure 3

## Detection Of Serious Violations

The Random Audit Program is designed primarily to check compliance with the attorney Record Keeping Rules. Nevertheless, the staff of experienced auditors has uncovered a small, but significant, number of cases of lawyer theft and other serious financial violations.

During the twenty-one year period from July 1981, when audits first began, through December 31, 2002, serious financial misconduct by 98 attorneys was detected solely as a result of being randomly selected for audit. These attorneys were disciplined for their violations: 51 attorneys were disbarred, 14 were suspended for periods of three months to two years, 24 were reprimanded, one was transferred to disability-inactive status and eight received admonitions. The vast majority of the matters detected were very serious disciplinary cases that resulted in disbarment or suspension. The disbarred (51) and suspended (14) attorneys account for 66% of the disciplined attorneys. A complete list of these disbarred or suspended attorneys is shown as **Figure 4**.

The program has had its share of high profile disciplinary cases in the course of detecting and then successfully prosecuting lawyers who knowingly misappropriated clients' funds. In 1987, Walter M.D. Kern, Jr., the Chairman of the State Assembly Judiciary Committee and a five-term assemblyman, was disbarred by consent for misappropriating more than \$85,000 in clients' funds, most of it from estate proceeds. Kern was also indicted by a Bergen County Grand Jury and prosecuted for stealing \$25,400 and for tampering with a witness in the Office of Attorney Ethics' disciplinary proceeding against him.

The former prosecutor of Passaic County, Joseph J.D. Gourley, knowingly misappropriated clients' trust funds and was detected by the random program. He was disbarred by consent by the Supreme Court in 1993. In 1997, James T. Waldron, Jr., Director of Public Safety for the Capital City of Trenton, was disbarred by consent for knowingly misappropriating clients' trust funds. He made numerous unauthorized and improper disbursements totaling in excess of \$270,000 from the accounts of two elderly, incompetent widows for whom he had powers of attorney. 1997 was also the year that the former Mayor of Montville (Morris County), Robert Auriemma, was disbarred by the Supreme Court for the knowing misappropriation of over half a million dollars

in trust monies. Pursuant to Office of Attorney Ethics policy and Court Rule, law enforcement agencies are notified of the facts of these disciplinary matters in due course where evidence of criminal conduct is present.

Since the inception of the Random Audit Program, the Lawyers' Fund For Client Protection has paid out over \$3.5 million dollars on account of attorneys who were first detected and disciplined by the program's auditors. The Lawyers' Fund is supported by annual payments by New Jersey lawyers. The Fund's purpose is to reimburse clients of those lawyers who, through dishonesty, take clients' trust funds. While the amount paid out by the Fund is large, it is not an accurate measure of the true amount of defalcations caused by these disciplined attorneys. There are a number of reasons for this. First, the Fund's initial line of defense is to require liable third parties to pay prior to any payment by the Fund itself. Thus, where an attorney has forged a client's endorsement on an insurance draft or real estate mortgage refinancing check, the bank and the mortgage company are liable. The Fund properly calls on them to pay in the first instance. Second, the Fund currently has a limit of \$250,000 per claimant on payments. While this is one of the highest claim limits in the country, it may mean that a few of the largest claims may not be reimbursed in full. Third, the Fund does not pay interest on claims. Therefore, the extent of harm done by the attorneys detected and disciplined by the Random Audit Program was, in fact, considerably greater than the \$3.5 million in payments made by the Fund.

However, even this discussion does not begin to highlight the actual importance of the role of the random program over the past 21 years and the monies saved by the Fund. To truly appreciate the effectiveness of the random program, one need only contemplate how many more millions of dollars these lawyers would have continued to misappropriate during this period if the program had not detected and disciplined them when it did. Moreover, deterrence is acknowledged to be a factor in all random-type programs (e.g. bank examiner's audits). While it is not easy to quantify the number of attorneys who were deterred or the millions of dollars in thefts that were prevented due to a credible and effective Random Audit Program, the deterrent effect is, nevertheless, an important and undeniable component of the random effort.

# Random Audit Disbarments/Suspensions

<u>Attorney</u>	<u>County</u>	<u>Sanction</u>	<u>Citation</u>	<u>Year</u>
Alongi, Paul	Essex	Disbarment By Consent	110 N.J. 694	1988
Armellino, Nicholas M.	Hudson	Disbarment By Consent	149 N.J. 275	1997
Auriemma, Robert C.	Morris	Disbarment By Consent	147 N.J. 508	1997
Barlow, Dennis M.	Essex	Disbarment	140 N.J. 191	1995
Bell, Daniel S.	Essex	Disbarment By Consent	162 N.J. 184	2000
Black, Douglas P.	Monmouth	Disbarment By Consent	144 N.J. 475	1996
Bernardez, Juliet O.	Hudson	Disbarment By Consent	138 N.J. 40	1994
Blumenstyk, Larry	Morris	Disbarment	152 N.J. 158	1997
Boyardjis, Andreas A.	Morris	Disbarment By Consent	112 N.J. 618	1988
Briscoe, John F.	Ocean	Disbarment By Consent	Unreported	1987
Bryant, Donald	Mercer	Disbarment By Consent	117 N.J. 676	1989
Calise, Francis T.	Passaic	Disbarment By Consent	135 N.J. 78	1994
Callahan, John E.	Union	Disbarment	162 N.J. 182	1999
Carney, James F.	Essex	Disbarment	165 N.J. 537	2000
Carroll, Richard J.	Hudson	Suspension	162 N.J. 97	2000
Combes, Charles L.	Bergen	Disbarment By Consent	116 N.J. 778	1989
Cronin, Clinton E.	Ocean	Disbarment	146 N.J. 487	1996
DiLieto, Louis	Monmouth	Disbarment	142 N.J. 492	1995
Ewing, William J.	Essex	Suspension 12 Months	132 N.J. 206	1993
Franco, Leonard H.	Hudson	Disbarment by Consent	169 N.J. 386	2001
Freimark, Lewis B.	Essex	Disbarment	152 N.J. 45	1997
Gallo, James J.	Hudson	Suspension 3 Months	117 N.J. 365	1990
Gourley, Joseph J.D.	Passaic	Disbarment By Consent	131 N.J. 174	1993
Grady, John W.	Bergen	Disbarment By Consent	100 N.J. 686	1985
Haerberle, M. Gene	Camden	Disbarment By Consent	105 N.J. 606	1987
Hahne, Richard H.	Essex	Disbarment By Consent	110 N.J. 701	1988
Helt, Jay G.	Monmouth	Disbarment By Consent	171 N.J. 29	2002
Heath, Steven E.	Monmouth	Disbarment By Consent	142 N.J. 483	1995
Henchy, Michael T.	Morris	Disbarment By Consent	138 N.J. 183	1994
Holden, Edward T.	Monmouth	Disbarment By Consent	155 N.J. 598	1998
Hollendonner, Anton	Mercer	Suspension 12 Months	102 N.J. 21	1985
Horton, Richard G.	Somerset	Disbarment By Consent	132 N.J. 266	1993
Houston, James F.	Monmouth	Disbarment	130 N.J. 382	1992
Hurd, Calvin J.	Union	Disbarment By Consent	98 N.J. 617	1985
Ichel, Albert L.	Middlesex	Suspension 6 Months	126 N.J. 217	1991
James, Charles H.	Cape May	Suspension 6 Months	112 N.J. 580	1988
Kern, Walter M.D., Jr.	Bergen	Disbarment By Consent	109 N.J. 635	1987
Knopka, Michael A.	Passaic	Suspension 6 Months	126 N.J. 225	1991
Kramer, Arthur B.	Union	Disbarment	113 N.J. 553	1989
LeBar, Geoffrey P.	Bergen	Disbarment	150 N.J. 14	1997
Lennan, John R.	Bergen	Disbarment	102 N.J. 518	1986
Librizzi, Victor, Jr.	Essex	Suspension 6 Months	117 N.J. 481	1990
May, Isadore H.	Atlantic	Suspension 12 Months	170 N.J. 34	2001
Mogck, John J., III	Burlington	Disbarment By Consent	130 N.J. 386	1992
Mysak, Charles J.	Passaic	Disbarment	162 N.J. 181	1999
Nitti, Louis J.	Essex	Disbarment	110 N.J. 321	1988
Perez, John	Essex	Suspension 24 Months	104 N.J. 316	1985
Ratliff, John H.	Somerset	Disbarment By Consent	126 N.J. 303	1991
Ross, Norman L.	Passaic	Disbarment By Consent	162 N.J. 193	2000
Ryle, Dion F.	Burlington	Disbarment	105 N.J. 10	1987
Saltzberg, Edwin F.	Camden	Disbarment By Consent	103 N.J. 700	1986
Schwartz, Ira A.	Passaic	Disbarment By Consent	134 N.J. 530	1993
Sederlund, Elaine H.	Hudson	Disbarment By Consent	106 N.J. 651	1987
Spritzer, Henry M.	Middlesex	Disbarment By Consent	165 N.J. 520	2000
Stern, Morris J.	Essex	Suspension 6 Months	118 N.J. 59	1990
Tighe, Charles I, III	Burlington	Disbarment	143 N.J. 298	1996
Tompkins, Donald F.	Passaic	Suspension 3 Months	155 N.J. 542	1988
Untracht, Gary H.	Somerset	Disbarment	174 N.J. 344	2002
Vegel, Peter S.	Bergen	Disbarment By Consent	165 N.J. 202	2000
Waldron, James J., Jr.	Mercer	Disbarment By Consent	152 N.J. 18	1997
Warhaftig, Arnold M.	Union	Disbarment	106 N.J. 529	1987
Waters-Cato, Shirley	Essex	Suspension	Unreported	1995
Weiss, Harvey L.	Essex	Suspension 6 Months	118 N.J. 592	1990
Williams, Kenneth H.	Essex	Disbarment By Consent	117 N.J. 686	1989
Wright, William, Jr.	Essex	Disbarment	163 N.J. 133	2000

Figure 4



## Random Audit Personnel

The Random Audit Program consists of a Chief Auditor, who is both a lawyer and a Certified Public Accountant, an Assistant Chief Auditor, two Senior Random Auditors, one of whom is also a lawyer, and one Random Auditor. All auditors have had substantial private or public sector accounting experience. These individuals are assisted by secretary Elvira Pilla.

The Chief Auditor and all staff are appointed by the Director of the Office of Attorney Ethics, subject to the approval of the Chief Justice of the Supreme Court of New Jersey. Random audit personnel serve on a full-time basis. All random audits are performed with assistance. The use of full-time, experienced auditors insures the development of expertise in legal practice, uniformity of audit approach and, also, maximizes the ability to detect misappropriations when they occur.

*Chief, Random Audit Program*

*Robert J. Prihoda*

**of Hamilton Township**

B.S. Trenton State College 1977

**J.D. Rutgers School of Law - Camden 1993**

Joined OAE 1981

**Accounting Experience:**

Auditor, Division of Taxation, New Jersey Transfer Inheritance Tax Bureau (1978-79); Auditor, Administrative Office of the Courts, Trust and Special Funds (1979-81).

**Related Experience:**

Certified Public Accountant for New Jersey; Member American Institute of Certified Public Accountants; Admitted to New Jersey and Pennsylvania Bars (1993).

*Assistant Chief Random Auditor*

**Mary E. Waldman**

**of Yardley**

B.S. Rider University 1984

Joined OAE 1988

**Accounting Experience:** Auditor, New Jersey National Bank (1984-85); Senior Audit Examiner, First Fidelity Bank (1986-88).

*Senior Random Auditor*

**Mimi Lakind**

**of Wayne**

B.A. Summa Cum Laude  
William Paterson College 1978

M.A. Magna Cum Laude  
William Paterson College 1985

J.D. Cum Laude  
Seton Hall University School of Law 1993  
Joined OAE 1984

**Accounting Experience:**

Bookkeeper, I. Mirsky & Co. (1972-76); Accountant, Global Distributors, Inc. (1977-81); Accountant, Lowenstein, Sandler, Brochin, Kohl, Fisher and Meanor, Esqs. (1982-83).

**Related Experience:**

Admitted to New Jersey and Pennsylvania Bars (1993); Member, American Mensa Limited.

*Senior Random Auditor*

**Karen J. Hagerman**

**of West Long Branch**

B.A. Monmouth University 1991  
Joined OAE 1995

**Accounting Experience:**

Auditor, New Jersey Natural Gas Co. (1987-90); Senior Auditor, Midlantic Bank, N.A. (1990-95).

*Random Auditor*

**Joseph R. Strieffler, Jr.**

**of Levittown**

B.A. Holy Family College 1995  
Joined OAE 1998

**Accounting Experience:**

Billing Specialist, Keystone Health Plan East (1993-95); Financial Analyst, Independence Blue Cross (1995-98).



# Random Audit Process

## Overview

The first audit was conducted in July 1981. From 1981 through 2002, the program has conducted 7,659 audits of New Jersey law firms' trust and business accounting records. The most current information available regarding the number of law firms practicing in New Jersey is based on the 2001 Attorney Registration Statement. (**Chapter 5**). Approximately 52 percent (51.13%) or 7,268 of the 13,941 estimated law firms were audited as of 2001, the latest year for which the number of New Jersey law firms was available. Analysis of these total figures shows that 5,221 or 50.44% of the 10,350 solo practice firms and 2,047 or

57% of the 3,591 larger law firms consisting of two or more attorneys were audited as of 2001.

The program results show that the vast majority of New Jersey lawyers account for clients' funds without incident. While the random program identifies minor record keeping deficiencies, the program also educates lawyers about the causes of these deficiencies, as well as how they may be corrected. Corrections are then accomplished by practitioners who certify their compliance in writing. Serious ethical misconduct has only been detected in approximately 1.3% of all audits conducted.

## Program Purposes

The central purpose of random audits in New Jersey is to educate law firms on the proper method of fulfilling their fiduciary obligations to clients. In this state this means making sure every law firm knows how to maintain records of clients' funds in accordance with *Rule 1:21-6*. Unquestionably, law firms owned by sole proprietors benefit most from this rule. Perhaps this explains the overwhelming support the program has experienced from practitioners and the bar of this state. By educating lawyers to proper fiduciary procedures, accounting errors resulting from faulty methodology can be detected and corrected early, perhaps before an unknowing misappropriation occurs.

The second purpose underlying random audits is a by-product of the first: deterrence. Just knowing that there is an active auditing program is an incentive, not only to keep good records, but also to avoid temptations to misuse trust funds. While not quantifiable, the deterrent effect on those few lawyers who might be tempted otherwise to abuse their clients' trust is undeniably present.

Finally, random audits serve the purpose of detecting misappropriation. Since the random selection process results, by definition, in selecting a representative cross-section of the New Jersey Bar, a few audits inevitably uncover some lawyer theft, even though this is not the primary purpose of the program.

## Audit Selection

One of the keys to the integrity of the random program lies in the assurance that no law firm is chosen for audit except by random selection. Webster's Dictionary defines "random" as "lacking or seeming to lack a regular plan; chosen at random." The actual New Jersey selection is randomly made by computer. The selection utilizes the main law office

telephone number provided by attorneys on their Annual Attorney Registration Statement (**Chapter 5**). By using this main law office telephone number as an identifier for the law firm, the process insures that each law firm has an equal chance of being selected. The selection is made on a statewide basis and not by county.

# Accounting Standards

The New Jersey Record Keeping *Rule 1:21-6*, is the measuring standard for all audits. Combined with Rule of Professional Conduct 1.15, case law, advisory opinions and generally accepted accounting principles, the New Jersey attorney trust and business accounting requirements are the most detailed in the country. All attorneys who practice law privately are required to maintain a trust account for all clients' funds entrusted to their care and a separate business account into which all funds received for professional services must be deposited. All trust accounts in the must be uniformly and prominently designated "Attorney Trust Account." Business accounts must be prominently designated as either "Attorney Business Account," "Attorney Professional Account" or "Attorney Office Account".

The Record Keeping Rule provides that attorneys maintain receipts and disbursements journals. The records of all deposits and withdrawals must identify the date, source or payee, and a description of each item that is issued to support trust and business account transactions. Additionally, a separate ledger book must be maintained with a separate page for each trust client, showing the source of all funds deposited, the name for whom the funds are held and the amount, as well as the

charges to or withdrawals from such accounts, and the names of all persons to whom such funds are disbursed.

All disbursements must be made to a specific payee and never to cash. All outgoing electronic fund transfers must be preceded by written authorization to the financial institution and signed by an attorney. Withdrawals by ATM cards are prohibited, as is protection against trust overdrafts. A regular trial balance of the individual client trust ledger is to be maintained and a full reconciliation must be made with all bank statements on a monthly basis. All attorneys must likewise have copies of all retainer and compensation agreements with clients and all bills rendered to clients, copies of all statements to clients showing disbursement of funds to them or on their behalf, and copies of all records showing payments to attorneys, investigators or other persons not in their regular employ, for services rendered or performed. The rule further directs that the books and records specified above must be maintained in accordance with "generally accepted accounting practice." Moreover, the rule states that all required books and records must be maintained for a period of seven years. All required records must be made available for inspection by random audit personnel. The confidentiality of all records reviewed is maintained at all times.

## Scheduling

New Jersey uses a statewide approach to audit selection. Once an annual, statewide selection has been made, scheduling of audits generally proceeds in the order of selection. Random audits are always scheduled in writing ten days to two weeks in advance, so as not to unduly interfere with the law firm's work schedule. At the outset of the program some attorneys argued that audits could only be effective if they were unannounced, surprise audits. Many members of the bar pointed out, however, that unscheduled audits would also be a surprise to clients who happened to be in the audited attorney's office as well. Thus, the audits could be a disservice to the immediate clients as well as a total disruption of the law firm's daily, planned business

activities. This would be particularly true for the sole practice firm. The total program experience to date indicates that announced audits do not interfere with the auditor's ability to detect either Record Keeping deficiencies or serious trust violations where they exist.

While the audit date originally scheduled is firm, requests for adjournments are given close attention. The selected law firm is advised in the scheduling letter to have available all records required under Rule 1:21-6, including bank statements canceled checks, checkbook stubs, duplicate deposit slips and receipts and disbursements journals for both the business and trust account covering a two year period.

## Initial Conference

After arriving at the law firm, the auditor conducts an initial interview with the managing attorney in order to determine the general nature, type and volume of the practice, as well as the general format of existing records. In this regard, it is helpful to find out whether the firm regularly engages the services of an accountant or bookkeeper and the purposes therefore. Likewise, all persons who have signatory authority over the trust and business accounts must be determined; special note is made if any non-lawyer is authorized to sign checks on the firm's trust account. Next, the auditor seeks to determine whether the law firm members serve as a specific

fiduciary, such as executor, trustee, guardian or receiver on any accounts; whether negotiable or other valuables, other than money, are held for clients; whether collections on mortgages or other investments are made on behalf of clients; whether the law firm members or a related person are indebted to a client; whether the firm members are participants in business ventures with clients and whether interest is earned on trust funds and, if so, whether it is properly apportioned to applicable clients. The auditor then conducts a physical inspection of the required books and records for both the trust and business accounts.

## Audit Review

The heart of the review and audit is the examination and testing of the law firm's financial record keeping system. Are the trust and business accounts properly designated? Does the firm maintain receipts and disbursements journals? Are there client ledger sheets to support each trust client? Are all entries and withdrawals descriptive enough? Is a monthly reconciliation of the bank statement made with the checkbook balance, and is this checkbook balance then further reconciled to the schedule of individual client trust ledger accounts? During the course of the audit, a reconciliation of the checkbook balance is actually made by the auditor to the last monthly bank statement. Additionally, a further reconciliation to confirm the current schedule of individual client ledgers

is made to see that no individual client's funds have been overdrawn. Technically, the auditor subjects the law firm's records to a limited scope review by selectively testing transactions. During the course of the review and audit, the canceled checks for several months are reviewed to determine if there have been any trust checks written for personal or business expenses. The checks are also scrutinized to see whether those written to clients have been endorsed back to an attorney for some purpose. Any checks returned for insufficient funds are, of course, noted and an explanation required. Monthly bank statements are then reviewed for a minimum period of two years to determine whether any overdrafts or negative balances are apparent for which an appropriate explanation is required.

## Exit Conference

At the conclusion of the audit, which averages one full day for the typical small-firm practitioner, the auditor offers to confer with the managing attorney in an exit conference to review and explain the findings. Since the principal objective of the audit program is compliance with the Record Keeping Rule, the exit conference represents perhaps the most important part of the audit. It is here that the law firm is

made aware of any accounting shortcomings, as well as findings and weaknesses in the present financial operation. The managing attorney is given a deficiency checklist, which highlights necessary corrective action. Even where there are no corrections necessary in order to bring the firm into compliance with the Record Keeping Rule, the auditor may suggest improvements that will make the firm's job of monitoring client funds easier.

## Deficiency Notification

Within several weeks following the conclusion of the audit, a written deficiency letter is forwarded to the law firm describing any shortcomings for which corrective action is necessary. The firm is required to make all corrections within 45 days of the date of the letter and then must certify in writing within that time period that all corrective actions have, in fact, been completed. If the confirming letter is received from the attorney, the case is closed administratively. If program personnel do not receive a confirming letter, a final ten-day letter is sent

advising the law firm that, if no confirming letter is received by the Office of Attorney Ethics within ten days stating that all necessary corrective action has been taken, a disciplinary complaint will issue. To date, it has been necessary to file only a few disciplinary complaints in New Jersey due to an attorney's refusal to correct deficiencies. Discipline is uniformly imposed for such failures. *In re Macias*, 121 N.J. 243 (1990); *In re Henn*, 121 N.J. 517 (1990); and *In re Schlem*, 165 N.J. 536 (2000).



## 2002 Disciplinary Action

During calendar year 2002, the Random Audit Program continued to detect and discipline a number of attorneys who committed serious ethical violations. The following five attorneys, detected solely by the program, were finally disciplined by Order of the Supreme Court this year.

On March 4, 2002, the Supreme Court of New Jersey accepted the Disbarment By Consent of Monmouth County attorney **Jay G. Helt**. Helt admitted that he could not successfully defend himself against pending disciplinary charges alleging the knowing misappropriation of clients' trust funds. *In re Helt*, 171 N.J. 29 (2002).

Passaic County practitioner **Theodore W. Daunno** was transferred to Disability-Inactive Status due to significant medical problems. The Disciplinary Review Board found him guilty of the knowing misappropriation of clients' trust funds for withdrawing trust monies and depositing them to his business account on ten occasions over an eight-month period. *In re Daunno*, 172 N.J. 233 (2002).

A Somerset County lawyer **Arthur G. D'Allessandro** was admonished by the Supreme Court on June 17, 2002 for committing numerous record keeping violations, in violation of *R. 1:21-6*, following a

random audit of his trust records. *In re D'Allessandro*, 172 N.J. 299 (2002).

**Gary H. Untracht** of Somerset County was disbarred by the Supreme Court on September 23, 2002. This respondent knowingly misappropriated clients' trust funds over a period of 27 months by, among other methods, drawing checks for his fees and/or costs prior to depositing the corresponding settlement funds in his trust account. Untracht also issued more than 140 trust account checks to himself in a total amount exceeding \$137,000 for fees and costs, without attributing the disbursements to any client matter. *In re Untracht*, 174 N.J. 344 (2002).

Mercer County lawyer **Lionel A. Kaplan** received an admonition on November 18, 2002. Although Kaplan knew that law firm funds had been deposited in his firm's trust account in 1987 following a former employee's embezzlement, he failed to keep records of the withdrawals against those funds and allowed those funds to remain in the account until 2001, thus improperly commingling personal and trust funds. He also failed to supervise the firm's bookkeeper who did not maintain the records required by *R. 1:21-6*. *In re Kaplan*, Unreported (2002).





## 21st Century Challenges

After two decades of audits, the random program has achieved many goals. As noted earlier in this chapter, it has increased attorney fiduciary accountability, educated the bar and detected serious cases of misappropriation. Likewise, the program has served as a deterrent to some lawyers who would have committed serious violations had the random program not existed.

At the same time the program has dealt with an increasing population of private law firms, which have developed in our State. **Figure 5.** As the program begins its third decade of work for the Court, it will confront additional

challenges to educate the bar, to deter improper trust account practices and to detect misappropriation of clients' funds when it occurs. As in the past, a major factor affecting the program is the continued and significant growth in the number of lawyers admitted to the New Jersey Bar and the consequent increase in the number of new law firms that handle clients' trust funds. The program will continue to work hard to meet these challenges to the end that its efforts foster public confidence in the fiduciary accountability of lawyers for the hundreds of millions of dollars in clients' trust funds with which they are charged every year.

## Audits of Private Law Firms

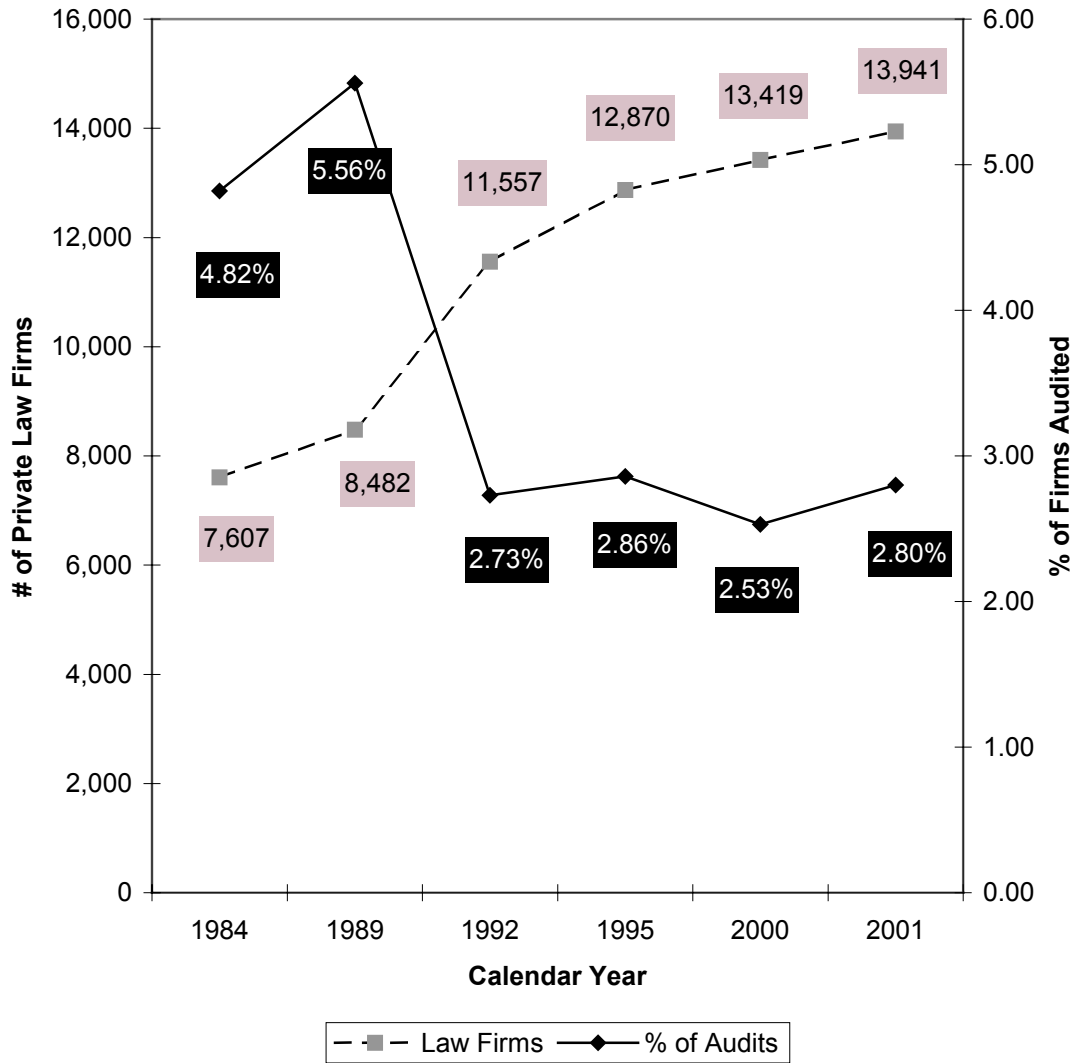


Figure 5



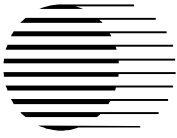
**ATTORNEY  
DISCIPLINARY  
ACTIONS**

**Chapter Two**



“(T)he principal reason for discipline is to preserve the confidence of the public in the integrity and trustworthiness of lawyers in general.”

Chief Justice Robert N. Wilentz  
*In re Wilson*, 81 N.J. 451 456 (1979)



# DISCIPLINE SANCTIONS AND ACTIONS

## Discipline Sanctions

The Supreme Court disciplined more New Jersey lawyers in 2002 than at any time in history. Overall, discipline increased by 26%, as 267 lawyers were sanctioned, compared to 204 in 2001. **Figure 6.** The Court imposed formal sanctions on 226 lawyers with finality and another 41 were the subject of temporary, emergent disciplinary actions. The previous high total occurred in 1999, when 239 New Jersey Practitioners were disciplined.

Sanctions increased across the board in almost all sanction categories in 2002, from disbarment, the most serious category, to admonition, the least severe disciplinary classification. The largest rise occurred in the most serious sanction areas, as disbarments imposed by the Court increased by 82%. A total of 20 lawyers were disbarred by order of the Supreme Court, up from

11 in 2001. Disbarments by consent, where lawyers voluntarily surrender their licenses, grew by 10% – from 20 in 2001 to 22 this year.

More lawyers were suspended this year, 81, than ever before. This represents an increase of 35% from last year's total of 60. The previous high was 73 in 1999.

The number of lawyers reprimanded also grew by 17% (63 vs. 54 in 2001). This year's total of 63 was yet another record, eclipsing the prior high of 54 established last year. Admonitions increased by 23% (38 in 2002 vs. 31 in 2001). In addition, the Supreme Court created one new disciplinary sanction in 2002, censure, which was imposed on one lawyer. Discipline decreased in only one category this year, disability-inactive status, from three in 2001 to one.

### Record Sanction Year

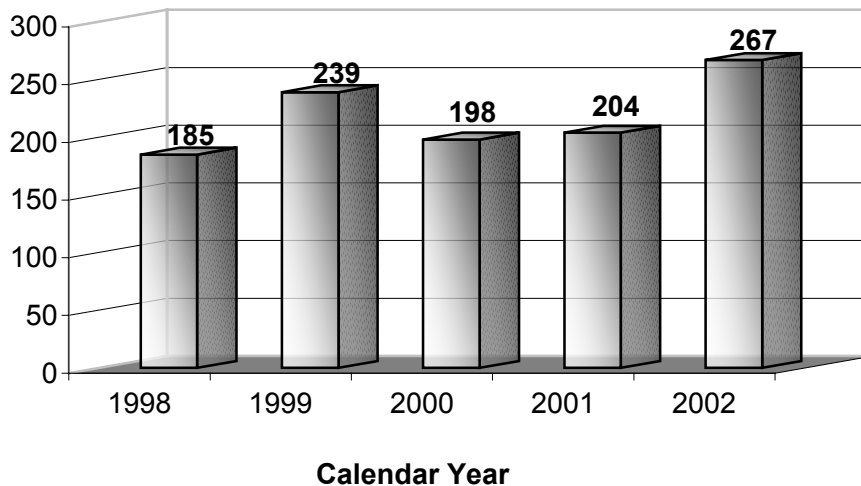


Figure 6

In New Jersey, disciplinary sanctions are divided into two main categories. The largest category is final discipline, which is imposed on lawyers by the Supreme Court after the respondent-lawyer has the opportunity for a disciplinary hearing and after appellate review is concluded. Final discipline sanctions are explained in further detail later in this chapter under the heading "Final Discipline 2002." The second category is emergent actions. These sanctions are imposed on an emergent basis in order to protect the public while discipline charges are pending. Emergent actions consist of temporary suspensions, temporary license restrictions on the lawyer's practice or transfers to temporary disability-inactive status. Emergent actions increased by 71% this year with 41, up from 24 in 2001. Emergent actions are explained in further detail later in this chapter under the heading "Emergent Discipline Cases."

During 2001, 204 Garden State practitioners received disciplinary sanctions (180 final sanctions and 24 emergent actions). In the prior year, 198 lawyers were disciplined – 162 final and 36 emergent. For 1999, the total was 239, consisting of 185 final sanctions and an all-time high 54 emergent sanctions. In 1998, a total of 185 attorneys were disciplined (160 final sanctions and 25 emergent actions).

The number of disciplinary sanctions imposed in a given year results from a number of factors. Consequently, no conclusions can be drawn from reviewing the data for a single year. However, the results over a period of time, such as five years, can indicate trends. The 2002 numbers demonstrate a continued, increasing pattern in the number of disciplinary sanctions meted out to New Jersey lawyers over the last 5-years. While part of the reason for the increasing trend is related to the general growth in the number of attorneys admitted to the New Jersey Bar, there is no direct correlation between the two. In fact, the increasing disciplinary trend is not keeping pace with the increase in the number of new lawyers admitted each year. Another consideration is the fact that as more lawyers are admitted, the business of law becomes more and more competitive. Some lawyers take ethical risks. The poor economy is undoubtedly another factor affecting discipline. Like members of the general population, some lawyers become financially stretched, some to the point where they engage in misconduct they might not if their finances were in better shape. Some lawyers, of course, move beyond the breaking point during difficult economic times. Indeed, the discipline system is seeing an increasing number of trust account overdrafts reported by financial institutions throughout the state as well as other grievances alleging mishandling of monies and improper business transactions with clients. From 2000 to 2002, grievances filed relating to money offenses have

grown from 27.7% to 36.4% of all new cases filed with the disciplinary system.

The fact that each case is fact sensitive is another major variable in evaluating the timing of disciplinary sanctions. The complexity of the matter and the cooperation of the attorney during the investigation, are always major factors. Occasionally an attorney will voluntarily consent to disbarment during the investigative stage of the matter. More usually, however, cases are contested at all stages – investigation, hearing, appellate review and at the final Supreme Court level. Thus, cases begun in prior years may reach the Supreme Court where final discipline is imposed in a later year. All of these factors are functions of the number of sanctions imposed by the Court in any one year.

Another reason for year-to-year variances in the number of discipline sanctions/actions arises out of the Supreme Court's commitment to improving the attorney regulatory system in the state. In 1983 the Supreme Court created the OAE as a professional agency to oversee and support the disciplinary effort statewide. The OAE's mission is also to handle the complex, serious and emergent cases that could not adequately be handled by volunteer district ethics committee members. Volunteer district ethics committees were also augmented and supported by attorney-secretaries, who receive annual stipends, called emoluments. The entire system was again overhauled in 1994, when additional resources were added to the OAE's Complex Group. The Court also added full-time investigators to a new OAE District Group, whose mission is to handle all investigations in several districts. A statewide ethics coordinator was also hired by the OAE to monitor and assist district ethics committees.

Improvements have also been added to make the system more responsive to problems of undue delay, including intentional delaying tactics by respondents. Our current rules mandate active cooperation by respondents during the investigation and hearing stages of disciplinary matters. These rules also provide for a waiver of hearing and an admission of the charges if an attorney-respondent fails to file an answer to a complaint after being properly served. In such case, the record of the proceeding is "certified" directly to the Disciplinary Review Board (Review Board) for sanction recommendation. The Review Board then sends its recommendation directly to the Supreme Court imposition of sanction. This certification process streamlines the work of district ethics committees, which previously had to convene a hearing, call witnesses and issue a detailed report when a respondent failed to respond to a complaint. This process continues to show concrete results by reducing the time within which final discipline is imposed. In 2002, 17% of all disciplinary

sanctions (excluding 22 disbarments by consent, which, of course, require a respondent's active cooperation), or 35 of 204 cases, were based on the attorney's default. No disbarments by order of the Supreme Court were accomplished via the certification process this year. However, a total of 30% of all suspensions imposed (24 of 81) resulted from a certification of the record. A total of 16% (10 of 63) of the reprimands were certified and three percent of admonitions, 1 of 38, resulted from default. By comparison, during 2001, a total of 16% of all disciplinary sanctions resulted from the certification process.

Finally, the Supreme Court created a number of innovative and pro-active programs over the years that

have led to better detection of serious problems, in particular, offenses involving money. In 1981 the Random Audit Program (**Chapter 1**) began subjecting private practice law firms to accounting reviews to insure compliance with mandatory record keeping rules that help to protect clients' trust funds. In 1984, the Court established the Trust Overdraft Notification Program, which requires all law firms to maintain trust accounts only at approved trust account depositories. These approved depositories are required to report to the OAE whenever an attorney trust account check is presented against insufficient funds.

## Discipline Actions

In addition to disciplinary sanctions, the attorney disciplinary system also handles a significant number of other related disciplinary actions involving New Jersey attorneys. During 2002, the disciplinary system handled a total of 117 such actions. **Figure 7.**

Related disciplinary actions include disciplinary prosecutions for contempt of a Supreme Court order to cease practicing law. When disbarred and suspended

attorneys disobey the Court's injunction to cease practicing law, the Office of Attorney Ethics (OAE) has been successful in stopping them. One contempt prosecution was successfully undertaken this year involving suspended Bergen lawyer Kenneth Van Rye. These actions are explained in further detail later in this chapter under the heading "Contempt Prosecutions."

### RELATED DISCIPLINARY ACTIONS

NATURE OF ACTION	AUTHORITY	FREQUENCY
Contempt of Supreme Court	R. 1:20-16(j)	1
Admission/Character Cases	R. 1:23 & 25	4
Diversory Actions Approved	R. 1:20-3(i)	64
Reinstatement Proceedings	R. 1:20-21	23
Monitoring Actions Bar	R. 1:20-18	25
<b>TOTAL ACTIONS</b>		<b>117</b>

**Figure 7**





**Richard J. Hughes Justice Complex  
Home of the Supreme Court of New Jersey**

The Office of Attorney Ethics is also designated by order of the Supreme Court to present to the Court all Orders To Show Cause arising out of Character Committee cases where there is some question as to whether or not an applicant has demonstrated the moral fitness requisite to be admitted to practice in this state. Likewise, where there is evidence that a bar applicant has cheated in taking the bar examination, the Supreme Court refers the matter to the OAE for investigation and, if warranted, prosecution. Both Character Committee and Bar Admissions cases are completely confidential and not subject to the same public access that applies under *R. 1:20-9* to attorney disciplinary proceedings. For 2002, the OAE argued four Character Committee cases to the Court, compared to three during 2001. No Bar Admissions cases arose this year. Both of these types of activities are explained in further detail later in this chapter under the heading "Character and Bar Admission Cases."

An attorney may be diverted from discipline in cases of lower level misconduct. Diversionary actions are authorized where an attorney commits "minor misconduct" that does not warrant discipline greater than an admonition, the least serious form of sanction. Usually, diversions are accompanied by the imposition

of conditions that must be satisfied by the attorney. These matters require approval and special handling by the OAE until the diversionary conditions are successfully concluded. This year, a total of 64 diversions were approved, the same number approved in 2001. Diversions are explained in further detail later in this chapter under the heading "Diversionary Actions."

Suspended attorneys must first apply to be reinstated and cannot practice again until the Supreme Court has ordered them to be restored. All applications for reinstatement are reviewed by the OAE, which makes a recommendation to the Review Board. The Review Board then evaluates the request and sends its recommendation to the Supreme Court for action. During 2002, a total of 23 attorneys were reinstated, while in 2001 there were 13. Reinstatements are explained in further detail later in this chapter under the heading "Reinstatement Proceedings."

In cases where the Supreme Court imposes discipline on an attorney, the Court sometimes imposes "practice conditions" as a requirement for the right to continue to practice law. These conditions may include practice under the auspices of a supervising attorney, called a proctor, accounting reviews of trust and business account records, periodic drug testing, medical

examinations or treatment, completion of education courses and similar restrictions. The OAE monitors these matters. At the end of 2002, a total of 25 attorneys were subject to monitoring conditions. This compares to

31 attorneys who were monitored as of the end of last year. Monitoring is explained in further detail later in this chapter under the heading "Monitoring Attorneys."

## Final Discipline 2002

All final discipline is imposed by or under the auspices of the Supreme Court of New Jersey. The Supreme Court sits in Trenton, New Jersey at the Richard J. Hughes Justice Complex. Final discipline is imposed by the Court after the attorney is first afforded an opportunity for a disciplinary hearing and after appellate review is concluded.

The Supreme Court imposed discipline with finality on 226 Garden State attorneys in 2002. This number includes admonitions, the least serious sanction, which the Disciplinary Review Board (Review Board) is also authorized to impose.

There are seven primary forms that final disciplinary sanctions may take. In order of least serious to most severe, they are: admonition, reprimand, censure, final disability-inactive status, suspension (for definite or indeterminate term), revocation and disbarment.

Disbarment may either be imposed by order of the Supreme Court or may be consented to by the attorney. Disbarment in New Jersey is virtually permanent, since reinstatement was granted in only three cases this century. *In re Wilson*, 81 N.J. 451, 456 n.5 (1979) and *R. 1:20-15A(a)(1)*. Revocation of license is an annulment of the right to practice law. License revocation is imposed in limited circumstances, such as cases in which a lawyer is admitted to practice based on false or incomplete information contained in the application for admission to the bar.

A suspension precludes an attorney from practicing law in the state for the period it is in force effective September 3, 2002 there are two types of suspensions. Term suspensions generally prevent an attorney from practicing for a specific term that is no less than three months and no more than three years. *R. 1:20-15A(a)(2)*. Indeterminate suspensions are imposed for a minimum of five years, unless the Court's order provides otherwise. *R. 1:20-15A(a)(3)*.

During the term of suspension or following disbarment, another licensed attorney may not employ the disciplined attorney in any capacity, nor may the disciplined attorney share office with a licensed attorney, even in a non-legal capacity. *R. 1:20-20(a)*.

Final disability-inactive status is imposed where an attorney does not have the mental or physical capacity to practice law. *R. 1:20-12*. In order to be reinstated, these practitioners bear the burden of proving, by clear and convincing evidence, that they are again able to practice law without endangering themselves or the public.

Effective September 3, 2002, a new sanction, called censure, was added. *R. 1:20-15A(a)(4)*. A censure is a condemnation imposed by order or opinion of the Supreme Court. It is a harsher sanction than a reprimand and reflects the more egregious character of the underlying unethical conduct. A reprimand is a reproof imposed by order or opinion of the Supreme Court. *R. 1:20-15A(a)(5)*. An admonition is the least serious form of attorney discipline. *R. 1:20-15A(a)(6)*. It is a written rebuke and is imposed either by letter of the Review Board or by order of the Supreme Court.

During 2002 there were 20 disbarments by opinion of the Court, 22 disbarments by consent of the respondent, no revocations, 81 term suspension, no indeterminate suspensions, one censure, 63 reprimands, 38 admonitions and one final transfer to disability inactive status.

Four of the most outrageous, but interesting, cases of sanctioned conduct during 2002 were imposed on two Essex County attorneys, one lawyer from Union County and another Hudson County practitioner. The first case involved Sharon Hall of South Orange. Ms. Hall was an uncivil and unethical attorney who blamed everyone else for her own shortcomings. She was suspended for a period of three years for engaging in a series of outrageous unethical conduct in a series of four litigated matters. The Review Board, in its unreported opinion, aptly summarized her rein of misconduct:

In sum, respondent displayed a pattern of disrupting trials; abusing and showing disrespect to judges, adversaries and court staff; accusing judges, without any factual basis of fraud, dishonesty and conspiracy; accusing adversaries of fraud, deceit and misrepresentation; attempting to call her adversaries as witnesses, thereby having them disqualified as counsel; failing to follow orders issued by judges, resulting in her being held in contempt; failing to observe courtroom decorum and civility and failing to follow basic civil procedure rules.

Additionally, the Review Board also found a disturbing pattern of misrepresentations by Ms. Hall to the judges before whom she appeared. Hall had been

temporarily suspended from practicing law on June 24, 1999, pending proof of her fitness to practice law, which she never submitted. Then, in 2001 she was suspended for three months for failing to file an affidavit of compliance required of all suspended attorneys in accordance with *R. 1:20-20*, continuing to maintain an office after her temporary suspension, engaging in contumacious conduct in a litigated matter, including accusing her adversaries of lying, maligning the court, refusing to abide by the court's instructions, suggesting the existence of a conspiracy between the court and her adversaries and making baseless charges of racism against the court, all without any proof.

The Supreme Court disbarred Union County attorney Jack Noel Frost for knowingly misappropriating escrow funds being held to pay off a Workers' Compensation lien and for engaging in a prohibited business venture with an unsophisticated client. In the business venture, Frost misrepresented his finances, the true ownership of his assets, and his financial position to induce his client to participate in the loan. While knowing misappropriation alone requires disbarment in New Jersey, the Court went further to draw a line for egregious repeat offenders. Frost was disciplined on five prior occasions, three of them suspensions. The Court said:

Even if respondent committed negligent, rather than knowing, misappropriation, we would conclude that disbarment is the appropriate penalty. "[I]n the totality of the circumstances respondent has demonstrated that his ethical deficiencies are intractable and irremediable." *In re Templeton*, 99 N.J. 365, 376, 492 A.2d 1001 (1985). Respondent's extensive ethics history and his "profound lack of professional good character and fitness" compels the conclusion that respondent should not be allowed to practice law in New Jersey. *Ibid.*

Respondent's disciplinary history further supports our conclusion that disbarment is necessary. Respondent has received two private reprimands and three suspensions for thirteen separate instances of misconduct. Respondent consistently has demonstrated a disregard for the Rules of Professional Conduct, and "[w]e are unable to conclude that respondent will improve his conduct." *In re Cohen*, 120 N.J. 304, 308, 576 A.2d 855 (1990).

The totality of the evidence against respondent reveals a pattern of intentional deception and dishonesty that clearly and convincingly demonstrates 'that his ethical deficiencies are intractable and irremediable.' His conduct has

destroyed 'totally any vestige of confidence that [he] could ever again practice in conformity with the standards of the profession.' (Citation omitted.) The only way to protect the public and prevent a reoccurrence of respondent's behavior is by his disbarment. 171 N.J. 308, 328.

David Brantley of Essex County was suspended for two years. In a joint unreported decision in which his wife, S. Dorell King, was also suspended for a period of one year, the Review Board found both guilty of outrageous unethical conduct toward the disciplinary system, a problem that seems to be less and less uncommon:

One of the most troubling aspects of this case was respondents' failure to cooperate with disciplinary authorities.

\*\*\*\*

(T)hese respondents set about a scorched-earth strategy of intimidation, false accusations and intolerable disrespect for the hearing panel and its individual members and attempted to protract the proceedings, when it appeared that things were not going their way.

\*\*\*\*

(F)rom the inception of the DEC investigation, they ignored and/or misled the investigator, and later the panel, in a series of calculated maneuvers designed to thwart the investigation and to delay the hearing process.

\*\*\*\*

For all of the foregoing reasons, we had no difficulty finding that respondents deliberately set about to thwart the disciplinary process in violation of RPC 8.1(b).

Hudson County attorney Juan Galis-Menendez exhibited another shocking case of misconduct, including a total failure to cooperate with the disciplinary system. He was ultimately disbarred for misconduct involving abandonment and gross neglect and misrepresentation in a series of 13 client matters extending over an eight-year period. The Review Board's unreported decision again describes the unethical conduct, as well as his cavalier abandonment of clients and failure to cooperate with the disciplinary system:

(T)aking retainers from clients and doing either no work, little work, or substandard work; allowing matters to be dismissed without regard for the well-being of his clients; failing to restore matters once he was aware of dismissals;

and not communicating the status of matters to his clients. More egregiously, respondent's clients, who trusted him implicitly because of his stature as an attorney, time after time described to the (district ethics committee) how respondent had invented trial dates and court hearings in matters that either had been dismissed or never initiated. The clients testified about their shock upon discovering that they had been deceived by their attorney, who had sent them to court for non-existent hearings and who had appeared at the hearings himself. Incredibly, respondent had one client follow him around for an entire day, while respondent attended to business that had no bearing on the client's matter, in order to deceive the client that he was properly managing the progress of the case. When the Office of Attorney Ethics sought to audit respondent's attorney accounts in early 1998, he simply abandoned his practice, rather than watch his eight-year sham unravel.

These cases represent among the worst incidents of unethical conduct attorneys can commit. Moreover, the failure of these respondents to deal fairly with the disciplinary system places tremendous pressure on the system, which is designed to assure fairness to all members of the bar who are charged with unethical conduct. Nevertheless, the system persevered and proved once again that it is up to the challenge of dealing with the tough cases to insure that justice is done.

A more general review of disciplinary sanctions imposed in 2002 demonstrates a broad variety of unethical conduct. California practitioner **Steven M. Kramer** was disbarred for, among other reasons, unethically conducting a private investigation of a judge of the United States District Court for the District of New Jersey by illegally obtaining the judges credit card records. **Daniel E. Berger** of Toms River was suspended for a period of three months for engaging in an improper attorney-client business transaction with a client. Trenton attorney **Lemuel H. Blackburn, Jr.** was detected by the Trust Overdraft Notification Program for bouncing an attorney trust account check. He was disbarred after investigation revealed the knowing misappropriation of clients' trust funds. The Supreme Court suspended **William P. Welaj** of Somerville for engaging in a conflict of interest by having a business interest with Somerset County Prosecutor Nicholas Bissell, while Welaj represented in excess of 120 criminal defendants within the county. Practitioner **James D. Coffee** of California was suspended for three months after lying and trying to hide assets in his personal divorce matter in the State of Arizona. **Daniel J. O'Hara, Jr.**, from Summit, was disbarred by consent when he admitted that he knowingly misappropriated

over \$600,000 in estate funds. South Jersey practitioner **Terry G. Tucker** of Bridgeton was reprimanded for making unwanted, sexual advances to a bankruptcy client. Camden attorney **John M. De Laurentis** was reprimanded for practicing law while on the Supreme Court's Ineligible to Practice Law List. An admonition was meted out to East Windsor attorney **Samuel L. Sachs** when he failed to properly supervise his secretary and three client cases were dismissed. **Kenneth H. Ginsberg** of Naples, Florida, was reprimanded for backdating estate-planning documents to permit the client to take advantage of certain tax provisions. **Jesse Jenkins, III** of East Orange was suspended for three years when he continued to practice law by appearing in court while he was previously suspended, falsely advertised that he was eligible to practice law and failed to cooperate with disciplinary authorities. **Robert F. Lyle** of Moorestown received a three-month suspension for making misrepresentations in his own matrimonial matter that he and his wife had been separated for 18 months, when the parties has only been living apart for one month. Morristown attorney **Keith A. McKenna** was reprimanded by the Court for settling a matter in direct contradiction to the directions received from his client. Camden attorney **Paul Sonstein** of Voorhees received a three-month suspension for overreaching his clients by charging over \$11,000 more in legal fees that he was entitled to under New Jersey's contingency fee rule. Cherry Hill attorney **David M. Gorenberg** was reprimanded for misrepresenting to a court that he was holding \$10,000 in his trust account when he was not.

Criminal convictions always represent a significant portion of the serious cases resulting in attorney discipline. For 2002, these attorneys and their criminal offenses include: Wallington attorney **Dennis A. Maycher** (three-month suspension for failing to maintain records of transactions requiring a currency transaction report); **Charles S. Adubato** of Monmouth County (one-year suspension for obtaining a controlled dangerous substance (Percocet) by fraud); **Alfred A. Porro, Jr.** from Lyndhurst (disbarred for mail fraud and conspiracy to obstruct justice); **Stanley J. Gulkin** of Livingston (disbarment by consent for theft by deception); **Joseph S. Caruso** of Camden County (three-year suspension for conspiracy to travel in interstate commerce to promote and facilitate bribery); **Robert A. Hollis** from Hackensack (disbarment by consent for money laundering); **Colleen M. Comerford** from Pennsylvania (three-year suspension for forgery); New York attorney **Jeffrey M. Spiegel** (three-year suspension for insider trading in securities); **Carmine DeSantis** of Bergenfield (one-year suspension for obstruction of justice); **Carmine R. Alampi** of Englewood Cliffs (three-month suspension for aiding and abetting illegal campaign contributions); **Gene P. Belardi** of Virginia (eighteen-month suspension for knowingly making false

statements to the Federal Communication Commission); Plainfield attorney **Clyde E. Edmonds** (disbarment by consent for bank fraud); **Kirk D. Rhodes** of Scotch Plains (disbarment by consent for misapplication of entrusted property); **Donald M. Ferraiolo** from Hackensack (one-year suspension for attempted endangering the welfare of a child); **Salvatore J. Maiorino** of New York (reprimand for fourth degree sexual assault); **Kevin J. Coffee** of Marlton (disbarment by consent for conspiracy to possess marijuana with intent to distribute); **Roger C. Peterman** from Haworth (six-month suspension for obtaining a controlled dangerous substance (Oxiciotin) by fraud); **Joan A. Porro** from Lyndhurst (disbarred for mail fraud and conspiracy to obstruct justice); **Daniel P. Richards** (disbarred for embezzlement); **Donald C. Vaillancort** of Fort Lee (disbarment by consent for mail fraud); and **Rafael A. Vargas** of New York (three-year suspension for making false statements on immigration and naturalization documents).

Of special note, too, is the fact that the Supreme Court imposed final discipline on 14 New Jersey practitioners two or more times within calendar year 2002. Of these, 2 lawyers (Martin C. Latinsky and Allen C. Marra) were disciplined on three occasions. These multiply sanctioned respondents are: **Patricia N. Adele** from Morris County – who was reprimanded for lack of diligence and failure to communicate and who was suspended for three months for fabricating a motion; **Carolyn Arch** of Essex County – who received two admonitions for failing to communicate with her client and failing to prosecute a case diligently; **David S. Brantley** of Essex County – who was twice suspended for two years for gross neglect, failure to return an unearned retainer to a client and making misrepresentations to a judge; Mercer County attorney **Mark D. Cubberley** – who was suspended for three months and then six months for failing to act diligently and to cooperate with disciplinary authorities and for failing to act diligently in a case and failing to communicate with a client; **John M. DeLaurentis** from Camden County – who was reprimanded for practicing while ineligible and then suspended for one year for failing to file a lawsuit in order to prevent a lien holder from discovering his client's personal injury claim; **Howard S. Diamond** of Morris County – who was admonished for failing to communicate with a client and reprimanded for grossly neglecting a litigated matter resulting in default judgments against his clients; Warren

County attorney **Francis X. Gavin** – who was suspended for six months and three months for grossly neglecting a client's case and failing to turn over the file to new counsel and then grossly neglecting two other matters and failing to cooperate with disciplinary authorities; **David M. Gorenberg** of Camden County – who was reprimanded twice for misrepresenting a fact to a court and grossly neglecting a client's matter and failing to withdraw from the case when requested; **Karen Ann Kubulak** from Middlesex County – who was twice suspended for three months for grossly neglecting two cases and failing to cooperate with disciplinary authorities; **Martin C. Latinsky** of Bergen County – who was disciplined on three occasions: reprimanded for failing to communicate with a client and taking earned fees without approval of the bankruptcy court – suspended for three months for grossly neglecting two client matters, charging an excessive fee and failing to cooperate with disciplinary authorities and reprimanded for practicing law while ineligible to do so; **Allen C. Marra** from Essex County – who was thrice disciplined: suspended for six months for gross neglect and non-cooperation with disciplinary authorities – suspended for one year for practicing law in two cases while he was already suspended – suspended for three months for lack of diligence, failing to communicate with a client and failing to maintain an attorney business account; **Paul J. Paskey** from Hudson County – who was suspended for three months on two separate occasions for grossly neglecting four client matters and misrepresented the status of one case to his client; **Thomas A. Penn** of Union County – who was suspended for three months for took money from a client and then did nothing and failed to cooperate with disciplinary authorities and who was suspended for three years for grossly neglecting a matter and then forging a judge's name on a court order; **Joseph E. Poveromo** from Bergen County – who was reprimanded on two occasions for failing to cooperate with disciplinary officials, failing to do any work for a client and, again, not cooperating.

**Figure 10**, located at the end of this chapter, contains a summary listing of all final, emergent discipline and all reinstatement to practice cases decided in 2002. The summary is arranged first by type of sanction and then alphabetically by respondent. That listing is followed by an individual synopsis of each final disciplinary case arranged alphabetically by respondent.

## Major Reasons For Discipline

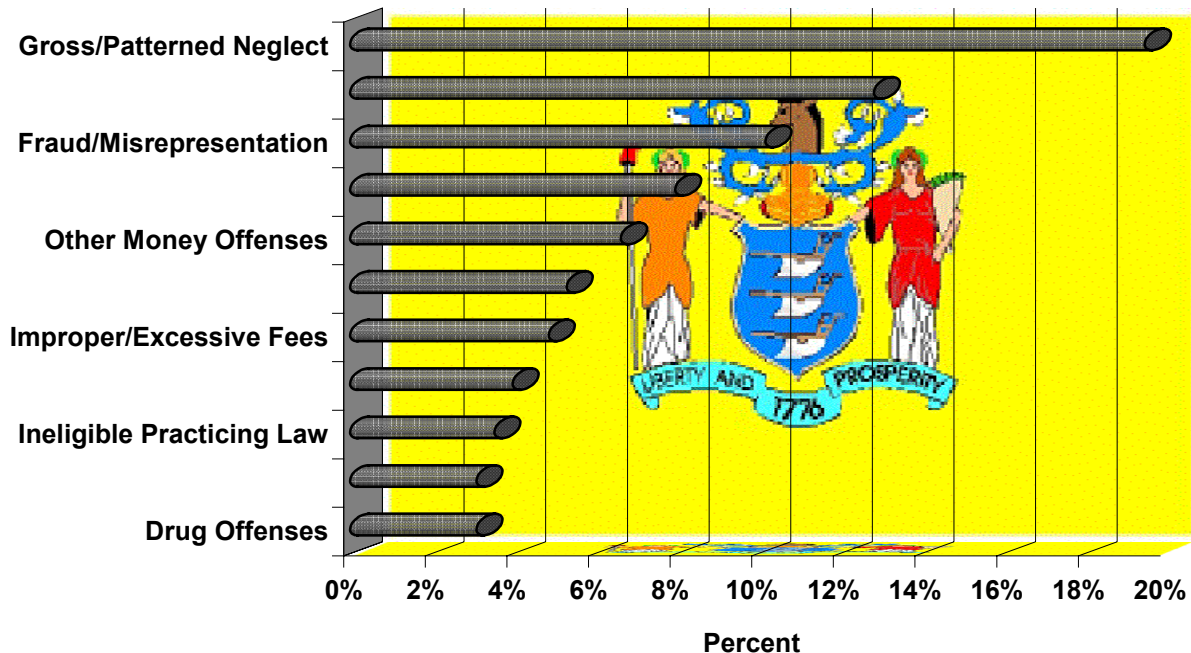


Figure 8

## Final Discipline Causes

The percentages and types of misconduct for which attorneys were disciplined in 2002 are shown in **Figure 8**. As in past years, gross and patterned neglect (19.5%, with 44 of 226 cases) continues as the primary reason that attorneys are disciplined in New Jersey. Attorneys who commit gross negligence are a clear danger to the public. While New Jersey does not discipline single instances of simple neglect, multiple instances of simple neglect may form a pattern of neglect and do constitute unethical conduct by a lawyer. Gross neglect of a single case is unethical. Last year, this category accounted for 17.7% of sanctions.

Knowing misappropriation of trust funds at 12.83% (29 of 226 cases) constitutes the second most frequent reason for discipline in the state this year. Last year, the category was also second at 10.2%, with 23 of 180 cases. Knowing misappropriation cases take on a special importance in this state. New Jersey maintains a

Office of Attorney Ethics

uniform and unchanging definition of the offense of misappropriation as set forth in the landmark decision of *In re Wilson*, 81 N.J. 451 (1979). It is simply taking a client's money knowing that it is the client's money and that the client has not authorized the taking. Knowing misappropriation cases, involving either client trust funds or law firm funds, mandate disbarment.

Moreover, New Jersey has the most pro-active financial programs of any state in the Country, including Trust Overdraft Notification and Random Audits. The Trust Overdraft Notification Program began in 1985. This program requires all financial institutions to report to the OAE whenever an attorney trust account is presented against insufficient funds. During the 17 years of its existence, the Trust Overdraft Program has exclusively resulted in the discipline of 85 New Jersey lawyers. Almost six out of every ten attorneys (59%) disciplined as a result of the Overdraft Program were

disbarred. In 2002, 10 attorneys were detected and disciplined through this program: **Augustine U. Uzodike** from Essex County – disbarred; Passaic County attorney **Robert G. Rosenberg** – reprimanded; **Anthony T. Colasanti** of Essex County – reprimanded; **R. Wesley Agee** from Essex County – disbarred; Hudson County lawyer **F. Gerald Fitzpatrick** – disbarment by consent; **Maxwell X. Colby** from Monmouth County – reprimanded; **Thomas H. Everett, III** of Essex County – disbarment by consent; Monmouth County **Michael F. Chiarella** – disbarment by consent; **Paul J. Forsman** from Ocean County – reprimanded; and **Lemuel H. Blackburn, Jr.** of Mercer County – disbarment by consent.

While not designed primarily to detect misappropriation, audits conducted through the Random Audit Program (**Chapter 1**) have also resulted in the detection of a number of serious financial violations. Over the 21 years since it began, a total of 98 attorneys, detected solely by this program, have been disciplined for serious ethical violations. Over five out of every ten (52%) attorneys disciplined through that program were disbarred. This year, five attorneys were disciplined for committing financial violations: Monmouth County attorney **Jay G. Helt** was disbarment by consent; Passaic County attorney **Theodore W. Daunno** was transferred to disability-inactive status; **Arthur G. D'Alessandro** from Somerset County was admonished; Somerset County lawyer **Gary H. Untracht** was disbarred; and **Lionel A. Kaplan** of Mercer County was admonished.

Fraud and misrepresentations (whether resulting from criminal or disciplinary findings) moved up to third place this year with 10.2% (23 of 226 cases). Last year, this category was fourth with 5.3%, or 12 of 180 case sanctions. Criminal offenses (excluding misappropriation, fraud and drug convictions) were fourth at 7.9% (18 of 226 cases) and other money offenses (including negligent misappropriation, record keeping, failure to safeguard and escrow violations) was the fifth most frequent cause for final attorney sanctions, with 6.6%, 15 of 226 cases. Last year, the criminal offense category ranked fifth at 4.8% (11 of 180 cases),

while other money offenses ranked third at 6.6%, with 15 of 180 sanctions.

Rounding out the balance of the top ten causes for discipline were the following:

6. Non-Cooperation with Ethics Agency, at 5.3%, with 12 of 226 cases. This category is new to the top ten this year. It demonstrates the recalcitrance of an increasing number of attorney-respondents. Consequently, even when they are acquitted on all other charges, their misconduct directed at disciplinary agency investigators and adjudicators results in discipline.

7. Improper and Excessive Fees, at 4.8%, with 11 of 226 sanctions. This category is also new this year as a top ten cause for discipline. This misconduct ran the gamut from overreaching and excessive legal fees to not having a written fee agreement with the client as required by court rules.

8. Administration of Justice, at 3.9% (9 of 226 cases). Last year, this cause came in seventh with 4.4% (10 of 180 cases). These situations ranged from lying in court documents to fabricating motion papers to forging a judge's signature on a court order.

9. Ineligible Practicing Law, at 3.5%, or eight cases out of 226. Last year, this category ranked sixth at 4.9%, with 11 of 180 disciplinary sanctions. This cause arises when lawyers continue to engage in the practice of law after being declared ineligible to do so by order of the Supreme Court when they fail to pay their mandatory annual registration fee.

10. Suspended/Disbarred Attorneys Practicing Law and Unauthorized Practice of Law cases, at 3.1% (7 of 226 sanctions). This is also a new category in the top ten this year. These attorneys show their contempt for the disciplinary system when they ignore Supreme Court orders of suspension in prior disciplinary cases. The UPL cases involved an attorney who entered into an improper agreement to permit a disbarred attorney to continue to practice and collect legal fees. Another lawyer assisted his disbarred father to practice law in one case. Finally, an attorney assisted a New York attorney to engage in the unauthorized law in New Jersey.

## Emergent Discipline Cases

Emergent discipline is interim disciplinary action taken to protect the public interest. It is sought in accordance with *R.1:20-11* whenever the OAE believes a serious violation of ethical rules causes an attorney to pose a "substantial threat of serious harm to an attorney, a client or the public." Emergent discipline is also sought under *R.1:20-12* where, due to mental or physical

incapacity, the attorney poses a danger to him/herself or others.

Emergent discipline takes one of three forms: a temporary suspension from practicing law, the imposition of a restriction or condition on the attorney's right to practice law or a transfer to temporary disability-inactive status where an attorney lacks the capacity to

practice law. Both temporary suspensions and transfers to disability-inactive status prevent the attorney from again practicing law until reinstated by the Supreme Court. Temporary license restrictions permit the lawyer to practice, but place conditions on that privilege.

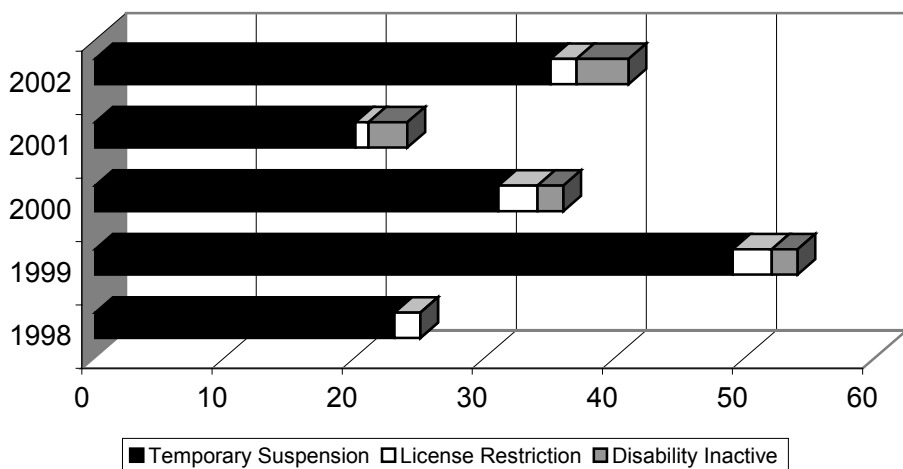
The year 2002 saw a significant increase over the prior year in the number of emergent sanctions were obtained. **Figure 9** A total of 41 attorneys were disciplined on an emergent basis, with 35 temporary suspensions, 2 license restrictions and 4 temporary transfers to disability-inactive status. This represents a 71% increase over the 24 practitioners disciplined on an interim basis in 2001. Of those 24 interim actions: 20 were temporarily suspended, one license was restricted and three were transferred to disability inactive status.

Misconduct leading to emergent action involves serious ethical violations that put the public or the profession at risk if the attorney continues to practice law unfettered. The most frequent reason for emergent action in 2002 was misappropriation of clients' trust funds, which accounted for 14 cases (34%) of all emergent actions. This is double the number of cases supporting interim suspensions as in 2001. An attorney's criminal conviction of a "serious crime" as defined in *R. 1:20-13* was the second leading reason for emergent actions in 2002. This year, 11 cases, or 27%, of emergent sanctions resulted from convictions. This

number was about the same as last year, when 10 attorneys (42%) were temporarily suspended in this same category. The definition of "serious crime" includes first and second degree crimes, interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation and theft.

On average, 36 lawyers each year were the subjects of emergent actions by the OAE to protect the public over the course of the past five years. Twenty-four lawyers were so disciplined in 2001. During 2000, a total of 36 attorneys were subject to emergent discipline (thirty-one were temporarily suspended, three received license restrictions and two were transferred to disability-inactive status). For 1999 a total of 54 emergent actions were imposed, an all-time high in this category. Of those 54 emergent actions, 49 resulted in temporary suspensions from practice; three attorneys were subject to temporary license restrictions; and two were placed on temporary disability-inactive status. In 1998 a total of 25 attorneys were emergently disciplined. All but two were temporarily suspended. The prior year resulted in 32 emergent actions (26 temporary suspensions, three license restrictions and three transfers to disability-inactive status). The names of attorneys who received interim discipline for 2002 are listed in **Figure 10** near the end of this chapter.

### Emergent Discipline



**Figure 9**



## Contempt Prosecutions

All Supreme Court orders of suspension and disbarment enjoin attorneys from practicing law. For disbarred attorneys, the injunction is permanent. For suspended attorneys, the injunction applies until the period of suspension expires and until the attorney applies for and is granted reinstatement by order of the Court. Moreover, *R. 1:20-20(a)* requires that no New Jersey attorney or law firm may "in connection with the practice of law, employ, permit or authorize to perform services for (them) or share or use office space" with a disbarred or suspended attorney or one who has been transferred to disability-inactive status. A growing number of respondent-attorneys have presented problems for the disciplinary system in recent years by failing to abide the Court's injunction against practicing.

Because of the high visibility of these challenges to the authority of the disciplinary system and because of the potential harm to the public, the Supreme Court has authorized prosecution of these cases as contempt. *R. 1:20-16(i)* provides that the OAE may file and prosecute an action for contempt before the Assignment Judge of the vicinage where the respondent engaged in the prohibited practice of law.

During 2002, the OAE secured one contempt conviction. Kenneth Van Rye of Bergen County was

prosecuted for contempt of the Supreme Court of New Jersey for practicing while suspended. In connection with an investigation into an unrelated matter, the OAE discovered that respondent, who had been suspended by the Supreme Court for a period of three months (167 *N.J.* 592) and six months (170 *N.J.* 405), had practiced law while serving those suspensions. Respondent had helped an acquaintance purchase a business by drawing a contract and by preparing related papers. The OAE filed a motion for an Order to Show Cause before Bergen County Assignment Judge Sybil R. Moses seeking to hold respondent in contempt of the Supreme Court. Respondent admitted the allegations on the return date of the motion and Judge Moses fined him \$250.

Last year, suspended Essex County lawyer Jessie Jenkins, III of Essex County and disbarred attorney Leslie Dienes from Middlesex County were adjudicated in contempt of the Supreme Court. In 2000, Ocean County attorney William C. Gasper, Jr., who was temporarily suspended, was found in contempt. No contempts were filed in 1999. In 1998, the OAE was successful in having a disbarred attorney, Jerrold M. Fleisher of Bergen County, and an attorney under an order of temporary suspension, Robert D. Meenen of Passaic County, declared in contempt.

## Character and Bar Admission Cases

The Supreme Court of New Jersey assigns to the OAE oral argument in contested cases of applicants who are seeking admission to the bar. All such matters are reviewed by the Supreme Court's Committee on Character initially through investigations and, where appropriate, hearings. These proceedings are conducted in accordance with *R. 1:25* in order to determine the applicant's "fitness to practice." The Character Committee may hold hearings, after which a recommendation either to certify or to withhold certification is filed with the Supreme Court. Thereafter, the Supreme Court may issue an Order To Show Cause why the applicant should not be admitted to practice.

Oral argument is held before the Court in Trenton. In order to meet fitness requirements to practice law in this state, a bar applicant must possess the traits of honesty, truthfulness, trustworthiness and reliability. The OAE argued four character cases in 2002.

The Court also assigns to the OAE investigations and prosecutions of attorneys suspected of cheating on the bar examination test. There were no such cases this year.

Unlike attorney disciplinary matters, which are public under *R. 1:20-9* after a formal complaint is filed, both Character Committee and Bar Examination Cases are completely confidential during their entire processes.

## Diversiónary Actions

An attorney who is guilty of "minor" misconduct under our rules may be eligible for diversion from the disciplinary system where the attorney admits to the misconduct. In such cases, both the district chair

and the OAE Director must approve diversion for the respondent to be accepted. A grievant is given a period of ten days notice and an opportunity to comment on the proposal to the Director, OAE prior to his consideration

and acceptance of proposed diversionary treatment. However, the decision to divert a case is not appealable by a grievant, Diversionary treatment is only available during the investigative stage of a matter.

The concept of diversion was first recognized in March 1995 when the Supreme Court adopted rules to implement a major restructuring of the disciplinary system. "Minor" misconduct is conduct that will warrant no more than an admonition, the least serious of all disciplinary sanctions. Diversion results in non-disciplinary treatment, usually conditioned on certain remedial action by the attorney for a period not to exceed six months. If successfully completed, the underlying grievance is dismissed with no record of discipline. If diversion is unsuccessful, a disciplinary complaint is filed and prosecuted.

During calendar year 2002, a total of 65 requests for diversion were received by the OAE. Of that number, all 64 were accepted and one was rejected. By the end of the year, 36 cases were successfully completed, one failed and 28 were still pending. Last year, a total of 64 requests for diversion were received by the OAE and all were accepted. By year's end, 45 cases were successfully completed, four failed and 19 were

still pending. Cases where respondents fail to complete agreed conditions are referred to as failed diversions and are returned to district ethics committees for the filing of a formal complaint leading to the imposition of discipline. In those cases, the respondent's written signed agreement in lieu of discipline is introduced into evidence as proof of the misconduct. This action streamlines hearings of failed diversion cases.

This year, the most common offenses giving rise to diversion were: gross negligence/lack of diligence or communication (22); isolated instances of practicing while ineligible (8); and bona fide office violations (7). Last year's most common diversion offenses were: gross negligence/lack of diligence or communication (30); isolated instances of practicing while ineligible (12); and minor conflicts of interest (3).

The New Jersey State Bar Association's Ethics Diversionary Education Course was the most common condition imposed in diversionary matters this year (50). Other required conditions included letters of apology (11) and taking an ICLE education course (6). Last year, attendance at the State Bar's Diversionary Course was also the primary condition (41).

## Reinstatement Proceedings

When an attorney is suspended from the practice of law, reinstatement may be achieved only after review by the OAE, the Review Board and by order of the Supreme Court. Where the attorney has been suspended for more than six months, a reinstatement petition may not be made until after expiration of the time period provided in the order of suspension. *R.1:20-21(a)*. Where the suspension is for a period of six months or less, the attorney may file the reinstatement petition and publish the required public notice 40 days prior to the expiration of the suspension period. *R.1:20-21(b)*.

The burden of proof in reinstatement proceedings is on the suspended attorney. Notice and an opportunity to comment are provided to the OAE. The Review Board then assesses the matter and files its recommendation with the Supreme Court, which takes final action on all reinstatement requests. Public

comment is also encouraged as the attorney seeking reinstatement must publish notice of the petition in the New Jersey Law Journal and New Jersey Lawyer (weekly legal periodicals to which many practicing attorneys subscribe) and in a newspaper of general circulation in each county in which the attorney practiced and/or resided at the time of the imposition of discipline. During 2002, 23 suspended attorneys were reinstated to the practice of law. In 2001, the Court reinstated 13 suspended attorneys. **Figure 10**, located at the end of this chapter, contains a list of all attorneys who were reinstated this year.

There is no procedure for a disbarred attorney to apply for reinstatement. In New Jersey, disbarment is permanent. *In re Wilson*, 81 N.J. 451, 456 n5 (1979) and *R. 1:20-15A(a)(1)*.

## Monitoring Attorneys

Attorneys are subject to monitoring conditions imposed by the Supreme Court of New Jersey, either as a result of previous reinstatement proceedings or in connection with sanctions imposed in disciplinary proceedings.

Generally, practice conditions ordered by the Court are of two types. A proctorship is imposed upon those attorneys whom the Court believes need intensive guidance and oversight by a seasoned practitioner. Such conditions are imposed in accordance with *R. 1:20-18*. This rule imposes specific reporting responsibilities on

both the attorney as well as the proctor, including weekly conferences, the maintenance of time records and instructions regarding proper financial record keeping.

Another typical practice condition imposed by the Court where financial violations are involved is the submission of an annual or quarterly audit report covering all attorney trust and business records. The entire cost of the audit is borne by the attorney as a cost of continued licensing. The audit report includes (1) a schedule of the clients' trust ledgers as of the audit date, with a reconciliation to the trust checkbook balance and to the bank statement, and (2) a detailed certification specifying, by correlatively numbered paragraphs, how the attorney has fully complied with each and every applicable section of our detailed record keeping rule (*R. 1:21-6*).

Other conditions that have been utilized more sparingly are psychological treatment, and drug testing. Psychological treatment involves counseling attorneys with known medical conditions. Those attorneys subject to drug testing are required to undergo random, periodic drug testing at the attorney's expense.

Finally, although not monitored on a regular basis, the Court has very occasionally placed some attorneys under a type of license restriction. Examples of these types of license restriction are permission to practice only as house counsel for a corporation or the requirement that all attorney financial checks be co-signed by a designated third party. Twenty-five attorneys were being monitored as of December 31, 2002.

**MICHAEL P. BALINT** of Plainsboro (MIDDLESEX COUNTY) was reprimanded on December 4, 2001 and ordered to practice under a proctorship until further Order of the Court. The reprimand resulted from a disciplinary hearing which found that Mr. Balint engaged in gross neglect, a lack of diligence, failure to communicate, failure to properly safeguard client funds and failure to expedite litigation. *In re Balint, 170 N.J. 198 (2001)*.

**LOUIS B. BERTONI** of Clifton (PASSAIC COUNTY) was reprimanded on October 31, 2000 and required to provide quarterly reconciliations of his attorney trust account, practice law under supervision and have all checks drawn on his attorney trust account co-signed by his supervising attorney. The reprimand resulted from violations of record keeping requirements and failure to cooperate with disciplinary authorities. *In re Bertoni, 165 N.J. 542 (2000)*.

**VINCENT E. BEVACQUA** of South Orange (ESSEX COUNTY) was, on September 5, 2002, ordered to practice under a proctorship for a period of two years. The Court further reprimanded him for violations that included gross neglect, pattern of neglect, failure to communicate, failure to provide retainer agreement and failure to protect a client's interests on termination of representation. *In re Bevacqua, 174 N.J. 296 (2002)*.

**JAMES C. DE ZAO** of Parsippany (MORRIS COUNTY) was ordered by the Court, on December 4, 2001 to practice under a proctorship for a period of one year and to complete 12 hours of legal education courses in areas of professional responsibility, law office management and real estate practice. The Court also reprimanded Mr. DeZao for violations that included gross neglect, failure to communicate with a client and failure to explain the matter to the extent necessary to permit the client to make an informed decision. *In re DeZao, 170 N.J. 199 (2001)*.

**DANIEL ELLIS** of Warren (SOMERSET COUNTY) was ordered, on May 11, 1999, to practice under a proctorship and was reprimanded for negligently misappropriating client trust funds and failing to maintain attorney trust records which complied with *R. 1:21-6*. *Matter of Ellis, 158 N.J. 255 (1999)*.

**ROBERT B. FEUCHTBAUM** of Wayne (PASSAIC COUNTY) was reprimanded on October 15, 2002 and ordered to provide a report attesting to his fitness to practice law by a mental health professional. The reprimand was imposed for gross neglect and failure to comply with discovery requests in a dental malpractice case. *In re Feuchtbaum, 174 N.J. 370 (2002)*.

**THOMAS J. FORKIN** of Atlantic City (ATLANTIC COUNTY) was reinstated to the practice on July 23, 2002 and required to practice under a proctorship for two years. Mr. Forkin had been suspended for one year for multiple ethical violations. In a series of four matters, he was retained to pursue two matrimonial cases and two civil matters. He failed to follow through and adequately protect his clients' interests when he closed his law practice. He also failed to return unearned fees to three of the clients and closed his practice without notice to at least two. In yet another matter, he made misrepresentations to a tribunal. *In re Forkin, 167 N.J. 154 (2001)*.

**JAMES P. FOX** of Newton (SUSSEX COUNTY) was reprimanded on November 18, 2002 and ordered to attend the State Bar's Diversionary Legal Education Course. The reprimand was imposed for the failure to communicate with a client in a personal injury matter, failure to act diligently on the client's behalf and failing to cooperate with disciplinary authorities during the investigation of the matter. *In re Fox 174 N.J. 534 (2002)*.

**DAVID M. GORENBERG** of Moorestown (BURLINGTON COUNTY) was ordered by the Court, on November 13, 2002, to submit proof of his fitness to practice law as attested by a mental health professional. Mr. Gorenberg was also reprimanded for grossly neglecting a medical malpractice action, failing to make reasonable communications with a client regarding the status of the matter and failing to properly withdraw from the case. *In re Gorenberg, 174 N.J. 506 (2002)*.

**STEVE HALLETT** of Trenton (MERCER COUNTY) on June 5, 2001, was ordered to complete three hours of courses in municipal court practice and three hours of courses in law office management. He was also reprimanded for failure to communicate with a client, failure to explain the matter to the extent reasonably necessary to permit the client to make an informed decision, failure to have a written fee agreement and filing a frivolous notice of appeal. *In re Hallett*, 167 N.J. 610 (2001).

On November 1, 2002 Mr. Hallett received another reprimand for failing to cooperate with the district ethics committee, gross neglect and lack of diligence in handling a personal injury case. The Court also required Mr. Hallett to continue psychotherapy, continue to attend Narcotics Anonymous and Alcoholics Anonymous meetings and to undergo random drug screening. *In re Hallett*, 174 N.J. 403 (2002).

**STEPHEN M. HILTEBRAND** of Cherry Hill (CAMDEN COUNTY) was reprimanded on June 18, 2002 and ordered to practice under a proctorship for one year. The reprimand resulted from Mr. Hildebrand's gross neglect of a litigated matter leading to a default order. Thereafter, he met with his clients and misrepresented the status of the case. *In re Hildebrand* 172 N.J. 584 (2002).

**GARY T. JODHA** of Princeton Junction (MERCER COUNTY) was reprimanded on November 1, 2002 and directed to provide quarterly reconciliations of his attorney trust account for a period of two years. The reprimand resulted from gross neglect, lack of diligence, failure to communicate with a client and record keeping violations. *In re Jodha* 174 N.J. 407 (2002).

**MICHAEL H. KESSLER** of Union (UNION COUNTY) was ordered on January 26, 1999 to submit annual certified audits of his attorney financial records for a period of two years and until further Order of the Court. Mr. Kessler was reprimanded on that same date for failing to maintain proper trust and business accounting records, resulting in his negligent misappropriation of client funds. *Matter of Kessler*, 157 N.J. 73 (1999).

**JAMES R. LISA** of Bayonne (HUDSON COUNTY) was reinstated to the practice on January 8, 2002, directed to practice under a proctorship for two years as well as to continue participation in Alcoholics Anonymous and submit to drug screening for a period of three years. Mr. Lisa had been suspended from the practice for one year for, after suffering a prior suspension from the practice in New Jersey, appearing before a New York Supreme Court judge and failing to advise the judge of his New Jersey suspension, as required by *R. 1:20-20* and, thereafter, misrepresenting his status to the judge when specifically questioned about it. *In re Lisa*, 158 N.J. 5 (1999).

**JOHN D. LYNCH** of Union City (HUDSON COUNTY) on September 5, 2002, was required to practice under proctorship for a period of two years. Mr. Lynch was also reprimanded on that date for grossly neglecting several client matters, failing to communicate with clients and failing to cooperate with ethics authorities in the investigation of the cases. *In re Lynch*, 174 N.J. 295 (2002).

**SAMUEL A. MALAT** of Haddon Heights (CAMDEN COUNTY) was reprimanded on December 10, 2002 and ordered to practice under a proctorship for a two year period and also to submit a report from a mental health professional attesting to his fitness to practice. The reprimand was imposed for violations which included lack of diligence, failure to communicate with a client, failure to return client files on termination of representation and knowingly disobeying an obligation under the rules of a tribunal. *In re Malat*, 174 N.J. 564 (2002).

**WALTER D. NEALY** of Hackensack (BERGEN COUNTY) was reprimanded on December 4, 2001 and ordered to provide quarterly reconciliations of his attorney accounts to the Office of Attorney Ethics for a period of two years. The Court also directed Mr. Nealy to complete a course in accounting within one year of the date of the Order. The reprimand resulted from violations of record keeping requirements including the failure to safeguard client funds and the failure to maintain required attorney trust account records. *In re Nealy*, 170 N.J. 193 (2001).

**BEN W. PAYTON** of Colonia (MIDDLESEX COUNTY) was reinstated to the practice on December 26, 2002 and ordered to practice under a proctorship for one year. Mr. Payton had been suspended for three months for ignoring communications from a client and failing to provide the client with a written retainer agreement. Before the imposition of this suspension, Mr. Payton had received a prior admonition, reprimand and three-month suspension, in 2001, for similar misconduct. *In re Payton*, 172 N.J. 34 (2002).

**FERNANDO REGOJO** of Union City (HUDSON COUNTY) was reprimanded on November 14, 2001 and required to provide quarterly trust account reconciliations for a period of two years. The reprimand resulted from violations of record keeping requirements including the failure to promptly pay funds to third parties. *In re Regojo*, 170 N.J. 67 (2001).

**LEE JASPER ROGERS** of Red Bank (MONMOUTH COUNTY) was reinstated by the Court on November 1, 1994 and ordered to provide certified annual audits of his attorney financial records. Rogers had received a two year suspension for negligently misappropriating client trust funds, engaging in a conflict of interest and failing to maintain proper trust and business accounting records. *Matter of Rogers*, 126 N.J. 345 (1991).

**ROBERT G. ROSENBERG** of Paterson (PASSAIC COUNTY) was ordered on February 5, 2002 to practice under a proctorship for two years as well as to submit quarterly reconciliations of his attorney accounts. The Court also reprimanded Mr. Rosenberg for the negligent misappropriation of client trust funds and the failure to maintain adequate trust and business account records. *In re Rosenberg 170 N.J. 402 (2002)*.

**DANIEL M. SHAPIRO** of Hackensack (BERGEN COUNTY) was ordered on October 15, 2002 to practice under a proctorship for two years. Mr. Shapiro was also reprimanded for gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with ethics authorities. *In re Shapiro, 174 N.J. 368 (2002)*.

**BENJAMIN A. SILBER** of Carneys Point (SALEM COUNTY) was reprimanded on March 7, 2001 and directed to provide quarterly reconciliations of his attorney books and records for a period of two years. The reprimand was imposed as a result of his negligent misappropriation of client funds. *In re Silber, 167 N.J. 3 (2001)*.

**CASSELL WOOD, JR.** of Plainfield (UNION COUNTY) was reinstated to the practice on August 21, 2002 and ordered to provide quarterly reconciliations of his attorney trust account for a period of two years. Mr. Wood had been suspended from the practice for three months for the negligent misappropriation of client funds due to his failure to maintain required trust account records and for employing a disbarred attorney to perform services for him. *In re Wood, 170 N.J. 628 (2002)*.

**RICHARD J. ZEITLER** of Iselin (MIDDLESEX COUNTY) was directed by the Court, on October 3, 2000, to practice under a proctorship for two years and until further Order of the Court. Mr. Zeitler was also reprimanded for failing to act diligently in handling a personal injury matter and failing to communicate with a client. *In re Zeitler, 165 N.J. 503, 2000*.

During calendar year 2002, fourteen attorneys were added to the list of those being monitored by the OAE:

Bevacqua, Feuchtbaum, Forkin, Fox, Gorenberg, Hildebrand, Jodha, Lisa, Lynch, Malat, Payton, Rosenberg, Shapiro, and Wood.

A total of twenty attorneys were removed from the OAE supervision list:

**BASIS D. BECK, JR.** of Bridgeton (CUMBERLAND COUNTY) who successfully completed his proctorship requirement.

**OTTO F. BLAZSEK** of Clifton (PASSAIC COUNTY) who successfully completed his quarterly trust account reconciliation requirement.

**DAVID BRANTLEY** of Verona (ESSEX COUNTY) who was suspended from the practice.

**HARRY CORNISH** of Paterson (PASSAIC COUNTY) who successfully completed his annual audit requirement.

**STEVEN GOLD** of Newark (ESSEX COUNTY) who successfully completed his annual audit requirement.

**VINCENT J. INFINTO** of East Hanover (MORRIS COUNTY) who retired from the practice.

**F. WILLIAM LaVIGNE** of Andover (SUSSEX COUNTY) who was released from the requirement that another attorney co-sign his business and trust accounts checks.

**BARBARA K. LEWINSON** of East Brunswick (MIDDLESEX COUNTY) who successfully completed her proctorship requirement.

**SCOTT MARUM** of Morristown (MORRIS COUNTY) who successfully completed his proctorship requirement.

**VICTOR M. MUSTO** of Interlaken (MONMOUTH COUNTY) who successfully completed his proctorship requirement.

**JAMES J. NORTON** of Freehold (MONMOUTH COUNTY) who successfully completed his annual audit requirement.

**ALAN S. PORWICH** of Jersey City (HUDSON COUNTY) who successfully completed his proctorship requirement.

**RICHARD W. RAINES** of East Orange (ESSEX COUNTY) who was suspended from the practice.

**EMIL T. RESTAINO** of Belleville (ESSEX COUNTY) who successfully completed his proctorship requirement.

**ROBERT E. RIVA** of Short Hills (ESSEX COUNTY) who was disbarred.

**JAMES ROBERSON, JR.** of Hackensack (BERGEN COUNTY) who was suspended.

**MICHAEL L. RUBERTON** of Hammonton (ATLANTIC COUNTY) who was released from the requirement of submitting semi-annual medical reports attesting to his fitness to practice.

**VINAYA SAIJWANI** of Princeton Junction (MERCER COUNTY) who successfully completed her quarterly trust account reconciliation requirement.

**JOEL F. SHAPIRO** of Paramus (BERGEN COUNTY) who successfully completed his proctorship requirement.

**NEIL I. STERNSTEIN** of Woodbury (GLOUCESTER COUNTY) who successfully completed his proctorship requirement.

# OFFICE OF ATTORNEY ETHICS

## YEARLY DISCIPLINE REPORT

(JANUARY 1, 2002 – DECEMBER 31, 2002)

### DISBARMENT (20)

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Agee, Richard W.	1976	Essex	04/01/02	04/01/02
Brasno, Andrew T., Jr.	1972	Middlesex	04/01/02	04/01/02
Donegan, Stuart B.	1992	Camden	05/09/02	05/09/02
Frost, Jack N.	1971	Union	04/05/02	04/05/02
Galis-Menendez, Juan	1986	Union	03/19/02	03/19/02
Hyde, Robert R.	1983	North Carolina	06/18/02	06/18/02
Insler, Elissa L.	1987	Hudson	03/05/02	03/05/02
Kramer, Steven M.	1983	California	06/18/02	06/18/02
Leventhal, Marc R.	1976	Israel	03/05/02	03/05/02
Maguire, John R.	1976	Morris	12/10/02	12/10/02
Marlowe, Alan H.	1971	Bergen	01/23/02	01/23/02
Olitsky, Steven M.	1976	Essex	10/01/02	10/01/02
Pantoja, Rafael M., Jr.	1985	New York	01/23/02	01/23/02
Porro, Alfred A., Jr.	1959	Bergen	10/30/02	10/30/02
Porro, Joan A.	1980	Bergen	10/30/02	10/30/02
Richards, Daniel D.	1963	Somerset	06/18/02	06/18/02
Riva, Robert E.	1979	Essex	05/09/02	05/09/02
Scola, Marc M.	1993	Warren	12/10/02	12/10/02
Untracht, Gary H.	1979	Somerset	09/23/02	09/23/02
Uzodike, Augustine U.	1990	Essex	01/29/02	01/29/02

### DISBARMENT BY CONSENT (22)

Blackburn, Lemuel H., Jr.	1965	Mercer	10/30/02	10/30/02
Borek, Joseph M., Jr.	1987	Passaic	01/28/02	01/28/02
Chiarella, Michael F.	1985	Monmouth	05/09/02	05/09/02
Coffey, Kevin J.	1986	Camden	08/30/02	08/30/02
Coven, Lawrence S.	1991	Somerset	04/02/02	04/02/02
Edmonds, Clyde E.	1972	Union	02/05/02	02/05/02
Everett, Thomas H., III	1984	Essex	03/27/02	03/27/02
Fitzpatrick, Gerald F.	1971	Hudson	04/17/02	04/17/02
Freihofer, William W., Jr.	1977	Atlantic	06/14/02	06/14/02
Grayson, Russell W.	1985	Essex	02/13/02	02/13/02
Gulkin, Stanley J.	1969	Essex	03/20/02	03/20/02
Helt, Jay G.	1983	Monmouth	03/04/02	03/04/02

Figure 10

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Hollis, Robert A.	1971	Bergen	02/05/02	02/05/02
Kranzler, Jonathan H.	1992	Bergen	07/24/02	07/24/02
Luhn, Gregory P.	1982	Morris	03/14/02	03/14/02
Mule', Richard D.	1982	Mercer	04/02/02	04/02/02
O'Hara, Daniel J., Jr.	1971	Union	06/11/02	06/11/02
Rhodes, Kirk D.	1981	Union	07/25/02	07/25/02
Shalov, Adam K.	1988	Monmouth	09/04/02	09/04/02
Smith, Aaron M.	1981	Camden	02/26/02	02/26/02
Vaillancourt, Donald C.	1985	Bergen	07/11/02	07/11/02
Walterschied, Scott E.	1992	Essex	05/09/02	05/09/02

### **TERM SUSPENSION (81)**

Adelle, Patricia N. – 3 mo.	1993	Morris	10/01/02	11/01/02
Alampi, Carmine R. - 3 mo.	1977	Bergen	04/25/02	05/25/02
Arcaini, Robert Michael – 11 mo.	1994	Florida	04/25/02	05/04/00
Bar-Nadav, Meiron – 3 mo.	1997	Bergen	11/25/02	11/28/02
Bechet, Mitchil O. – 3 mo.	1989	New York	05/09/02	05/09/02
Belardi, Gene Piero – 18 mo.	1976	Virginia	05/09/02	02/02/01
Berger, Daniel E. – 3 mo.	1984	Ocean	07/02/02	07/29/02
Berson, Jack David – 3 mo.	1980	Atlantic	05/09/02	05/09/02
Brantley, David S. – 24 mo.	1970	Essex	03/19/02	04/15/02
Brantley, David S. – 24 mo.	1970	Essex	03/19/02	04/15/02
Bruning, Eric J. – 36 mo.	1981	Florida	11/25/02	02/22/01
Carroll, Richard J. – 6 mo.	1970	Hudson	04/25/02	12/07/02
Caruso, Joseph S. – 36 mo.	1990	Camden	06/11/02	02/08/00
Cermack, Thomas F., Jr. – 6 mo.	1980	Passaic	12/10/02	01/06/03
Coffee, James D. – 3 mo.	1977	California	09/05/02	06/30/01
Comerford, Colleen M. 36 mo.	1988	Pennsylvania	02/25/02	01/26/01
Cubberley, Mark D. – 3 mo.	1984	Mercer	03/05/02	03/05/02
Cubberley, Mark D. – 6 mo.	1984	Mercer	03/05/02	06/08/02
DeLaurentis, John M. – 12 mo.	1980	Camden	09/05/02	10/07/02
DeSantis, Carmine – 12 mo.	1988	Bergen	04/01/02	10/17/00
Ferraiola, Donald M. – 12 mo.	1970	Bergen	02/21/02	03/19/02
Finckenuer, Scott D. – 3 mo.	1991	Bergen	06/11/02	07/09/02
Gavin, Francis X. – 3 mo.	1981	Warren	06/11/02	09/19/02
Gavin, Francis X. – 6 mo.	1981	Warren	02/21/02	03/19/02
Gillespie, James J., Jr. – 24 mo.	1982	Camden	01/08/02	04/10/00
Girdler, Richard B. – 3 mo.	1972	Morris	04/01/02	05/01/02
Giscombe, Beverly G. – 3 mo.	1979	Essex	07/12/02	08/12/02
Greenawalt, Craig N. – 12 mo.	1980	Union	04/25/02	04/25/02
Hall, Sharon – 36 mo.	1995	Essex	02/05/02	02/05/02
Hintze, Kimberly A. – 3 mo.	1991	Hudson	04/01/02	04/01/02
Hock, Robert W. – 12 mo.	1991	Florida	10/23/02	06/16/00

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Jenkins, Jesse, III – 36 mo.	1992	Essex	01/14/02	01/14/02
Joskowitz, Ian Jay – Indefinite	2001	Hudson	01/23/02	01/23/02
Kaplan, S.R. – 60 mo.	1977	Florida	11/25/02	11/25/02
Kervick, David L. – 3 mo.	1975	Essex	10/28/02	11/19/02
King, S. Dorrell – 12 mo.	1980	Essex	03/19/02	Future
Kubulak, Karen A. – 3 mo.	1980	Middlesex	02/05/02	02/05/02
Kubulak, Karen Ann – 3 mo.	1980	Middlesex	06/04/02	06/04/02
Kudisch, Alan E. – 12 mo.	1979	Bergen	11/25/02	02/07/02
Lasky, Harvey L. – 6 mo.	1968	Florida	11/25/02	11/25/02
Latinsky, Martin C. – 3 mo.	1983	Bergen	04/01/02	05/01/02
Lawrence, Tanya E. – 3 mo.	1998	New York	02/21/02	03/19/02
Leff, Paul A. – 6 mo.	1983	New York	11/25/02	08/28/00
Levande, Eric M.D. – 12 mo.	1987	Florida	05/09/02	05/09/02
Lockard, David L. – 36 mo.	Pro Hac	Pennsylvania	10/15/02	10/15/02
Lyle, Robert F. – 3 mo.	1974	Burlington	06/18/02	06/18/02
Mandle, George J., Jr. – 3 mo.	1970	Union	07/12/02	07/12/02
Marra, Allen C. – 12 mo.	1967	Essex	02/05/02	07/28/97
Marra, Allen C. – 3 mo.	1967	Essex	02/05/02`	03/04/02
Marra, Allen C. – 6 mo.	1967	Essex	02/05/02	03/04/02
Maycher, Dennis A. – 3 mo.	1973	Bergen	06/04/02	07/01/02
McEnroe, Eugene F. – 3 mo.	1971	Monmouth	06/04/02	07/08/02
Miller, Robert S. – 3 mo.	1964	Essex	01/08/02	01/08/02
Mody, Rajanikant C. – 3 mo.	1975	Hudson	02/05/02	03/11/02
Nunan, Gerald A. – 3 mo.	1983	Morris	11/01/02	12/02/02
Paskey, Paul J. – 3 mo.	1983	Hudson	12/10/02	12/18/02
Paskey, Paul J. – 3 mo.	1983	Hudson	09/17/02	09/17/02
Pataky, Arthur S. – 3 mo.	1959	Hudson	02/21/02	02/21/02
Paul, Michael G. – 3 mo.	1989	Middlesex	06/27/02	07/01/02
Payton, Ben W. – 3 mo.	1992	Middlesex	04/25/02	07/16/01
Pearn, James Francis, Jr. – 36 mo.	1983	Pennsylvania	06/04/02	06/04/02
Penn, Thomas A. – 3 mo.	1977	Union	07/12/02	05/25/02
Penn, Thomas A. – 36 mo.	1977	Union	04/25/02	5/25/02
Peterman, Roger C. – 6 mo.	1993	Passaic	09/17/02	12/05/01
Rosen, Stephen H. 3 mo.	1982	Essex	02/21/02	03/25/02
Rubinstein, Joel B. – 3 mo.	1990	Burlington	03/05/02	03/05/02
Schmeling, William E. – 36 mo.	1981	Monmouth	11/25/02	02/22/99
Shearin, K. Kay – 36 mo.	1980	Delaware	06/18/02	07/17/00
Sonstein, Paul W. - 3 mo.	1973	Camden	09/05/02	10/05/02
Sparks, William B. – 3 mo.	1983	Gloucester	05/09/02	06/10/02
Spiegel, Jeffrey M. – 36 mo.	1992	New York	05/09/02	10/20/02
Susser, Robert S. – 24 mo.	1979	Monmouth	04/01/02	12/10/00
Van Rye, Kenneth – 6 mo.	1979	Bergen	02/05/02	09/20/01
Vargas, Rafael A. – 36 mo.	1989	New York	01/08/02	03/03/00



<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Verni, Anthony M. – 3 mo.	1990	Essex	06/04/02	07/01/02
Waters-Cato, Shirley – 6 mo.	1977	Essex	03/05/02	03/05/02
Weintraub, Michael J. – 6 mo.	1971	Hunterdon	03/19/02	03/19/02
Welaj, William P. – 3 mo.	1973	Somerset	02/05/02	03/04/02
Wood, Cassell, Jr. – 3 mo.	1974	Union	02/21/02	03/25/02
Wood, Peter A. – 3 mo.	1993	Gloucester	11/13/02	11/13/02

### **CENSURE (1)**

Breslin, James A., Jr.	1968	Bergen	03/28/02	03/28/02
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### **REPRIMAND (63)**

Adele, Patricia N.	1993	Morris	02/21/02	02/21/02
Agrait, William E.	1994	Essex	03/05/02	03/05/02
Aranguren, William F.	1981	Hudson	05/20/02	05/20/02
Balint, Michael P.	1976	Middlesex	06/18/02	06/18/02
Bevacqua, Vincent E.	1990	Essex	09/05/02	09/05/02
Blunt, John L.	1988	Bergen	09/05/02	09/05/02
Brummell, William C.	1970	Essex	09/05/02	09/05/02
Colasanti, Anthony T.	1967	Essex	03/19/02	03/19/02
Colby, Maxwell X.	1975	Monmouth	04/25/02	04/25/02
Costill, Keith A.	1990	Mercer	12/10/02	12/10/02
Dare, Paul W.	1975	Cape May	10/15/02	10/15/02
DeBosh, James S.	1992	Warren	09/17/02	09/17/02
Delaurentis, John M.	1980	Camden	04/25/02	04/25/02
Devin, Donald B.	1969	Morris	06/04/02	06/04/02
Diamond, Howard S.	1985	Morris	10/01/02	10/01/02
Duke, Melvin G.	1990	New York	10/15/02	10/15/02
Ezon, Jack S.	1996	Monmouth	05/20/02	05/20/02
Fagan, Edward D.	1980	Essex	06/18/02	06/18/02
Felsen, Stuart D.	1993	Morris	04/25/02	04/25/02
Feuchtbaum, Robert B.	1974	Passaic	10/15/02	10/15/02
Forsman, Paul J.	1979	Ocean	09/17/02	09/17/02
Fox, James P.	1981	Sussex	11/18/02	11/18/02
George, Jackie S.	1994	Hudson	11/25/02	11/25/02
Ginsberg, Kenneth H.	1974	Florida	10/01/02	10/01/02
Glick, Adam H.	1984	Bergen	06/04/02	06/04/02
Gorenberg, David M.	1991	Camden	11/13/02	11/13/02
Gorenberg, David M.	1991	Camden	04/25/02	04/25/02
Gronlund, Glenn R.	1974	Atlantic	03/05/02	03/05/02
Hallett, Steve	1991	Mercer	11/01/02	11/01/02
Handfuss, Robert J.	1984	Monmouth	11/01/02	11/01/02
Hess, Peter E.	1988	Bergen	10/01/02	10/01/02

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Hiltebrand, Stephen M.	1978	Camden	06/18/02	06/18/02
Hock, Frederick W.	1949	Essex	06/11/02	06/11/02
Jodha, Gary T.	1983	Mercer	11/01/02	11/01/02
Kane, Harry J., Jr.	1989	Morris	02/21/02	02/21/02
Kennedy, Brian T.	1965	Monmouth	10/15/02	10/15/02
Kersey, George E.	1963	Massachusetts	02/05/02	02/05/02
Latinsky, Martin C.	1983	Bergen	11/01/02	11/01/02
Latinsky, Martin C.	1983	Bergen	04/01/02	04/01/02
Leff, Kenneth M.	1981	Middlesex	11/13/02	11/13/02
Lucid, Rowland V., Jr.	1968	Morris	10/15/02	10/15/02
Lynch, John D.	1981	Hudson	09/05/02	09/05/02
Maiorino, Salvatore J.	1998	New York	02/05/02	02/05/02
Malat, Samuel A.	1989	Camden	12/10/02	12/10/02
Manns, William D., Jr.	1978	Essex	04/01/02	04/01/02
McArdle, Brian D.	1986	Morris	04/25/02	04/25/02
McAuliff, Charles H.	1969	Morris	04/01/02	04/01/02
McKenna, Keith A.	1989	Morris	06/27/02	06/27/02
Mennie, John G.	1986	Monmouth	09/17/02	09/17/02
O'Connor, Craig V.	1976	Morris	09/05/02	09/05/02
Poveromo, Joseph E.	1988	Bergen	02/21/02	02/21/02
Poveromo, Joseph E.	1988	Bergen	02/21/02	02/21/02
Power, John M.	1992	Bergen	04/25/02	04/25/02
Read, Robert	1952	Union	01/23/02	01/23/02
Reichstein, Ronald	1959	Hudson	07/02/02	07/02/02
Riedl, Jeffrey M.	1973	Bergen	07/02/02	07/02/02
Rifai, Hamdi M.	1994	Essex	04/15/02	04/15/02
Rosenberg, Robert G.	1976	Passaic	02/05/02	02/05/02
Shapiro, Daniel N.	1984	Bergen	10/15/02	10/15/02
Tucker, Terry G.	1985	Cumberland	10/01/02	10/01/02
Vellekamp, Donna J.	1984	Bergen	03/19/02	03/19/02
Weiss, Helayne M.	1993	Middlesex	07/18/02	07/18/02
Williams, Jerome T.	1979	Passaic	06/04/02	06/04/02

### **ADMONITION (38)**

Arch, Carolyn	1965	Essex	07/29/02	07/29/02
Arch, Carolyn	1965	Essex	07/29/02	07/29/02
Bronson, Jeffrey I.	1982	Morris	02/19/02	02/19/02
Carmichael, LeRoy	1971	Mercer	09/16/02	09/16/02
Craggiano, Louis N., Jr.	1981	Burlington	05/22/02	05/22/02
D'Alessandro, Arthur G.	1962	Somerset	06/17/02	06/17/02
Dargay, Susan R.	1987	Burlington	10/25/02	10/25/02
Davenport, David Olandan	1986	District of Columbia	11/25/02	11/25/02

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Diamond, Howard S.	1985	Morris	02/08/02	02/08/02
Ford, Mark W.	1983	Camden	10/22/02	10/22/02
Garcia, Hector M.	1975	Union	10/23/02	10/23/02
Giava, John S.	1948	Essex	03/15/02	03/15/02
Goldenberg, Judith E.	1983	Passaic	03/22/02	03/22/02
Kaplan, Lionel A.	1972	Mercer	11/18/02	11/18/02
Kiegel, Frederick A.	1982	Camden	09/05/02	09/05/02
Krauss, Alan D.	1982	Essex	05/23/02	05/23/02
Lesnik, Jonathan H.	1991	Union	05/22/02	05/22/02
Lustig, E. Steven	1982	Bergen	04/19/02	04/19/02
Manning, Dawn F.	1996	Essex	10/23/02	10/23/02
Margolis, Martin G.	1961	Essex	07/22/02	07/22/02
Mark, Michael A.	1986	Passaic	02/13/02	02/13/02
McAlevy, Dennis S.	1965	Hudson	10/25/02	10/25/02
McDonnell, William J.	1976	Middlesex	06/21/02	06/21/02
McGivney, Lawrence J.	1990	Mercer	03/18/02	03/18/02
Moran, Philip J.	1975	Somerset	02/11/02	02/11/02
Moses, Keith O.D.	1990	Hudson	10/23/02	10/23/02
Roberts, Richard M.	1971	Essex	07/08/02	07/08/02
Rowniewski, Wesley S.	1991	Essex	01/10/02	01/10/02
Sachs, Samuel L.	1982	Mercer	02/14/02	02/14/02
Sanderson, Alfred	1955	Gloucester	02/11/02	02/11/02
Steiger, Jon	1975	Monmouth	07/22/02	07/22/02
Taboada, Joseph, Jr.	1974	Essex	03/15/02	03/15/02
Testa, Frederick M.	1973	Essex	03/12/02	03/12/02
Weinstein, Bernard I.	1967	Monmouth	07/22/02	07/22/02
Witherspoon, David J.	1994	Essex	03/18/02	03/18/02
Witman, Leonard J.	1975	Morris	09/17/02	09/17/02
Wolfe, James H., III	1979	Essex	06/04/02	06/04/02
Zark, Alan	1976	Hudson	02/08/02	02/08/02

**DISABILITY INACTIVE STATUS (1)**

Daunno, Theodore W.	1975	Passaic	05/09/02	05/09/02
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**TOTAL FINAL DISCIPLINE..... (226)**

**INTERIM SUSPENSIONS (35)**

Battaglia, Philip J.	1981	Passaic	06/18/02	06/18/02
Bowman, Carl C.	1962	Gloucester	11/01/02	11/01/02
Burns, Robert J.	1990	Somerset	09/17/02	09/17/02
Camey, Joel D.	1980	Camden	11/01/02	11/01/02
Capodici, Joseph V.	1988	Hudson	01/23/02	02/25/02

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Devin, Donald B.	1969	Morris	06/04/02	06/04/02
Fink, Kenneth E.	1987	Delaware	07/17/02	07/17/02
Fishman, Yale	1988	Union	08/30/02	08/30/02
Gibson, Robert Thomas	1996	Pennsylvania	08/16/02	08/16/02
Gruber, Richard L.	1977	Essex	05/20/02	05/20/02
Gulkin, Stanley J.	1969	Essex	03/01/02	03/01/02
Haywood, Alwin M.	1990	Somerset	07/23/02	07/23/02
Larosiliere, Jean D.	1990	Essex	03/19/02	03/19/02
Lockard, David L.	Pro Hac	Pennsylvania	05/09/02	05/09/02
Lowell, Melinda	1981	Bergen	05/30/02	05/30/02
McManus, William E., II	1982	Morris	12/10/02	12/10/02
Mederos, Ciro A.	1989	Union	10/30/02	10/30/02
Mele, Michael A.	1987	Bergen	12/06/02	12/06/02
Mole', Michael G.	1980	Union	08/16/02	08/16/02
Mule', Richard P.	1982	Mercer	02/25/02	02/25/02
Noce, Philip S.	1972	Bergen	07/24/02	07/24/02
O'Hara, Daniel J., Jr.	1971	Union	01/30/02	01/30/02
Paskey, Paul J.	1983	Hudson	05/09/02	05/09/02
Percely, David J.	1985	Essex	07/12/02	07/12/02
Raines, Richard W.	1997	Union	09/09/02	09/09/02
Rambarran, Moses V.	1992	New York	09/12/02	09/12/02
Reichstein, Ronald	1959	Hudson	07/02/02	07/02/02
Roberson, James O., Jr.	1986	Bergen	04/25/02	04/25/02
Saraya, Nussy I.	1978	Hudson	07/31/02	07/31/02
Schuetz, Rolf C., Jr.	1991	Passaic	08/07/02	08/07/02
Shalov, Adam K.	1988	Monmouth	08/16/02	08/16/02
Vaillancourt, Donald C.	1985	Bergen	05/07/02	05/07/02
Vartan, Leo R.	1969	Hudson	12/10/02	12/10/02
Ward, Carol	1992	Middlesex	12/03/02	12/03/02
Yacker, Stanley M.	1963	Monmouth	02/05/02	02/05/02

### **LICENSE RESTRICTIONS (2)**

Price, Arthur	1974	Essex	01/02/02	01/08/02
Seeley, James J.	1969	Cumberland	03/02/02	03/02/02

### **TEMPORARY DISABILITY INACTIVE (4)**

Diamond, Milton	1954	Monmouth	03/05/02	03/05/02
Goldman, Elizabeth M.	1974	Camden	01/11/02	01/11/02
McCue, James A.	1977	Monmouth	09/17/02	09/17/02
Stein, Hilton L.	1972	Essex	07/26/02	07/26/02

### **TOTAL TEMPORARY DISCIPLINE..... (41)**

## REINSTATEMENTS (23)

<u>Attorney</u>	<u>Suspended</u>	<u>Location</u>	<u>Decided</u>	<u>Effective</u>
Alampi, Carmine R.	05/25/02	Bergen	08/28/02	08/28/02
Berger, Daniel E.	07/29/02	Ocean	11/01/02	11/01/02
Finckenaue, Scott D.	07/09/02	Bergen	11/27/02	11/27/02
Forkin, Thomas J.	05/29/01	Atlantic	07/23/02	07/23/02
Giscombe, Beverly G.	08/12/02	Essex	11/27/02	11/27/02
Griffin, Thomas W.	11/11/99	New York	05/09/02	05/09/02
Kaplan, Scott E.	07/09/96	Mercer	05/23/02	05/23/02
Latinsky, Martin C.	05/01/02	Bergen	12/26/02	12/26/02
LaVergne, Eugene M.	07/16/01	Monmouth	02/11/02	02/11/02
Lisa, James R.	03/24/98	Hudson	01/08/02	01/08/02
Marotta, Libero D.	09/02/99	Bergen	01/11/02	01/11/02
Maycher, Dennis A.	07/01/02	Bergen	10/02/02	10/02/02
McEnroe, Eugene F.	07/08/02	Monmouth	11/27/02	11/27/02
Mirow, Steven B.	05/17/99	Pennsylvania	06/14/02	06/14/02
Mody, Rajanikant C.	03/11/02	Middlesex	06/27/02	06/27/02
Paul, Michael G.	07/01/02	Middlesex	10/08/02	10/08/02
Payton, Ben W.	07/16/01	Middlesex	12/26/02	12/26/02
Pease, Clark	05/24/01	Camden	01/08/02	01/08/02
Rosen, Stephen H.	03/25/02	Essex	09/20/02	09/20/02
Spencer, Robert W.	08/16/00	New York	06/27/02	06/27/02
Welaj, William P.	03/04/02	Somerset	06/04/02	06/04/02
Wood, Cassel, Jr.	03/25/02	Union	08/21/02	08/21/02
Wysoker, Jacob	11/23/01	Middlesex	02/25/02	02/25/02

**TOTAL REINSTATEMENTS..... (23)**

## STATISTICAL SUMMARY OF DISCIPLINE IMPOSED

**ALL FINAL DISCIPLINE .....226**

**ALL TEMPORARY DISCIPLINE .....41**

**ALL REINSTATEMENTS.....23**

**PATRICIA N. ADELLE**

Admitted: 1993; Pompton Plains (Morris County)

**Reprimand - 170 N.J. 601 (2002)**

Decided: 2/21/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Henry C. Walentowicz for District XI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who failed to act diligently and failed to communicate adequately with her client in defense of a collection suit filed by the client's former landlord. As a result of the respondent's inaction, a judgment was entered against the client in the amount of \$1,800.

**PATRICIA N. ADELLE**

Admitted: 1993; Pompton Plains (Morris County)

**Suspension 3 Months - 174 N.J. 348 (2002)**

Decided: 10/1/2002 Effective: 11/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Henry C. Walentowicz for District XI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who sent a copy of a fabricated notice of motion that contained inaccurate statements and that was never filed with the court to the defendant in a litigated matter. The purpose of the fabricated motion was to attempt to compel the defendant to execute a certification of parentage. Additionally, the respondent failed to cooperate with disciplinary authorities during the investigation and processing of the matter. The respondent was previously disciplined. In 2002, she was reprimanded in another default matter for lack of diligence, failure to communicate with clients and failure to reply to a lawful demand for information from a disciplinary authority. *In re Adelle, 170 N.J. 601.*

**CHARLES S. ADUBATO**

Admitted: 1980; Freehold (Monmouth County)

**Suspension 1 Year - 173 N.J. 191 (2002)**

Decided: 7/12/2002 Effective: 11/26/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Monmouth County, to an indictment charging him with obtaining a controlled dangerous substance (Percocet) by fraud, in violation of *N.J.S.A. 2C:35-13*, a crime of the third degree. The respondent had been temporarily suspended from the practice of law since November 26, 2001. *In re Aduato, 170 N.J. 136.* The respondent has also been suspended from the practice of law for a period of six months in 1986, based upon a guilty plea to a violation of *N.J.S.A. 24:21-22(a)(13)*, attempting to obtain a controlled dangerous substance (Dilaudid) by fraud. He was reinstated to practice in March of 1989.

**RICHARD W. AGEE**

Admitted: 1976; East Orange (Essex County)

**Disbarment - 171 N.J. 342 (2002)**

Decided: 4/1/2002

*APPEARANCES BEFORE SUPREME COURT*

*John J. Janasie for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated clients' trust funds and misrepresented facts to the Office of Attorney Ethics during the investigation by submitting purposely inaccurate reconciliations and by failing to produce critical client ledger cards to conceal his misappropriation of trust funds.

This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**WILLIAM E. AGRAIT**

Admitted: 1984; Newark (Essex County)

**Reprimand - 171 N.J. 1 (2002)**

Decided: 3/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Kathleen B. Browne for District VA*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who breached his fiduciary duty when he failed to verify and collect a \$16,000 deposit down payment shown on a RESPA statement in favor of his clients. He also failed to disclose the existence of a second mortgage that was prohibited by the lender in the matter, with the result that the RESPA statement contained a misrepresentation.

**CARMINE R. ALAMPI**

Admitted: 1977; Englewood Cliffs (Bergen County)

**Suspension 3 Months - 171 N.J. 32 (2002)**

Decided: 4/25/2002 Effective: 5/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*John Seltzer for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to a federal information charging him with the federal misdemeanor of aiding and abetting illegal campaign contributions, in violation of 18 U.S.C.A. §2 and 2 U.S.C.A. §441f. During the period of the offense, respondent was a member of the fund raising committee for the "Toricelli for U.S. Senate, Inc." The respondent was approached by his partner, Berek Don, in soliciting contributions to the Toricelli campaign in cash on behalf of David Chang. The respondent then made a \$1,000 contribution himself and asked an associate to write a check for \$1,000 to the Toricelli campaign, reimbursing himself and the associate with cash Chang supplied to Don.

**WILLIAM F. ARANGUREN**

Admitted: 1981; Jersey City (Hudson County)

**Reprimand - 172 N.J. 236 (2002)**

Decided: 5/20/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Renee Riverol for District VI*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client in a bankruptcy matter and then failed to communicate with the client, failed to handle the matter diligently and failed to provide the client with a written retainer agreement setting forth the basis or rate of the fee.

The respondent was previously disciplined. In 1997, he was admonished for lack of diligence and failure to communicate with a client in one matter, and failure to promptly turn over funds to a client in another case. In 2000, he was suspended for a period of six months for misconduct in several matters, including gross neglect, lack of diligence, failure to communicate with clients, failure to expedite litigation, pattern of neglect, misrepresentations, failure to return files to clients and failure to cooperate with ethics authorities. *In re Aranguren, 165 N.J. 664 (2000).*

**ROBERT M. ARCAINI**

Admitted: 1994; Hialeah, Florida

**Suspension 11 Months - 172 N.J. 36 (2002)**

Decided: 4/25/2002 Effective: 5/4/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of 11 months, retroactive to May 14, 2000, the date of respondent's suspension in the state of Florida, was the appropriate discipline for a respondent who was suspended in the state of Florida as a result of misconduct involving gross neglect, lack of diligence, failure to communicate with clients in two matters and, in one of the matters, for failing to expedite litigation, and in a third matter, for taking financial advantage of a client with whom he had an intimate relationship, improperly obtaining title to her home.

**CAROLYN E. ARCH**

Admitted: 1965; Newark (Essex County)

**Admonition - 173 N.J. 174 (2002)**

Decided: 7/29/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*John T. Wolak for District VA*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a client in a Workers' Compensation matter and then failed to keep the client reasonably informed about the status of her case. The attorney also failed to explain the matter to the extent necessary to permit her client to make informed decisions regarding the representation. Specifically, the respondent did not inform the client that the case had been dismissed and did not make clear to her that she did not have a viable discrimination or wrongful termination case. As a result, the client did not understand that the attorney was not going to pursue those additional claims on her behalf.

**CAROLYN E. ARCH**

Admitted: 1965; Newark (Essex County)

**Admonition - Unreported (2002)**

Decided: 7/29/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Frank E. Ferruggia for District VA*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney

who was retained to file a divorce complaint and a motion to dismiss a related support complaint and then failed to take any action for approximately three months. Additionally, the respondent failed to return her client's telephone calls or to inform him of the status of the matter.

**MICHAEL P. BALINT**

Admitted: 1976; Plainsboro (Middlesex County)  
**Reprimand - 172 N.J. 408 (2002)**  
Decided: 6/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*  
*Donald S. Driggers for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated clients' trust funds and violated mandatory record keeping rules under *R. 1:21-6*. The respondent also engaged in gross neglect by failing to disburse clients' and third parties' funds that remained in his inactive trust account, failed to discharge a mortgage after his clients refinanced their home and, finally, in a separate litigation matter for the same clients, obtained a judgment in their favor but neglected to record it. The Supreme Court also required that, for a period of one year, respondent provide to the Office of Attorney Ethics quarterly trust account reconciliations and prove that he is continuing to attend regular AA meetings or similar programs.

Respondent previously received a reprimand coupled with an indefinite proctorship in 2001 for gross neglect, pattern of neglect, lack of diligence, failure to expedite litigation and failure to communicate with clients in three matters. *In re Balint, 170 N.J. 198*. On the same day, the Supreme Court imposed a second reprimand for similar misconduct in three additional matters. *In re Balint, 170 N.J. 244*.

**MERION BAR-NADAV**

Admitted: 1997; Hackensack (Bergen County)  
**Suspension 3 Months - 174 N.J. 537 (2002)**  
Decided: 11/25/2002 Effective: 11/28/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard C. McDonnell for District IIB*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who failed to communicate with two separate clients and then, when ethics grievances were filed, he fraudulently created two letters in support of his defense and submitted them to a district ethics committee.

**MITCHEL O. BECHET**

Admitted: 1989; New York, New York  
**Suspension 3 Months - 172 N.J. 98 (2002)**

Decided: 5/9/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent waived appearance*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was disbarred in the state of New York based upon his gross neglect of a client matter and his total non-cooperation with New York disciplinary authorities. Specifically, the respondent was retained by a refugee couple from Yugoslavia seeking political asylum and American and Canadian work authorization papers. Respondent was paid over \$5,750 in legal fees. However, he never obtained the necessary papers for his clients. In fact, he concealed from them the truth that two submissions of the asylum applications had been returned by the Immigration and Naturalization Service as incomplete. Additionally, the Canadian Consulate General had no record of ever receiving applications on their behalf.

**GENE P. BELARDI**

Admitted: 1976; Sterling, Virginia  
**Suspension 18 Months - 172 N.J. 73 (2002)**  
Decided: 5/9/2002 Effective: 2/2/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of 18 months, retroactive to respondent's temporary suspension in New Jersey, was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of Columbia to a three-count information charging him with knowingly making false statements to the Federal Communication Commission, in violation of *18 U.S.C.A. §1001*. The respondent had been temporarily suspended from the practice of law in New Jersey since February 2, 2001. *In re Belardi, 166 N.J. 365*.

**DANIEL E. BERGER**

Admitted: 1984; Toms River (Ocean County)  
**Suspension 3 Months - 173 N.J. 24 (2002)**  
Decided: 7/2/2002 Effective: 7/29/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Arthur F. Leyden for District IIIA*



*Donald M. Lomurro for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in an improper sale/lease back transaction with his clients in order to avoid foreclosure. Under the plan, the clients', at respondent's direction, ceased paying on the mortgage and, instead, paid \$10,800 in rent to the respondent. The Disciplinary Review Board, in an unreported decision, cited the respondent's failure to (1) disclose the terms of the transaction to the clients, (2) advise them to seek independent counsel and, (3) obtain their written consent to the representation, in violation of *RPC 1.8(a)*.

**JACK D. BERSON**

Admitted: 1980; Absecon (Atlantic County)  
**Suspension 3 Months - 172 N.J. 99 (2002)**  
Decided: 5/9/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Michael L. Testa for District I*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was retained in a simple bankruptcy matter and then grossly neglected the case by failing to file essential documents. After dismissal, respondent failed to inform his clients of the status of their case despite their numerous requests for information.

The respondent had been previously disciplined. In 1996, he received an admonition for failure to incorporate a non-profit corporation and failure to remit the retainer upon the client's demand. In 1999, he was temporarily suspended from the practice of law for failure to pay a fee arbitration award, which suspension remains in effect to this date. Also, in 1999, respondent was suspended for a period of three months for gross neglect, lack of diligence, failure to communicate with a client, failure to return an unearned retainer and failure to cooperate with ethics authorities. *In re Berson, 157 N.J. 634*. Later, in 1999, respondent was again suspended for a period of three months in another default matter for gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with ethics authorities. *In re Berson, 159 N.J. 508*.

**VINCENT E. BEVACQUA**

Admitted: 1990; South Orange (Essex County)  
**Reprimand - 174 N.J. 296 (2002)**  
Decided: 9/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*David Howard Stein for District VA.*  
*Thomas Ashley for respondent.*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who engaged in misconduct in three matters, including gross neglect, lack of diligence, failure to communicate, failure to provide a written retainer agreement, failure to protect clients' interest on the termination of representation and assisting a New York attorney, not admitted to practice in this state, in the unauthorized practice of law at a deposition.

**LEMUEL H. BLACKBURN, JR.**

Admitted: 1965; Lawrenceville (Mercer County)  
**Disbarment by Consent - 174 N.J. 380 (2002)**  
Decided: 10/30/2002

*REPRESENTATIONS*

*Michael J. Sweeney for Attorney Ethics*  
*Joshua Markowitz for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of clients' trust funds. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**JOHN L. BLUNT**

Admitted: 1988; Fairview (Bergen County)  
**Reprimand - 174 N.J. 294 (2002)**  
Decided: 9/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Dennis W. Blake for District IIB*  
*Frank P. Lucianna for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who unethically counseled his client to enter into a sham contract of sale that was ultimately used as an exhibit to an affidavit that respondent contemplated submitting to a court in a litigated matter.

**JOSEPH M. BOREK, JR.**

Admitted: 1987; Pompton Lakes (Passaic County)  
**Disbarment by Consent - 170 N.J. 393 (2002)**  
Decided: 1/28/2002

*REPRESENTATIONS*

*Michael J. Sweeney for Attorney Ethics*  
*Gerald D. Miller for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted that he could not successfully defend pending disciplinary charges that he knowingly misappropriated trust funds of almost \$80,000 in the estate of Julius Lucatelli. The respondent had been temporarily suspended from the practice of law since December 4, 2001. *In re Borek, 170 N.J. 194.*

**DAVID S. BRANTLEY**

Admitted: 1970; East Orange (Essex County)

**Suspension 2 Years - 171 N.J. 80 (2002)**

Decided: 3/19/2002; Effective: 4/15/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Mitchell E. Ostrer for District VB*

*Respondent did not appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of two years was the appropriate discipline for a respondent who, jointly with his wife, S. Dorell King, accepted a divorce matter and then grossly neglected the case allowing it to be dismissed for failure to file a case information statement. The respondent also failed to return the unearned retainer fee of \$3,580. He also failed to return the client's original papers and file on termination of the representation. Finally, the respondent failed to cooperate with disciplinary authorities in a most egregious manner. As related in the decision of the Disciplinary Review Board:

One of the most troubling aspects of this case was respondents' failure to cooperate with disciplinary authorities.

\*\*\*\*\*

(T)hese respondents set about a scorched-earth strategy of intimidation, false accusations and intolerable disrespect for the hearing panel and its individual members and attempted to protract the proceedings, when it appeared that things were not going their way. Respondents are not newcomers to the disciplinary system. Each is well aware of the requirement of cooperation with ethics authorities in all phases of a disciplinary proceeding. Yet, from the inception of the DEC investigation, they ignored and/or misled the investigator, and later the panel, in a series of calculated maneuvers designed to thwart the investigation and to delay the hearing process.

\*\*\*\*\*

For all of the foregoing reasons, we had no difficulty finding that respondents deliberately set about to thwart the disciplinary process, in violation of RPC 8.1(b).

The respondent has an extensive disciplinary history. In 1982, he was privately reprimanded for failure to represent a client zealously. In 1998, he was again privately reprimanded for driving with a suspended license and failing to pay the fines associated with the violations while also serving as municipal court judge. In 1988, the respondent received his third private reprimand for grossly neglecting a personal injury matter. Three years later, in 1991, he was suspended from the practice of law for a period of one year for misconduct in four matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate, misrepresentation of the status of the case to a client and failure to cooperate with disciplinary authorities. He was again suspended in 1995, this time for three months, for gross neglect in two matters and failure to cooperate with disciplinary authorities in three cases. In 1999, respondent was reprimanded for lack of diligence in the handling of an estate matter.

**DAVID S. BRANTLEY**

Admitted: 1970; East Orange (Essex County)

**Suspension 2 Years - 171 N.J. 81 (2002)**

Decided: 3/19/2002 Effective: 4/15/2004

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Howard Stern for District IIB*

*Respondent did not appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of two years was the appropriate discipline for an attorney who, in a guardianship matter, misrepresented to the judge that a prior judge in a 1995 proceeding in the same matter had ruled in favor of his client. In fact, the prior judge had ruled against the respondent's client and thus his statement to the tribunal was knowingly false.

The respondent has an extensive disciplinary history. In 1982, he was privately reprimanded for failure to represent a client zealously. In 1998, he was again privately reprimanded for driving with a suspended license and failing to pay the fines associated with the violations while also serving as municipal court judge. In 1988, the respondent received his third private reprimand for grossly neglecting a personal injury matter. Three years later, in 1991, he was suspended from the practice of law for a period of one year for

misconduct in four matters, including gross neglect, pattern of neglect, lack of diligence, failure to communicate, misrepresentation of the status of the case to a client and failure to cooperate with disciplinary authorities. He was again suspended in 1995, this time for three months, for gross neglect in two matters and failure to cooperate with disciplinary authorities in three cases. In 1999, respondent was reprimanded for lack of diligence in the handling of an estate matter.

**ANDREW T. BRASNO, JR.**

Admitted: 1972; South River (Middlesex County)

**Disbarment** - 171 N.J. 341 (2002)

Decided: 4/1/2002

*APPEARANCES BEFORE SUPREME COURT*

*Thomas J. McCormick for Attorney Ethics*

*Antonio J. Toto for respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated in excess of \$11,000 from an estate and knowingly misappropriated both client trust funds and escrow funds in seven separate real estate closings.

The respondent was previously disciplined. In 1997, he received an admonition for failure to turn over a client's file upon termination of representation and for failure to cooperate with disciplinary authorities during the investigation of that matter.

**JAMES A. BRESLIN, JR.**

Admitted: 1968; Lyndhurst (Bergen County)

**Censure** - 171 N.J. 235 (2002)

Decided: 3/28/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Michael P. Ambrosio for respondent*

The Supreme Court of New Jersey, by a 4-3 vote, held that a censure was the appropriate discipline for an attorney who was previously removed from his judgeship by the Supreme Court of New Jersey. In the attorney disciplinary proceeding, the Supreme Court majority found that the respondent violated *RPC 1.2(e)* when his client gave him a manila envelope to pass on to the municipal police commissioner for the client's son. On inspection, the respondent discovered that not only did the envelope include the son's resume, but also two blank envelopes together containing \$10,000 in cash. The respondent did not immediately communicate with any law enforcement authorities, but rather met with the municipal police commissioner and posed to him a hypothetical question, essentially asking what he would do if someone gave him money and asked for a favor.

Sometime thereafter, the respondent and the municipal police commissioner decided to report the matter to the acting police chief. This was ultimately accomplished by the municipal police commissioner, and not by respondent. The Court majority held that there was not clear and convincing evidence that the respondent actually participated in a bribery scheme. Rather, the majority determined that the respondent violated *RPC 1.2(e)* by not advising the client, who expected legal assistance not permitted by the Rules of Professional Conduct or by law, of the relevant limitations on the lawyer's conduct.

**JEFFREY I. BRONSON**

Admitted: 1982; Morristown (Morris County)

**Admonition** - 170 N.J. 258 (2002)

Decided: 1/8/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Mark Denbeaux for District VA*

*Michael P. Ambrosio for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for a respondent who, to avoid a conflict of interest on the part of an attorney with whom the respondent had a friendly relationship, allowed the attorney to sign the respondent's name to a motion to revoke a plea agreement. The respondent did not, however, prior to the filing of the motion, meet with the defendant to determine if the information contained in his certification was correct.

**WILLIAM C. BRUMMELL**

Admitted: 1970; East Orange (Essex County)

**Reprimand** - 174 N.J. 297 (2002)

Decided: 9/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Maurice C. Donovan for District VB*

*Gerald Krovatin for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a client's personal injury matter and failed to adequately communicate with the client. The respondent had initially entered into a diversionary agreement, but failed to comply with the agreed conditions.

The respondent was privately reprimanded in 1999 for lack of diligence and failure to communicate with a client about the status of the matter.

**ERIC J. BRUNING**

Admitted: 1981; St. Port Lucie, Florida

**Suspension 3 Years** - 174 N.J. 550 (2002)

Decided: 11/25/2002 Effective: 3/23/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics  
Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who resigned his membership in the state bar of Florida, effective March 23, 2001, based on 16 separate disciplinary charges pending against him. Those charged involved allegations of gross neglect of client matters and pattern of neglect, failure to communicate with clients, failure to pay medical providers, failure to diligently represent his clients' interests, failure to properly maintain all records required for his trust account and failure to respond to inquiries by the Florida bar during the investigation of grievances.

**LOUIS N. CAGGIANO, JR.**

Admitted: 1981; Mt. Laurel (Burlington County)

**Admonition - Unreported (2002)**

Decided: 5/22/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Elizabeth Berenato for District IIB  
Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who improperly deposited a personal injury settlement check to his trust account without first obtaining his client's endorsement or permission to do so.

**LEROY CARMICHAEL**

Admitted: 1971; Trenton (Mercer County)

**Admonition - Unreported (2002)**

Decided: 9/16/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics  
Benjamin N. Cittadino for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who entered into an agreement with another attorney whereby he would forward her personal injury cases on which he had worked. She would then complete the work and apportion the fees. Twenty-seven files were involved. In order to serve these clients, respondent set up a trust account in the name of himself and the other attorney. The respondent failed to exercise any oversight over the trust account, as a result of which the other attorney knowingly misappropriated \$90,000 in clients' trust funds set up for the joint venture, thus violating *R. 1:21-6 and RPC 1.15(d)*.

**RICHARD J. CARROLL**

Admitted: 1970; Secaucus (Hudson County)

**Suspension 6 Months - 171 N.J. 469 (2002)**

Decided: 4/25/2002 Effective: 12/7/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*John N. Ukegbu for District VI  
Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who grossly neglected a personal injury claim for more than seven years, failed to keep his client informed of the status of the matter and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent has an extensive disciplinary history. In 1984, he was privately reprimanded for grossly neglecting a matter. Respondent received an admonition in 1995 for lack of diligence, failure to communicate, failure to turn over a client file to new counsel and failure to cooperate with disciplinary authorities. A second admonition was imposed in 1997 for respondent's lack of diligence and failure to communicate with a client. In 1999, the respondent received a three-month suspension in a default matter for gross neglect, lack of diligence and failure to cooperate with ethics authorities. *In re Carroll, 162 N.J. 97*. In 2000, respondent received a three-month suspension from practice for failure to correct record keeping deficiencies and failure to cooperate with the Office of Attorney Ethics in connection with the audit. *In re Carroll, 165 N.J. 566*. In 2001, the respondent was suspended from the practice of law for a period of one year on another default matter for not prosecuting a complaint, which ultimately resulted in its dismissal. Moreover, the respondent failed to disclose to the client that her complaint had been dismissed. *In re Carroll, 170 N.J.196*.

**JOSEPH S. CARUSO**

Admitted: 1990; Oaklyn (Camden County)

**Suspension 3 Years - 172 N.J.350 (2002)**

Decided: 6/11/2002 Effective: 2/8/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics  
Saul J. Steinberg for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to one count of conspiracy to

travel in interstate commerce to promote and facilitate bribery, in violation of 18 U.S.C.A. §371. The factual basis for the plea was that respondent, while the municipal prosecutor for the city of Camden, traveled to Pennsylvania with the Mayor of Camden. During the trip, the Mayor told the respondent that he intended to reappoint the Camden Municipal Public Defender, contingent on the public defender's \$5,000 contribution to a political committee. The respondent agreed to act as the Mayor's intermediary and then solicited and received the \$5,000. The respondent had been temporarily suspended from the practice of law in New Jersey since February 8, 2000. *In re Caruso*, 162 N.J. 344. Additionally, the respondent was previously disciplined in 1996, when he received an admonition for record keeping violations that led to a negligent misappropriation of client trust funds.

**THOMAS F. CERMACK, JR.**

Admitted: 1980; Hawthorne (Passaic County)  
**Suspension 6 Months** - 174 N.J. 560 (2002)  
Decided: 12/10/2002 Effective: 1/6/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Elizabeth Charters for District VA*  
*Respondent appeared pro se*

The Supreme Court of New Jersey accepted a Motion for Discipline by Consent and held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who entered into an agreement with a suspended attorney, Kevin Daly, to permit Daly to continue to represent his clients although respondent would appear as the attorney of record and handle court appearances. In some instances, respondent agreed to take over the cases during the period of Daly's suspension, with the understanding that he would return the cases to Daly, with clients' consent, when Daly was reinstated. Thus, the respondent aided a suspended lawyer in the unauthorized practice of law. Daly was subsequently disbarred.

**MICHAEL F. CHIARELLA**

Admitted: 1985; Long Branch (Monmouth County)  
**Disbarment by Consent** - 172 N.J. 96 (2002)  
Decided: 5/9/2002

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics*  
*John J. Marinan for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted that he could not defend pending disciplinary charges

alleging the knowing misappropriation of clients' trust funds.

This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**JAMES D. COFFEE**

Admitted: 1965; Gualala, California  
**Suspension 3 Months** - 174 N.J. 292 (2002)  
Decided: 9/5/2002 Effective: 6/30/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for three months, based upon his 30-day suspension from the practice of law in the state of Arizona, was the appropriate discipline for an attorney who, in his own domestic relations proceeding, filed an Affidavit of Financial Information. When questioned at a hearing under oath about this affidavit, respondent falsely testified that there were no assets not disclosed in the affidavit. In fact, respondent had an out-of-state bank account worth approximately \$50,000, which he did not disclose.

**KEVIN J. COFFEY**

Admitted: 1986; Marlton (Camden County)  
**Disbarment by Consent** - 174 N.J. 289 (2002)  
Decided: 8/30/2002

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*  
*Mark W. Catanzaro for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Atlantic County, to one count of conspiracy to possess, with intent to distribute, marijuana, a crime of the third degree.

**ANTHONY T. COLASANTI**

Admitted: 1967; West Caldwell (Essex County)  
**Reprimand** - 171 N.J. 77 (2002)  
Decided: 3/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Thomas J. McCormick for Attorney Ethics*  
*Dino D. Bliablias for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated over \$180,000 from July 1996 through September 1998 as a result of

improper record keeping not in accordance with *R. 1:21-6*.

This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**MAXWELL X. COLBY**

Admitted: 1975; Oakhurst (Monmouth County)

**Reprimand** - *172 N.J. 37 (2002)*

Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Richard M. Keil for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated \$3,500 of clients' trust funds due to improper trust and business accounting practices and the fact that a deposited item was returned due to insufficient funds. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**COLLEEN M. COMERFORD**

Admitted: 1988; Radnor, Pennsylvania

**Suspension 3 Years** - *171 N.J. 28 (2002)*

Decided: 2/25/2002 Effective: 1/26/2001

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who was disbarred in the state of Pennsylvania when she admitted in her statement of resignation that she could not successfully defend herself against pending charges resulting from a conviction in the Court of Common Pleas, Philadelphia County, Criminal Division, of five counts of forgery, in violation of *18 Pa.C.S.A. 4101(a)(2)*, and five counts of tampering with records, in violation of *18 Pa. C.S.A. 41014(a)*.

**KEITH A. COSTILL**

Admitted: 1990; Pennington (Mercer County)

**Reprimand** - *174 N.J. 563 (2002)*

Decided: 12/10/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pleaded guilty to an accusation in the Superior

Court of New Jersey, Law Division, Camden County, to the fourth degree crime of child abuse and neglect, in violation of *N.J.S.A. 9:6-1 and 9:6-3*. Specifically, the respondent left his two infant children unattended and sleeping in a locked car for almost an hour, after dark, in the dead of winter, while he drank beer in a nearby bar. At the time of respondent's misconduct, he was a Deputy Attorney General in the Division of Law.

**LAWRENCE S. COVEN**

Admitted: 1991; Greenbrook (Somerset County)

**Disbarment by Consent** - *171 N.J. 143 (2002)*

Decided: 4/2/2002

*REPRESENTATIONS*

*Janice L. Richter for Attorney Ethics*

*Peter B. Fallon for respondent*

The Supreme Court of New Jersey accepted a Disbarment by Consent from a respondent who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of clients' trust funds.

**MARK D. CUBBERLEY**

Admitted: 1984; Trenton (Mercer County)

**Suspension 3 Months** - *171 N.J. 32 (2002)*

Decided: 3/5/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Elaine D. Dietrich for District VII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who failed to complete an informal accounting in an estate matter for more than eight months and failed to reply to numerous requests for documents by a beneficiary of the estate. In a second matter, respondent failed to cooperate with disciplinary authorities during the investigation and processing of a grievance.

The respondent has been previously disciplined. He was admonished in 1996 for failing to cooperate with disciplinary authorities, resulting in the issuance of a subpoena. In 2000, he was reprimanded twice on the same day for engaging in a pattern of neglect, gross neglect, lack of diligence and failure to communicate with clients. The Supreme Court also at that time ordered the respondent practice law under the supervision of a proctor for a period of one year and that he enroll in the next offering of the Legal Education Diversion Program. *In re Cubberley, 164 N.J. 532*. On March 30, 2001, respondent was temporarily suspended

from the practice of law for failing to cooperate with his supervising proctor. *In re Cubberley, 167 N.J. 61.*

**MARK D. CUBBERLEY**

Admitted: 1984; Trenton (Mercer County)  
**Suspension 6 Months - 171 N.J. 32 (2002)**  
Decided: 3/5/2002 Effective: 6/8/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Audrey L. Anderson for District VII*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who, in one matter, accepted a \$1,000 retainer from a client and failed to take any action on her behalf. In a second case, the respondent failed to communicate with his client, to return telephone calls and to explain the purpose and nature of the written retainer agreement, thus engaging in a lack of diligence and a lack of communication with the client. The respondent also failed to prepare and obtain an executed written retainer agreement in the motor vehicle accident case.

The respondent has been previously disciplined. He was admonished in 1996 for failing to cooperate with disciplinary authorities, resulting in the issuance of a subpoena. In 2000, he was reprimanded twice on the same day for engaging in a pattern of neglect, gross neglect, lack of diligence and failure to communicate with clients. The Supreme Court also at that time ordered the respondent practice law under the supervision of a proctor for a period of one year and that he enroll in the next offering of the Legal Education Diversion Program. *In re Cubberley, 164 N.J. 532.* On March 30, 2001, respondent was temporarily suspended from the practice of law for failing to cooperate with his supervising proctor. *In re Cubberley, 167 N.J. 61.*

**ARTHUR G. D'ALESSANDRO**

Admitted: 1962; Basking Ridge (Somerset County)  
**Admonition - 172 N.J. 299 (2002)**  
Decided: 6/17/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*  
*Donald R. Belsole for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, after a random audit of his attorney trust and business accounts, was found to have committed numerous record keeping deficiencies, in violation of R. 1:21-6.

This matter was discovered solely as a result of the Random Audit Program.

**PAUL W. DARE**

Admitted: 1975; Avalon (Cape May County)  
**Reprimand - 174 N.J. 369 (2002)**  
Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to diligently pursue three client matters, failed to communicate with his clients, failed to reply to his clients' requests for information, grossly neglected two of the three matters and failed to return a client's escrow funds.

**SUSAN R. DARGAY**

Admitted: 1987; Mount Holly (Burlington County)  
**Admonition - Unreported (2002)**  
Decided: 10/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Leslie F. Gore for District III B*  
*Francis J. Hartman for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to act diligently by not promptly submitting to the court a final judgment of divorce for one client and, in a second matter, failed to keep his client informed about the status of the matter and to reply to her letters and numerous telephone calls.

**THEODORE W. DAUNNO**

Admitted: 1975; Clifton (Passaic County)  
**Disability-Inactive Status - 172 N.J. 233 (2002)**  
Decided: 5/9/2002

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*  
*Joseph A. Hayden, Jr. for respondent*

The Supreme Court of New Jersey held that a respondent should be transferred to Disability-Inactive Status due to significant medical problems. He had been charged with the knowing misappropriation of clients' trust funds. The matter was previously considered by the Disciplinary Review Board, which recommended Disbarment. In the Review Board's unreported decision, it stated that:

[I]t is undisputed that respondent invaded trust funds. On ten occasions between June 1995 and January 1996, respondent improperly withdrew funds from his trust account and deposited the funds in his business account. The withdrawals invaded clients' trust funds because respondent had no monies due him in the trust account when the withdrawals were made. Except for the first transfer, the subsequent transfers were accomplished by respondent's authorizing the transaction in a telephone call to the bank manager to cover overdrafts in his business account. The first transfer was accomplished by check and the funds went from respondent's business account to a personal account.

The Board found that respondent's alleged defenses that he believed that certain funds were in his trust account were not believable and the Board found him guilty of knowing misappropriation of clients' trust funds.

This matter was discovered solely as a result of the Random Audit Program.

**DAVID OLANDAN DAVENPORT**

Admitted: 1986; Washington, D.C.

**Admonition** - 174 N.J. 552 (2002)

Decided: 11/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that an admonition was the appropriate discipline for an attorney who was suspended in the District of Columbia for a period of six months based upon findings of commingling of personal and trust funds and negligent misappropriations of client funds. Specifically, during 1997 and 1998, respondent commingled personal and trust funds by leaving retainers and fees in his trust account and by drawing checks against those funds to pay personal and business expenses. On one occasion, as a result of respondent's mistaken belief that he had deposited a retainer in his trust account, one of those checks caused a negligent misappropriation of clients' funds. This matter was discovered as a result of an overdraft in the respondent's attorney trust account.

**JAMES S. DeBOSH**

Admitted: 1992; Phillipsburg (Warren County)

**Reprimand** - 174 N.J. 336 (2002)

Decided: 9/17/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Judith Babinski for District XIII*

*Thomas Curtin for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to cooperate with disciplinary authorities during the investigation of a grievance filed against him.

**JOHN M. DeLAURENTIS**

Admitted: 1980; Camden (Camden County)

**Reprimand** - 172 N.J. 35 (2002)

Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Patricia B. Santelle for District IV*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, between approximately 1990 and 1999, engaged in a pattern of neglect in three personal injury matters, improperly solicited a client, practiced law while on the Supreme Court's Ineligible List for failure to pay the annual attorney assessment and failed to cooperate with disciplinary authorities during the investigation and processing of these matters. As observed in the Disciplinary Review Board's unreported decision:

Here, respondent neglected a total of three cases and displayed troubling refusal to acknowledge his basic responsibilities as a lawyer, putting the onus on clients to be informed and on adversaries to pay judgments as well as severely ignoring his duty to take appropriate steps to protect clients' interests.

**JOHN M. DeLAURENTIS**

Admitted: 1980; Camden (Camden County)

**Suspension 1 Year** - 174 N.J. 299 (2002)

Decided: 9/5/2002 Effective: 10/7/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nancy D. Gold for District IV*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who engaged in fraudulent conduct in a series of matters, including failing to file a lawsuit in order to prevent the county welfare agency from discovering his client's



personal injury claim, engaging in several conflicts of interest, rendering improper financial assistance to a client, and various record keeping violations. He also failed to disburse a portion of personal injury settlement proceeds to the welfare agency when he was notified of their lien and failed to inform that agency of the settlement for years, despite periodic letters from them. The respondent was previously reprimanded in 2002 for gross neglect, lack of diligence and failure to communicate in three matters, failure to expedite litigation in two of those matters, pattern of neglect, practicing law while ineligible and failing to cooperate with ethics authorities. *In re DeLaurentis, 172 N.J. 35.*

**CARMINE DeSANTIS**

Admitted: 1988; Bergenfield (Bergen County)  
**Suspension 1 Year - 171 N.J. 142 (2002)**  
Decided: 4/1/2002 Effective: 10/17/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who was criminally convicted in the United States District Court for the Southern District of New York of obstruction of justice, in violation of *18 U.S.C.A. §1505*. Specifically, the respondent gave false testimony and engaged in a cover up to obstruct an Securities and Exchange Commission investigation of insider trading in which he was involved. The respondent had been temporarily suspended from the practice of law in New Jersey since October 16, 2000. *In re DeSantis, 165 N.J. 508.*

**DONALD B. DEVIN**

Admitted: 1969; Rockaway (Morris County)  
**Reprimand - 172 N.J. 321 (2002)**  
Decided: 6/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Caroline Record for District X*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to cooperate with a district ethics committee during the investigation and processing of a grievance, which was ultimately dismissed on the merits.

The respondent has been previously disciplined. In 1994, he was suspended from the practice of law for a period of three months for failing to keep a client reasonably informed, making a misrepresentation to the client and lying to a police officer. *In re Devin, 138 N.J.*

47. In 1996, he was reprimanded for gross neglect, lack of diligence, failure to communicate with a client, failure to provide a written retainer agreement, failure to expedite litigation, misrepresentation about the status of the case, and failure to cooperate with ethics authorities. *In re Devin, 144 N.J. 476.*

**HOWARD S. DIAMOND**

Admitted: 1985; Randolph (Morris County)  
**Admonition - Unreported (2002)**  
Decided: 2/8/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Carol R. White-Connor for District X*  
*Albert B. Jeffers, Jr. for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained to handle the administration of an estate and failed to reply to the executrix's inquiries and concerns about the matter.

**HOWARD S. DIAMOND**

Admitted: 1985; Randolph (Morris County)  
**Reprimand - 174 N.J. 346 (2002)**  
Decided: 10/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Stuart M. Lederman for District X*  
*Albert B. Jeffers, Jr. for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a litigated matter for his clients, resulting in default judgments against the clients and levies on their personal and business accounts. The respondent also failed to enter into a written fee agreement, as required by *RPC 1.5*.

**STUART B. DONEGAN**

Admitted: 1992; Cherry Hill (Camden County)  
**Disbarment - 172 N.J. 231 (2002)**  
Decided: 5/9/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated over \$8,000 in clients' trust funds. In addition, the respondent made misrepresentations to a bankruptcy court about the funds he was holding in his trust account and created documents purporting to be bank documents, in order to

cover up his misappropriation and mislead the Office of Attorney Ethics.

The respondent had been temporarily suspended from the practice of law since May 22, 2001 pending the disposition of allegations that he knowingly misappropriated clients' funds. *In re Donegan*, 167 N.J. 591.

**MELVIN G. DUKE**

Admitted: 1990; Brooklyn, New York

**Reprimand** - 174 N.J. 371 (2002)

Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was disciplined in the state of New York for negligently misappropriating trust funds, commingling trust and personal funds in his trust account, improperly drawing an escrow check to cash, failing to maintain required bookkeeping records and failing to timely cooperate with disciplinary authorities in that state.

**CLYDE E. EDMONDS**

Admitted: 1972; Plainfield (Union County)

**Disbarment by Consent** - 170 N.J. 399 (2002)

Decided: 2/5/2002

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*

*Alan Dexter Bowman for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who pled guilty in the United States District Court for the District of New Jersey to one count of conspiracy to commit bank fraud, 18 U.S.C.A. §371, and two counts of bank fraud, 18 U.S.C.A. §1344 and 2. The respondent had been temporarily suspended from the practice of law in New Jersey since June 29, 2000. *In re Edmonds*, 164 N.J. 339.

**THOMAS H. EVERETT, III**

Admitted: 1984; Caldwell (Essex County)

**Disbarment by Consent** - 171 N.J. 141 (2002)

Decided: 3/27/2002

*REPRESENTATIONS*

*Janice L. Richter for Attorney Ethics*

*Mark M. Tallmadge for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted

Office of Attorney Ethics

that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of clients' trust funds. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**JACK S. EZON**

Admitted: 1996; Deal (Monmouth County)

**Reprimand** - 172 N.J. 235 (2002)

Decided: 5/20/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Ronald J. Troppoli for District XI*

*Anthony P. Ambrosio for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who knowingly assisted his father, a disbarred New Jersey attorney, to present himself as an attorney for a common client in New Jersey litigation. In the process, the respondent misled a court and the other attorneys involved in the case that his father, in addition to respondent himself, represented the defendants.

**EDWARD D. FAGAN**

Admitted: 1980; Livingston (Essex County)

**Reprimand** - 172 N.J. 407 (2002)

Decided: 6/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*A. Lawrence Gaydos for District VC*

*Raymond Barto for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who made written misrepresentations to his client by stating that he had filed a motion on the client's behalf and had a court date, when, in fact, none of this was true.

**STUART D. FELSEN**

Admitted: 1993; Randolph (Morris County)

**Reprimand** - 172 N.J. 33 (2002)

Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Israel Dubin for Committee on Attorney Advertising*

*Dominic J. Aprile for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who improperly practiced law under the trade name "Law Advisory Group." The name was used in an advertisement that also contained the following false and misleading statements: The attorneys maintained offices throughout Passaic County as well as New York and New Jersey; they had over 60 years experience; they

were experts in the field; and they held membership in all of the associations listed in the ad. The respondent, alone, was responsible for placing the advertisement.

**DONALD M. FERRAILOLO**

Admitted: 1970; Hackensack (Bergen County)

**Suspension 1 Year - 170 N.J. 600 (2002)**

Decided: 2/21/2002 Effective: 3/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Jeffrey B. Steinfeld for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Bergen County to a one-count accusation charging him with "attempted endangering [of] the welfare of a child," in violation of *N.J.S.A. 2C:5-1 and N.J.S.A. 2C:24-4*. The respondent's offense involved communicating on several occasions, via an Internet chat room, with "Jay," who respondent believed was a 14 year old boy. Respondent told Jay that he wanted to take him to respondent's home to engage in numerous sexual acts, some of which were explicitly stated. The respondent was arrested when he appeared for the meeting with Jay.

**ROBERT B. FEUCHTBAUM**

Admitted: 1974; North Haledon (Passaic County)

**Reprimand - 174 N.J.370 (2002)**

Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Robert C. LaSalle for District XI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who was retained by a client to pursue a dental malpractice action and then, after filing the complaint, grossly neglected the matter and failed to comply with discovery requests resulting in dismissal. The respondent took no steps to have the case reinstated and failed to inform his clients of the dismissal. He also failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**SCOTT D. FINCKENAUER**

Admitted: 1991; Fairview (Bergen County)

**Suspension 3 Months - 172 N.J. 348 (2002)**

Decided: 6/11/2002 Effective: 7/9/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Yvonne Smith Segars for District IIA*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was assigned by the Office of the Public Defender to represent a client on a charge of possession of illegal drugs with intent to distribute. The respondent subsequently was retained by that client to represent him in connection with a murder charge stemming from an unrelated case. Between March 1997 and March 1999, the client referred a number of inmates to the respondent, six of whom retained him. Respondent unethically paid his original client for these referrals by means of reducing his usual \$1,500 fee to the original client in connection with a motion for change of sentence. Moreover, the respondent also was found responsible for improperly billing the Public Defender for work that was done for the original client's murder case and, also, for non-existent "jail visits."

**GERALD F. FITZPATRICK**

Admitted: 1971; Bayonne (Hudson County)

**Disbarment by Consent - 171 N.J. 436 (2002)**

Decided: 4/17/2002

*REPRESENTATIONS*

*Nitza I. Blasini for Attorney Ethics*

*Joseph P. Kelly for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of clients' trust funds in an estate matter.

This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**MARK W. FORD**

Admitted: 1983; Gloucester City (Camden County)

**Admonition - Unreported (2002)**

Decided: 10/22/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Ralph R. Kramer for District IV*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained by a client in a Workers' Compensation matter. The respondent failed to request medical and employment records and did not file the claim petition, but rather told the client that her case would be ready to go to trial by summer. Despite this assurance to the client, respondent never filed any papers in the case and failed to reasonably communicate with

the client about the status of her matter.

**PAUL J. FORSMAN**

Admitted: 1979; Toms River (Ocean County)

**Reprimand - 174 N.J. 337 (2002)**

Decided: 9/17/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Thomas J. McCormick for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated over \$2,500 in client funds as a result of improper record keeping in his trust account, including a failure to reconcile his trust account on a quarterly basis, as required by Court Rules. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**JAMES P. FOX**

Admitted: 1981; Newton (Sussex County)

**Reprimand - 174 N.J. 534 (2002)**

Decided: 11/18/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*James E. Stewart for District X*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who agreed to have a disciplinary matter diverted and then failed to fulfill the conditions of that agreement. Subsequently, a formal ethics complaint was filed and the attorney was disciplined for failing to communicate with a client in an automobile accident matter, failing to act diligently on the client's behalf, and failing to cooperate with disciplinary authorities during the investigation and prosecution of the matter.

**WILLIAM W. FREIHOFER, JR.**

Admitted: 1977; Longport (Atlantic County)

**Disbarment by Consent - 172 N.J. 536 (2002)**

Decided: 6/14/2002

*REPRESENTATIONS*

*John J. Janasie for Attorney Ethics*

*Theodore H. Ritter consulted with respondent solely to assure the voluntariness of his consent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted

Office of Attorney Ethics

that he could not successfully defend himself against pending disciplinary charges involving the knowing misappropriation of trust and estate funds.

**JACK N. FROST**

Admitted: 1971; Plainfield (Union County)

**Disbarment - 171 N.J. 308 (2002)**

Decided: 4/5/2002

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*

*Frank P. Sahaj for respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated escrow funds being held to pay off a Workers' Compensation lien. The respondent obtained his client's consent to borrow the escrow funds and then used the funds without obtaining the consent of the other party who had an ownership interest in them. Additionally, the respondent entered into a prohibited business transaction with his client in violation of *RPC 1.8(a)* and took advantage of an unsophisticated client whose trust he gained through the attorney-client relationship. The loan was patently unfair and unreasonable to the client, and the respondent further misrepresented the extent of his assets. Moreover, he never intended to provide any security to the client for the loan. The Supreme Court stated that disbarment would be warranted, even absent a finding of knowing misappropriation based upon "respondent's extensive ethics history" and his "profound lack of professionalism and good character and fitness."

**JUAN GALIS-MENENDEZ**

Admitted: 1986; Union City (Hudson County)

**Disbarment - 172 N.J. 239 (2002)**

Decided: 3/19/2002

*APPEARANCES BEFORE SUPREME COURT*

*John McGill, III for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that Disbarment was the appropriate discipline for an attorney who, in a series of 13 client matters extending over an eight-year period from 1990 to 1998, engaged in gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, misrepresentations, failure to return client files upon termination of representation, failure to return unearned retainers and abandonment of, not only these 13 client matters, but all of respondent's pending clients. According to the decision of the Disciplinary Review Board, the respondent's misconduct included:

[T]aking retainers from clients and doing either no work, little work, or substandard work; allowing matters to be dismissed without regard for the well-being of his clients; failing to restore matters once he was aware of dismissals; and not communicating the status of matters to his clients. More egregiously, respondent's clients, who trusted him implicitly because of his stature as an attorney, time after time described to the (district ethics committee) how respondent had invented trial dates and court hearings in matters that either had been dismissed or never initiated. The clients testified about their shock upon discovering that they had been deceived by their attorney, who had sent them to court for non-existent hearings and who had appeared at the hearings himself. Incredibly, respondent had one client follow him around for an entire day, while respondent attended to business that had no bearing on the client's matter, in order to deceive the client that he was properly managing the progress of the case. When the Office of Attorney Ethics sought to audit respondent's attorney accounts in early 1998, he simply abandoned his practice, rather than watch his eight-year sham unravel.

As a result of the respondent's abandonment of his clients, the Assignment Judge of Hudson County appointed an Attorney-Trustee, Lourdes Santiago, to protect respondent's clients in the aftermath of his abandonment. The Attorney-Trustee was forced to spend hundreds of hours and thousands of dollars in the process, all without respondent's assistance.

The respondent had been temporarily suspended from the practice of law in New Jersey since July 9, 1998.

**HECTOR M. GARCIA**

Admitted: 1975; Elizabeth (Union County)

**Admonition** - *Unreported (2002)*

Decided: 10/23/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Anabela Dacruz-Melo for District XII*

*Respondent appeared pro se*

The Disciplinary Review Board held that an

admonition was the appropriate discipline for an attorney who, during the course of representing a plaintiff in a civil suit, failed to file an opposition to a motion for summary judgment filed by the defendant and, thereafter, failed to timely pursue an appeal with the Appellate Division, in violation of *RPC 1.3*.

**FRANCIS X. GAVIN**

Admitted: 1981; Hackettstown (Warren County)

**Suspension 6 Months** - *170 N.J. 597 (2002)*

Decided: 2/21/2002 Effective: 3/19/2002

**REPRESENTATIONS BEFORE REVIEW BOARD**

*Donald F. Scholl, Jr. for District XIII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who grossly neglected a client's defense of a lawsuit, thereby causing a default judgment to be entered and execution of the judgment to ensue. The respondent also failed to communicate with the client, failed to turn over the client's file to new counsel despite two court orders and failed to cooperate with disciplinary authorities during the investigation processing of this matter.

The respondent has an ethical history. In 1998, he was reprimanded for gross neglect, lack of diligence and failure to adequately communicate with a client. *In re Gavin, 153 N.J. 356*. In 2001, he was again reprimanded for gross negligence in a personal injury matter, failure to communicate with a client, failure to refund an unearned fee and failure to cooperate with an ethics investigation. *In re Gavin, 167 N.J. 606*.

**FRANCIS X. GAVIN**

Admitted: 1981; Hackettstown (Warren County)

**Suspension 3 Months** - *172 N.J.347 (2002)*

Decided: 6/11/2002 Effective: 9/19/2002

**REPRESENTATIONS BEFORE REVIEW BOARD**

*John R. Lanza for District XIII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected two matrimonial matters. In one, the respondent failed to act with reasonable diligence, repeatedly failing to take action on the client's behalf. That inaction resulted in a court order for the client's payment of counsel fees and exposed the client to possible incarceration. The

respondent also failed to cooperate with disciplinary authorities. In a second matter, the respondent failed to pay the appropriate insurance policy, failed to timely pay for the client's orthodontist's bill and attorney fees, and failed to provide the client with an accounting of trust funds and to comply with court orders. Respondent also failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent has a history of discipline. In 1998, he was reprimanded for gross neglect, lack of diligence, and failure to adequately communicate with a client. *In re Gavin, 153 N.J. 356*. In 2001, respondent was again reprimanded, this time for gross neglect in a personal injury matter, failure to communicate with a client, failure to refund an unearned fee and failure to cooperate with an ethics committee. *In re Gavin, 167 N.J. 606*. The respondent was suspended from the practice of law for a period of six months in 2002 for gross neglect, failure to communicate with a client, failure to turn over the client's file to a new counsel, and failure to reply to the grievance and cooperate with disciplinary authorities. *In re Gavin, 170 N.J. 597*.

**JACKIE S. GEORGE**

Admitted: 1994; Cliffside Park (Bergen County)

**Reprimand - 174 N.J. 538 (2002)**

Decided: 11/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nancy Lucianna for District IIB*

*Eduardo Cruz-Lopez for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in representing a client in a divorce matter, unethically attempted to intimidate her adversary with threats of filing an ethics grievance and who also tried to seek relief from one judge in the case without disclosing that she had signed a consent order submitted to another judge.

**JOHN S. GIAVA**

Admitted: 1948; Newark (Essex County)

**Admonition - Unreported (2002)**

Decided: 3/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John T. Wolak for District VA*

*Lewis B. Cohn for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained by clients in order to obtain a wage execution against another individual. Without first consulting with his clients, the respondent failed to apply for a wage execution and instead entered into an

agreement with the individual for the payment of \$200 per month. At the time, respondent's clients were experiencing financial difficulties. Additionally, when his clients learned of the agreement and objected to its execution, the respondent failed to timely reply to their request for information about the matter. Finally, the respondent failed to provide his clients with a contingent fee agreement in violation of *RPC 1.5(b)*.

**JAMES J. GILLESPIE, JR.**

Admitted: 1982; Haddonfield (Camden County)

**Suspension 2 Years - 170 N.J. 253 (2002)**

Decided: 1/8/2002 Effective: 4/10/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of two years was the appropriate discipline for an attorney who was disbarred by the Supreme Court of Pennsylvania on April 10, 2000. The basis for the Court's action was the respondent's forging of the name of a judge of the Court of Common Pleas of Montgomery County, Pennsylvania on an order and providing the fabricated order to a party in the case.

**KENNETH H. GINSBERG**

Admitted: 1974; Naples, Florida

**Reprimand - 174 N.J. 349 (2002)**

Decided: 10/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*William C. Sanderlands for District X*

*Thaddeus J. Hubert, III for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who backdated estate planning documents prepared for a client in order to allow the client to take advantage of tax provisions that might not otherwise have been available to them because of proposed legislation. As the Disciplinary Review Board noted, had the legislation been passed, respondent's conduct would have constituted tax fraud.

**RICHARD B. GIRDLER**

Admitted: 1972; Lincoln Park (Morris County)

**Suspension 3 Months - 171 N.J. 146 (2002)**

Decided: 4/1/2002 Effective: 5/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was retained by a real estate agency to bring a lawsuit for commissions owed to the agency. Although the respondent filed a complaint against several defendants, he did not serve the defendants, resulting in the court's notice of dismissal. This constituted gross neglect. Moreover, instead of advising the clients of the dismissal, respondent made numerous misrepresentations to them about the status of the case. Furthermore, the respondent, in a certification filed with the court, knowingly made a false statement of material fact when he misrepresented to the court that some of the defendants had been served when, in fact, they had not.

The respondent has been previously disciplined. In 1991, he was privately reprimanded for violations of gross neglect, lack of diligence and failure to communicate in two matters. In 1994, he was publicly reprimanded for lack of diligence, failure to communicate and failure to obtain a signed contingent fee agreement as required by *RPC 1.5(c)*.

**BEVERLY G. GISCOMBE**

Admitted: 1979; East Orange (Essex County)

**Suspension 3 Months - 173 N.J. 174 (2002)**

Decided: 7/12/2002 Effective: 8/12/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Stuart Leviss for District VB*

*Ernest Ianetti for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a client in a personal injury slip and fall case. The respondent brought a court motion to file a late notice of claim against a municipality and then lied in the affidavit that her client had "recently contacted" her office concerning the accident, when, in fact, she had met with the clients some eight months earlier when she had begun to work on the case. In a second matter, the respondent represented a client in an uninsured motorist claim and then grossly neglected the matter, failed to communicate with the client and failed to maintain the confidentiality of the client's information.

The respondent was privately reprimanded in 1990 for gross neglect and conflict of interest, arising out of her representation of both a driver and a passenger in an automobile accident. In 1996, she received an admonition for failure to communicate with a client. In 1999, respondent was reprimanded for engaging in a conflict of interest situation. *In re Giscombe, 159 N.J. 517.*

**ADAM H. GLICK**

Admitted: 1984; Bogota (Bergen County)

**Reprimand - 172 N.J.319 (2002)**

Decided: 6/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John J. Janasie for Attorney Ethics*

*Patrick T. Collins for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who took legal fees without the consent or knowledge of the law firm by which he was employed. At one point, respondent became disenchanted with the law firm and began to retain fees payable to him in the amount of \$12,747, when, in fact, these fees were due to the law firm.

**JUDITH E. GOLDENBERG**

Admitted: 1983; Paterson (Passaic County)

**Admonition - Unreported (2002)**

Decided: 3/22/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Diane E. Dewey for District XI*

*Frederick Dennehy for respondent*

The Disciplinary Review Board accepted a Motion for Discipline by Consent and held that an admonition was the appropriate discipline for an attorney who failed to act diligently after accepting a fee to file a motion to reduce a criminal sentence and then failing to do so. In a second matter, the respondent entered an appearance before the United States Immigration Court indicating that she was an attorney in good standing while, in fact, she was on the Ineligible List of New Jersey attorneys due to her failure to pay the annual attorney registration assessment.

**JEFF H. GOLDSMITH**

Admitted: 1984; Fort Lee (Bergen County)

**Admonition - Unreported (2002)**

Decided: 10/7/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Alfred C. Pescatore, Jr. for District IIB*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who practiced law in New Jersey while ineligible to do so from September 1999 through April 2000. The respondent had failed to pay his annual attorney assessment and was declared ineligible by order of the Supreme Court. The attorney had previously agreed to

fulfill terms of a diversionary agreement, but then failed to do so.

**DAVID M. GORENBERG**

Admitted: 1991; Cherry Hill (Camden County)

**Reprimand - 172 N.J. 31 (2002)**

Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who misrepresented to a court that he was holding \$10,000 in his trust account when, in fact, he was not. In another matter, the attorney failed to act diligently in a matrimonial matter and failed to keep his client informed of the status of the matter and failed to file a complaint in her behalf, despite his representation to her that he had filed the complaint.

**DAVID M. GORENBERG**

Admitted: 1991; Moorestown (Burlington County)

**Reprimand - 174 N.J. 506 (2002)**

Decided: 11/13/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nancy D. Gold for District IV*

*Stephen B. Sackarow for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a client's medical malpractice action, failed to make reasonable communications with the client regarding the status of the matter and failed to properly withdraw from the case.

**RUSSELL W. GRAYSON**

Admitted: 1985; Newark (Essex County)

**Disbarment by Consent - 170 N.J. 414 (2002)**

Decided: 2/13/2002

*REPRESENTATIONS*

*Lee A. Gronikowski for Attorney Ethics*

*Brian J. Neary for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of trust funds from a real estate transaction.

**CRAIG N. GREENAWALT**

Admitted: 1980; Westville (Union County)

**Suspension 1 Year - 171 N.J. 472 (2002)**

Decided: 4/25/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*John J. Janasie for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who grossly neglected three client matters, abandoned his law practice, failed to notify clients of a prior suspension and failed to cooperate with the Office of Attorney Ethics during the investigation and processing of this matter. The respondent had been temporarily suspended from the practice of law since October 25, 1999, following his abandonment of his law practice and his failure to cooperate with the Office of Attorney Ethics during its investigation of this matter.

**GLENN R. GRONLUND**

Admitted: 1974; Absecon (Atlantic County)

**Reprimand - 171 N.J. 30 (2002)**

Decided: 3/5/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Gilbert O. Gilbertson for District I*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client in order to submit a claim for a riparian grant from the state of New Jersey in connection with his clients' sale of real property. At the closing, \$6,200 of the sale proceeds was placed in escrow, pending receipt of the riparian grant. The respondent failed to act diligently and failed to file the claim for a period of nine months. He also failed to keep his clients informed about the status of the matter and failed to communicate with them.

The respondent was previously disciplined in 1992, when he received a private letter of reprimand for lack of diligence and failure to adequately communicate with a client.

**STANLEY J. GULKIN**

Admitted: 1969; Livingston (Essex County)

**Disbarment by Consent - 171 N.J. 75 (2002)**

Decided: 3/20/2002

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*

*Alan L. Zegas for respondent*



The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted that he could not successfully defend pending disciplinary charges alleging that he pled guilty in the Superior Court of New Jersey, Law Division, Morris County, to an accusation charging him with one count of second degree theft by deception, in violation of *N.J.S.A. 2C:20-4 and N.J.S.A. 2C:2-6*, and one count of second degree conspiracy to commit theft by deception, in violation of *N.J.S.A. 2C:5-2*. The respondent had been temporarily suspended from the practice of law since March 1, 2002.

**SHARON HALL**

Admitted: 1995; South Orange (Essex County)

**Suspension 3 Years - 170 N.J. 400 (2002)**

Decided: 2/5/2002

*APPEARANCES BEFORE SUPREME COURT*

*John McGill, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who engaged in a series of outrageous misconduct in four litigated matters that spanned more than one year. In its unreported decision, the Disciplinary Review Board characterized respondent's conduct thusly:

In sum, respondent displayed a pattern of disrupting trials; abusing and showing disrespect to judges, adversaries and court staff; accusing judges, without any factual basis, of fraud, dishonesty and conspiracy; accusing adversaries of fraud, deceit and misrepresentation; attempting to call her adversaries as witnesses, thereby having them disqualified as counsel; failing to file necessary documents, resulting in the dismissal of her clients' litigation or appeals; failing to follow orders issued by judges, resulting in her being held in contempt; failing to observe courtroom decorum and civility and failing to follow basic civil procedure rules. Respondent repeatedly demonstrated both ignorance of the professional standards and guidelines applicable to all attorneys and an inability or refusal to become familiar with those standards and guidelines. Also, she continually displayed questionable judgment (such as obtaining and

issuing a federal subpoena in state litigation and seeking to litigate an excluded issue, thereby exposing her client to liability), inadequate pretrial skills (such as failing to engage in discovery and failing to file necessary pleadings) and deplorable courtroom behavior, all of which were not attributable to her lack of experience.

The Board also found a disturbing pattern of misrepresentations by the respondent to the judges before whom she appeared.

The respondent was temporarily suspended from the practice of law on June 24, 1999 pending proof of her fitness to practice law. *In re Hall, 158 N.J. 579*. Thereafter, in 2001, respondent was suspended from the practice of law for a period of three months for failure to file a required affidavit with the Office of Attorney Ethics after her temporary suspension, in violation of *R. 1:20-20(b)(14) and RPC 8.4(d)*; her continued maintenance of a law office after her temporary suspension; her contumacious conduct, as found by a Superior Court judge, in accusing her adversaries of lying, maligning the court, refusing to abide by the court's instructions, suggesting the existence of a conspiracy between the court and her adversaries and making baseless charges of racism against the court; and her failure to reply to ethics grievances. *In re Hall, 169 N.J. 347*.

**STEVE HALLETT**

Admitted: 1991; Trenton (Mercer County)

**Reprimand - 174 N.J. 403(2002)**

Decided: 11/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Daniel E. Chase for District VII*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to cooperate with a district ethics committee during the investigation of a grievance and, in a separate matter, demonstrated gross neglect and lack of diligence in handling a personal injury matter in that he failed to have the complaint served on the defendant, leading to its dismissal on two separate occasions. The Court also ordered that the respondent continue psychotherapy, continue to attend Narcotics Anonymous and Alcoholics Anonymous, and that he undergo random drug screening.

**ROBERT J. HANDFUSS**

Admitted: 1984; Matawan (Monmouth County)

**Reprimand - 174 N.J. 404 (2002)**

Decided: 11/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Russell J. Malta for District IX*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who represented a client in a real estate transaction. Respondent closed the sale and was to pay \$339.65 to Covered Bridge Condominium Association, Inc., which he failed to do. The respondent also failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent was previously disciplined. In 2000, he was reprimanded for gross neglect, lack of diligence and failure to communicate with a client. *In re Handfuss, 165 N.J. 569*. In 2001, the respondent was suspended from the practice of law for a period of three months for gross neglect, lack of diligence, failure to communicate with a client, failure to promptly deliver property to a client, failure to turn over a file and provide an accounting, and failure to cooperate with disciplinary authorities and misrepresentation. *In re Handfuss, 169 N.J. 591*.

**JAY G. HELT**

Admitted: 1983; Monmouth Beach (Monmouth County)

**Disbarment by Consent - 171 N.J. 29 (2002)**

Decided: 3/4/2002

*REPRESENTATIONS*

*Thomas J. McCormick for Attorney Ethics*

*Daniel R. Kraft for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend himself against pending disciplinary charges alleging the knowing misappropriation of client trust funds. This matter was discovered solely as a result of the Random Audit Compliance Program.

**PETER E. HESS**

Admitted: 1988; Maywood (Bergen County)

**Reprimand - 174 N.J. 346 (2002)**

Decided: 10/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Susan M. Hagerty for District VIII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who practiced law in an admiralty case in the United States District Court for the

District of New Jersey while ineligible to practice law in the state of New Jersey by reason of his failure to pay the 1997 annual assessment to the Lawyers' Fund for Client Protection.

On September 24, 1996, respondent received an admonition for failing to maintain a bona fide office in New Jersey and for failure to pay his 1995 annual assessment to the Lawyers' Fund.

**STEPHEN M. HILTEBRAND**

Admitted: 1978; Cherry Hill (Camden County)

**Reprimand - 172 N.J. 584 (2002)**

Decided: 6/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Alan J. Cohen for District I*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a litigated matter leading to a default order. Thereafter, respondent met with his clients and misrepresented that the problems in the case were caused by a former associate. He also misrepresented the status of the case and asserted that he would file a summary judgment motion. Respondent then improperly had his clients sign their names to blank signature pages to be attached to affidavits yet to be prepared and to be submitted in support of his motion to reinstate the matter. Ultimately, a judgment of over \$792,000 was entered against the respondent's clients, which facts he also failed to disclose to them.

**KIMBERLY A. HINTZE**

Admitted: 1991; Jersey City (Hudson County)

**Suspension 3 Months - 171 N.J. 84 (2002)**

Decided: 4/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Eugene P. O'Connell for District VI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in a series of two matters, grossly neglected the cases, failed to act with diligence, failed to communicate with the clients and, in one of those matters, failed to return to the client \$900 she was holding in escrow in connection with the sale of the client's business.

The respondent was previously disciplined. In 2000, she was reprimanded for gross neglect, lack of diligence, failure to communicate with a client and failure to cooperate with disciplinary authorities. *In re*

*Hintze-Wilce, 164 N.J. 548.* Pursuant to that order, the respondent was required to practice law under the supervision of a proctor. When she did not submit the name of a proposed proctor as required, she was temporarily suspended from practice on January 17, 2001 and remains suspended to the present time.

**FREDERICK W. HOCK**

Admitted: 1949; Verona (Essex County)

**Reprimand - 172 N.J. 349 (2002)**

Decided: 6/11/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Burton L. Eichler for District VC*

*Peter M. Burke for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in violation of *RPC 1.8(c)*, drafted several wills for a client who left a large portion of her estate (worth \$1.1 million) to himself and his wife.

**ROBERT W. HOCK**

Admitted: 1991; Marco Island, Florida

**Suspension 1 Year - 174 N.J. 376 (2002)**

Decided: 10/23/2002 Effective: 6/16/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who had been suspended in the state of New York for two separate instances involving written misrepresentation in connection with court required disclosure statements. Specifically, respondent knowingly misrepresented that expert witnesses would testify favorably to his client when he knew that this was not the fact.

**ROBERT A. HOLLIS**

Admitted: 1971; Hackensack (Bergen County)

**Disbarment by Consent - 170 N.J. 398 (2002)**

Decided: 2/5/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Raymond F. Flood for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney, submitted after the Court had issued an Order to Show Cause why respondent should not be disbarred as the result of a decision by the Disciplinary Review Board recommending his disbarment. The basis for the matter

was respondent's conviction in the United States District Court for the Northern District of Texas to one count of money laundering, in violation of *18 U.S.C.A. §1956 (a)(1)(B) and 2*. Specifically, respondent participated in the criminal laundering of between two and three and one-half million dollars over a period of two and one-half years, which monies represented the proceeds of illegal activities in prostitution and the promotion of prostitution.

The respondent has a history of discipline. In 1984, he was suspended for a period of three years, retroactive to the date of his temporary suspension, January 1982, for failure to prosecute matters in behalf of clients, failure to record a mortgage, failure to provide an inventory of pending cases to a proctor and failure to promptly pay a client's mortgage out of his trust account. *In re Hollis, 95 N.J. 253 (1984)*. Respondent was reinstated to the practice of law in March 1985. Thereafter, in October 1993, respondent was suspended for another three-year period for failure to expedite litigation, conduct involving dishonesty, fraud, deceit or misrepresentation, gross negligence, failure to act with reasonable diligence, failure to communicate with client and failure to withdraw from representation. *In re Hollis, 134 N.J. 124 (1993)*. In June 1998, respondent received an additional one-year suspension for failing to notify a client of his suspension, continuing to represent the client while suspended, recommending another attorney to the client while under suspension and failing to turn over client files. *In re Hollis, 154 N.J. 12 (1998)*.

**ROBERT R. HYDE**

Admitted: 1983; Raleigh, North Carolina

**Disbarment - 172 N.J. 582 (2002)**

Decided: 6/18/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was disbarred in the state of North Carolina for knowingly misappropriating clients' funds in three real estate matters totaling over \$950.

**ELISSA L. INSLER**

Admitted: 1987; Jersey City (Hudson County)

**Disbarment - 171 N.J. 138 (2002)**

Decided: 3/5/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent did not appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who resigned from the bar of the state of New York after admitting that, while serving as attorney and executrix of an estate, she stole funds from the estate and also charged it an excessive attorney's fee. The amount of the theft was \$41,550.75.

**JESSE JENKINS, III**

Admitted: 1992; East Orange (Essex County)  
**Suspension 3 Years - 170 N.J. 296 (2002)**  
Decided: 1/14/2002

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who, during his suspension for a prior ethical violation, continued to practice law by appearing in court on behalf of a plaintiff in a civil action, falsely advertised to the public that he was eligible to practice law and failed to cooperate with ethics authorities during the investigation and processing of this disciplinary matter.

The respondent has an extensive ethics history. In 1983, he was denied admission to the practice of law because he failed to disclose to the Character Committee a 1973 arrest for larceny of an automobile and possession of burglary tools, a 1976 arrest for embezzlement and four civil lawsuits to which he was a party. He also made misstatements about his employment history. *In re Jenkins, 94 N.J. 458*. After being admitted, in 1997, he was suspended from the practice of law for a period of six months for making untruthful statements to others, attempting to violate the Rules of Professional Conduct, conduct involving dishonesty, fraud, deceit and misrepresentation and conduct prejudicial to the administration of justice. *In re Jenkins, 151 N.J. 473*. In 1999, the respondent was again suspended, this time for a period of three months, for failing to obey a court and untruthfulness and statements to others. *In re Jenkins, 161 N.J. 162*.

**GARY T. JODHA**

Admitted: 1983; Princeton (Mercer County)  
**Reprimand - 174 N.J. 407 (2002)**  
Decided: 11/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*  
*Kevin M. Hart for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney

who represented a purchaser of real estate and then failed to promptly complete post-closing procedures. Specifically, respondent did not record the deed, pay the title insurance premium, pay the real estate taxes or refund escrow funds to his client until nine to 20 months after the closing. In addition, the respondent failed to correct accounting deficiencies noted during a 1988 random audit.

**IAN JAY JOSKOWITZ**

Admitted: 2001; Bayonne (Hudson County)  
**Indefinite Suspension - 170 N.J. 320 (2002)**  
Decided: 1/23/2002

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that an indefinite suspension from the practice of law was the appropriate discipline for an attorney who was admitted to practice law in New Jersey subject to conditions. The respondent failed to comply with those conditions, which required that he provide quarterly certifications of his employment.

**HARRY J. KANE, JR.**

Admitted: 1989; Denville (Morris County)  
**Reprimand - 170 N.J. 625 (2002)**  
Decided: 2/21/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John O'Farrell for District X*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was retained by a client without giving the client a written retainer agreement. The retainer involved representation in connection with a lawsuit to recover damages from tenants. Without the client's knowledge or consent, the respondent settled the case, received a check, put it in his file, and did nothing further. Thereafter, he moved his practice to Philadelphia, Pennsylvania without informing the client that he had moved or without giving her his new address. The respondent also misrepresented the status of the case to the client.

**LIONEL A. KAPLAN**

Admitted: 1972; Trenton (Mercer County)  
**Admonition - Unreported (2002)**  
Decided: 11/18/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*

*Marc J. Fliedner for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to supervise his law firm's bookkeeper, who failed to maintain accounting records required by R. 1:21-6, and then commingled personal and trust funds in the attorney trust account.

This matter was discovered solely as a result of the Random Audit Program.

**S. R. KAPLAN**

Admitted: 1977; Miami, Florida

**Suspension 5 Years - 174 N.J. 551 (2002)**

Decided: 11/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of five years was the appropriate discipline for an attorney who resigned from the Florida Bar as a result of nine formal complaints filed against him alleging that he was hired by a client, neglected the matter, failed to communicate with the client, and, in some cases, lied to the client about the status of the case. After each ethics grievance was filed, respondent failed to cooperate with disciplinary authorities in that state.

**BRIAN T. KENNEDY**

Admitted: 1965

Spring Lake Heights (Monmouth County)

**Reprimand - 174 N.J. 374 (2002)**

Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who conducted a closing and did not tell the sellers or their attorneys that his client, the buyer, did not bring sufficient funds to the closing as required. Respondent disbursed funds to the extent of the partial funds in his possession. One of those checks was to his wife for a real estate commission. The Disciplinary Review Board found that the respondent's failure to notify the sellers' attorney of the fact that he had not received sufficient funds at closing from his client to conclude the matter and to pay off the sellers' mortgage was a misrepresentation. Furthermore, the Board found that respondent committed a conflict of interest by representing a party in a real estate transaction in which

the attorney's spouse was the realtor involved.

**GEORGE E. KERSEY**

Admitted: 1963; Salem, New Hampshire

**Reprimand - 170 N.J. 409 (2002)**

Decided: 2/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was suspended for a period of three months in the state of Massachusetts for failure to comply with court orders of the Vermont Family Court in his own divorce matter. During the course of the divorce and related proceedings, the respondent was held in contempt on three separate occasions for willful violations of court orders.

**DAVID L. KERVICK**

Admitted: 1975; Newark (Essex County)

**Suspension 3 Months - 174 N.J. 377 (2002)**

Decided: 10/28/2002 Effective: 11/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*Richard S. Lehrich for respondent*

The Supreme Court of New Jersey accepted a motion for discipline by consent and determined that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, while employed by the Essex County Office of the Public Defender, took an overdose of cocaine while alone in his home. Thereafter, respondent was charged with possession of cocaine, in violation of N.J.S.A. 2C:35-10a(1); using a controlled dangerous substance, in violation of N.J.S.A. 2C:35-10b; and in possession of drug paraphernalia, in violation of N.J.S.A. 2C:36-2. He was admitted to a Pretrial Intervention Program, which he successfully completed.

**FREDERICK A. KIEGEL**

Admitted: 1992; Cherry Hill (Camden County)

**Admonition - 174 N.J. 299 (2002)**

Decided: 9/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Paul Felixon for District IV*

*Respondent waived appearance*

The Supreme Court of New Jersey held that an admonition was the appropriate discipline for an attorney who, in his dealings with an estate planning service,

improperly accepted fees from the service to draft legal documents for clients of the service without complying with *RPC 1.8(f)*, by failing to obtain the informed consent of the client prior to accepting fees from the third party and by failing to advise the client that, because of his lack of expertise in estate planning, he was unqualified to analyze the third party's estate plan to determine whether or not it was appropriate for the client.

**S. DORELL KING**

Admitted: 1980; East Orange (Essex County)

**Suspension 1 Year - 171 N.J. 79 (2002)**

Decided: 3/19/2002 Effective: Future

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Mitchell E. Ostrer for District VB*

*Respondent did not appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of one year was the appropriate discipline for a respondent who, jointly with her husband, David S. Brantley, accepted a divorce matter and then grossly neglected the case allowing it to be dismissed for failure to file a case information statement. The respondent also failed to return the unearned retainer fee of \$3,580. She also failed to return the client's original papers and file on termination of the representation. Finally, the respondent failed to cooperate with disciplinary authorities in a most egregious manner. As related in the decision of the Disciplinary Review Board:

One of the most troubling aspects of this case was respondents' failure to cooperate with disciplinary authorities.

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(T)hese respondents set about a scorched-earth strategy of intimidation, false accusations and intolerable disrespect for the hearing panel and its individual members and attempted to protract the proceedings, when it appeared that things were not going their way. Respondents are not newcomers to the disciplinary system. Each is well aware of the requirement of cooperation with ethics authorities in all phases of a disciplinary proceeding. Yet, from the inception of the DEC investigation, they ignored and/or misled the investigator, and later the panel, in a series of calculated maneuvers designed to thwart the

investigation and to delay the hearing process.

\*\*\*\*\*

For all of the foregoing reasons, we had no difficulty finding that respondents deliberately set about to thwart the disciplinary process, in violation of *RPC 8.1(b)*.

The Supreme Court ordered that, since the respondent is currently suspended, the one-year suspension imposed by this order will not commence until the expiration of her current suspension that was originally ordered on March 9, 1999. The Court stated that the 1999 suspension of three months will not start running until respondent complies with the Court's order to return an earned retainer in another matter and until respondent's temporary suspension from practice is lifted.

The respondent has an extensive disciplinary history. In 1998, she was temporarily suspended for failure to comply with a Supreme Court Order directing her to return a \$7,500 unearned retainer to a client. In that same year, the respondent was reprimanded for gross neglect, pattern of neglect, lack of diligence and failure to communicate with clients in three matters, failure to release the file to the client and failure to return an unearned fee in the amount of \$7,500 in one of those matters. In 1999, she was again suspended, this time for three months, for gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities. The temporary suspension from practice has never been lifted.

**STEVEN M. KRAMER**

Admitted: 1983; Beverly Hills, California

**Disbarment - 162 N. J. 609 (2002)**

Decided: 6/18/2002

*APPEARANCES BEFORE SUPREME COURT*

*Michael J. Sweeney for Attorney Ethics*

*Helen Davis Chaitman for respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who unethically conducted a private investigation of a judge of the United States District Court for the District of New Jersey, displayed contempt of court by failing to comply with Supreme Court Rules governing suspended attorneys, practiced law while suspended and failed to cooperate with the Office of Attorney Ethics during the investigation and processing of this matter. Additionally, the respondent was disbarred in the state of New York, for, among other things, willful disobedience of discovery orders, as well as for making false statements

in affidavits. In that proceeding, the New York court noted that, during the past 11 years, the respondent was sanctioned, criticized or disciplined 38 times in various courts across the country for professional misconduct involving numerous clients. Thirty-six of the 38 instances in which respondent was sanctioned, criticized or disciplined, were summarized by Judge William Bassler of the United States District Court, District of New Jersey, in *Kramer v. Tribe*, 156 F.R.D. 96 (D.N.J. 1994), *Aff'd* 52 F.3d 315 (3d Cir. 1995), *Cert. Denied* 516 U.S. 907 (1995).

With respect to the respondent's improper investigation of a federal judge, that matter was precipitated by the judge's overturning a jury award of \$238 million in favor of respondent's client. Apparently, the respondent suspected that the judge had been improperly influenced in his actions and determined to conduct a private investigation of possible corruption. He hired a private investigator for this purpose. The agreement signed with the private investigator provided, among other things, that the investigator would receive a performance bonus of \$250,000 "out of the net settlement proceeds upon settlement of the matter with the adversary, provided that (the investigator) obtains corroborating evidence prior to any such settlement...." During the course of that investigation, one of the investigator's associates illegally obtained the judge's personal American Express credit card records, in violation of 18 U.S.C.A. §1030(a)(2)(A)(2), and he provided those records to the respondent.

The Disciplinary Review Board in its unreported opinion came to the following conclusion:

"Respondent has willfully and repeatedly disregarded court rules, court orders and rules of professional conduct. He has willfully and repeatedly displayed egregious disrespect for the courts, his adversaries, the judicial process and the disciplinary system.... He is obviously incapable of or unwilling to conform to the requirements of the legal profession.

The respondent was previously disciplined. In 1993, he was reprimanded for gross neglect, lack of diligence, failure to withdraw as counsel when discharged, failure to protect the client's interests after termination of the representation, and failure to cooperate with disciplinary authorities. *In re Kramer*, 130 N.J. 536. In 1997, respondent was suspended for a period of six months for failing to abide by a client's decisions about the objectives of the representation in obtaining a proprietary interest in the cause of action or

subject matter of the litigation. *In re Kramer*, 149 N.J. 19.

**JONATHAN H. KRANZLER**

Admitted: 1992; Teaneck (Bergen County)  
**Disbarment by Consent** – 173 N.J. 324 (2002)  
Decided: 7/24/2002

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*  
*Kim D. Ringler consulted with respondent in order to assure voluntariness of the Disbarment by Consent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who pled guilty to one count of an indictment filed in the United States District Court for the Southern District of Florida, charging him with interstate transportation of stolen property, in violation of 18 U.S.C.A. § 2314. The respondent had been temporarily suspended from the practice of law since November 14, 2001. *In re Kranzler*, 170 N.J. 32.

**ALAN D. KRAUSS**

Admitted: 1982; Montclair (Essex County)  
**Admonition** - Unreported (2002)  
Decided: 5/23/2002

*APPEARANCES BEFORE REVIEW BOARD*

*A. L. Gaydos, Jr. for District VC*  
*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a client in a wrongful termination matter without first providing the client with a written retainer agreement, as required by *RPC 1.5(c)*. Thereafter, the attorney neglected the matter, resulting in its dismissal. The attorney advised the client of the dismissal one month thereafter and told her that he would file an appeal. However, he took no further action in the matter. In a second case, the respondent also failed to provide a personal injury client with a written retainer agreement, in violation of *RPC 1.5(c)* and then neglected the matter, leading to its dismissal for lack of prosecution.

**KAREN ANN KUBULAK**

Admitted: 1980; Perth Amboy (Middlesex County)  
**Suspension 3 Months** - 170 N.J. 403 (2002)  
Decided: 2/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Caroline A. Levine for District VIII*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in a wrongful termination of employment matter, engaged in gross neglect by not filing a complaint, failed to communicate with her client despite numerous requests for information about the case and failed to cooperate with disciplinary authorities in investigating and processing this matter.

The respondent was previously disciplined. In 1999, she was suspended for a period of three months for gross neglect, failing to abide by the client's decisions concerning the objectives of representation, lack of diligence, failure to communicate with a client, failure to expedite litigation and failure to respond to a lawful demand for information from a disciplinary authority, as well as conduct involving dishonesty, fraud, deceit or misrepresentation, and conduct prejudicial to the administration of justice. *In re Kubulak*, 157 N.J. 74.

**KAREN ANN KUBULAK**

Admitted: 1980; Perth Amboy (Middlesex County)

**Suspension 3 Months - 172 N.J. 318 (2002)**

Decided: 6/4/2002

**REPRESENTATIONS BEFORE REVIEW BOARD**

*Caroline A. Levine for District VIII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a client in the collection of a debt and then grossly neglected the matter, failed to communicate with the client and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent has a disciplinary history. In 1999, she was suspended from the practice of law for a period of three months for gross neglect, failure to abide by the client's decisions concerning representation, lack of diligence, failure to communicate with the client, failure to expedite litigation, failure to cooperate with ethics authorities and conduct prejudicial to the administration of justice and misrepresentation. *In re Kubulak*, 157 N.J. 74. In 2002, the Supreme Court imposed a three-month suspension in another default matter for gross neglect, pattern of neglect, failure to communicate and failure to cooperate with ethics authorities in a separate collection matter. *In re Kubulak*, 170 N.J. 403.

**ALAN E. KUDISCH**

Admitted: 1979; Lake Grove, New York

Office of Attorney Ethics

**Suspension 1 Year - 174 N.J. 550 (2002)**

Decided: 11/25/2002 Effective: 2/7/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who was suspended in the state of New York for accepting a \$4700 retainer in a criminal matter when he was aware that the court had assigned counsel to represent the client. Thereafter, the respondent failed to take any action on the client's behalf and failed to refund any portion of the retainer to his client. In a second matter, the respondent represented clients in a breach of contract action and misrepresented to them, after many inquiries, that he had filed suit with the court when, in fact, he had not.

The respondent had been previously disciplined in the state of New York. In 1993, he received an admonition for neglecting a legal matter and refusing to perfect an appeal until the balance of his fee was paid. In 1995, he received a letter of caution for failing to use written retainer agreements and falsely promising a former client that he would pay him money that was owed.

The respondent was admonished in 1995 for failing to advance an appeal and/or failing to withdraw from the case in a proper manner, engaging in a conflict of interest, improperly converting an assigned legal matter into a private retainer and failing to notify the court of that change. In 1996, he was again admonished for neglecting a legal matter entrusted to him and misrepresenting the status of the case.

**HARVEY L. LASKY**

Admitted: 1968; Brookville, Florida

**Suspension 6 Months - 174 N.J. 554 (2002)**

Decided: 11/25/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who signed a false deposit confirmation in a real estate matter, stating that he had received a \$124,901 real estate deposit and thereafter signed a closing statement which he certified as correct, when it was not.

**MARTIN C. LATINSKY**

Admitted: 1983; Haworth (Bergen County)



**Reprimand - 171 N.J. 403 (2002)**

Decided: 4/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lois A. Myers for District IIA*

*William L. Gold for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client in a Chapter 11 bankruptcy matter and then failed to communicate with the client on the status of the matter, took earned legal fees without the client's or the bankruptcy court's prior approval, and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent was previously disciplined. In 1999, he received an admonition for misconduct that included failure to properly terminate a client representation and failure to communicate with a client in the first of three client matters. In the second matter, respondent failed to keep the client reasonably informed about the status of the case and, in the third matter, exhibited lack of diligence and failed to communicate with the client.

**MARTIN C. LATINSKY**

Admitted: 1982; Haworth (Bergen County)

**Suspension 3 Months - 171 N.J. 402 (2002)**

Decided: 4/1/2002 Effective: 5/1/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Lois A. Myers for District IIA*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in two client matters, engaged in gross neglect, lack of diligence, failure to communicate with the clients, failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions, charging an excessive fee, failure to provide in writing the basis for the fee, failure to expedite litigation, failure to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation.

**MARTIN C. LATINSKY**

Admitted: 1982; Haworth (Bergen County)

**Reprimand - 174 N.J. 408 (2002)**

Decided: 11/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who improperly engaged in the practice of law in this state while the Supreme Court had declared him ineligible by reason of his nonpayment of the Annual Attorney Assessment. The respondent also failed to maintain proper accounting records, as required by *R. 1:21-6*.

The respondent has an extensive disciplinary history. In 1999, he was admonished for misconduct in three matters, involving failure to communicate with clients. In addition, in one of the matters, he failed to file a complaint because he determined unilaterally that the case was not meritorious. However, he never informed his client of that decision. In another case, respondent did not inform his clients that his efforts to stay a sheriff's sale had been rejected and did not return the clients' telephone calls. In the third matter, the client's case was dismissed because of respondent's failure to attend an arbitration proceeding. In 2002, the respondent was reprimanded for taking a fee from a preference settlement without the prior approval of the bankruptcy court, failing to keep his client informed about his bankruptcy case and failing to cooperate with the district ethics committee's investigation of the grievance. *In re Latinsky, 171 N.J. 403*. Also in 2002, the Supreme Court determined to suspend the respondent for a period of three months for misconduct in two matters. In one, respondent demonstrated gross neglect, lack of diligence, failure to communicate the basis of his fee in writing, failure to expedite litigation and dishonesty. He also charged an unreasonable fee. In both matters, respondent failed to communicate with his clients and failed to cooperate with disciplinary authorities. *In re Latinsky, 171 N.J. 402*.

**TANYA E. LAWRENCE**

Admitted: 1998; Brooklyn, New York

**Suspension 3 Months - 170 N.J. 598 (2002)**

Decided: 2/21/2002 Effective: 3/19/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, while ineligible to practice law in New Jersey and not admitted to practice law in the state of New York, accepted a retainer to handle a matter in New York. The respondent failed to keep her client reasonably informed about the status of

the matter, exhibited a lack of diligence, charged an unreasonable fee, engaged in the unauthorized practice of law in New York, used misleading letterhead in New Jersey and failed to cooperate with disciplinary authorities in the investigation and processing of this matter.

**KENNETH M. LEFF**

Admitted: 1981; Woodbridge (Middlesex County)  
**Reprimand** - 174 N.J. 508 (2002)  
Decided: 11/13/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Bruce J. Kaplan for District VIII  
Respondent failed to appear*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to reasonably communicate with a client in a real estate matter and failed to cooperate with disciplinary authorities during the investigation and processing of that case.

**PAUL A. LEFF**

Admitted: 1983; Staten Island, New York  
**Suspension 6 Months** - 174 N.J. 553 (2002)  
Decided: 11/25/2002 Effective: 8/28/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics  
Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months, retroactive to the date that he was disbarred in the state of New York, was the appropriate discipline for an attorney who engaged in an improper business transaction with a client, represented a client when he had a contrary interest and failed to withdraw from the representation. The respondent also engaged in the practice of law in New York while he was suspended from practicing in that state by using his attorney trust account, commingling personal and client funds in his trust account and filing a false and misleading affidavit of compliance with his suspension that falsely certified that he had fully complied with the suspension order in the state of New York.

**JONATHAN H. LESNIK**

Admitted: 1991; Union (Union County)  
**Admonition** - *Unreported* (2002)  
Decided: 5/22/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Kelly A. Waters for District XII  
Kenneth S. Javerbaum for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, in a divorce matter, failed to file an answer on behalf of his client, as a result of which the court entered a final judgment of divorce by default. The respondent's actions constituted gross neglect, lack of diligence and failure to communicate with his client.

**ERIC M. LEVANDE**

Admitted: 1987; Boca Raton, Florida  
**Suspension 1 Year** - 172 N.J. 72 (2002)  
Decided: 5/9/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics  
Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who had been suspended for one year and one day in the Commonwealth of Pennsylvania. The basis for the disciplinary action there involved an extensive pattern of gross neglect, lack of diligence and failure to communicate by respondent during the time period 1996 and 1997. At this time, respondent ran a high volume, low cost legal practice consisting of bankruptcy, divorce and some criminal matters. He over-expanded with satellite offices and was unable to adequately handle his clientele. In fact, respondent gave each client a form that stated that his office would not answer legal questions over the telephone nor would it return telephone calls. Moreover, the respondent failed to maintain proper financial records and client trust accounts as a result of sloppy bookkeeping. Additionally, the respondent had been previously disciplined in Pennsylvania through two informal admonitions.

**MARC R. LEVENTHAL**

Admitted: 1976; Tel Aviv, Israel  
**Disbarment** - 171 N.J. 140 (2002)  
Decided: 3/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics  
Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was previously disbarred in the state of New York based on a conviction in Israel of the offense of stealing by agent in the amount of \$35,000 as a result of his knowing misappropriation of client escrow funds.

**DAVID L. LOCKARD**

Admitted: Pro Hac 1991; Philadelphia, Pennsylvania

**Suspension 3 Years - 174 N.J. 373 (2002)**

Decided: 10/15/2002

*APPEARANCES BEFORE SUPREME COURT*

*Walton W. Kingsbery, III for Attorney Ethics*

*Anthony J. LaRusso for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law pro hac vice in the state of New Jersey for a period of three years was the appropriate discipline for an attorney who failed to safeguard over \$7,600 in trust funds pending instructions from his client. Those funds were needed to pay a lien against the clients. The respondent could not account for the disposition of those trust monies.

**ROWLAND V. LUCID, JR.**

Admitted: 1968; Morristown (Morris County)

**Reprimand - 174 N.J. 367 (2002)**

Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who practiced law in violation of a Supreme Court order declaring him ineligible to practice law for the year 1998, by reason of his failure to pay the annual attorney registration fee.

The respondent was previously disciplined. In 1990, he received a private reprimand for lack of diligence and failure to communicate with a client. In 1993, he was privately reprimanded once again for gross neglect, lack of diligence, conduct prejudicial to the administration of justice and failure to cooperate with disciplinary authorities. In 1995, he was reprimanded for lack of diligence, failure to communicate and failure to have a written fee agreement. *In re Lucid, 143 N.J. 2.*

**GREGORY P. LUHN**

Admitted: 1982; Morristown (Morris County)

**Disbarment by Consent - 171 N.J. 35 (2002)**

Decided: 3/14/2002

*REPRESENTATIONS*

*John McGill, III for Attorney Ethics*

*Raymond F. Flood for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of over \$177,000 in clients' trust funds. The respondent was

temporarily suspended from the practice of law in New Jersey since March 6, 1998. *In re Luhn, 152 N.J. 591.*

**E. STEVEN LUSTIG**

Admitted: 1982; Hackensack (Bergen County)

**Admonition - Unreported (2002)**

Decided: 4/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Thomas J. McCormick for Attorney Ethics*

*Howard B. Leopold for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who held \$4,800 in his attorney trust account to satisfy an outstanding hospital bill, but failed to disburse those funds for a period of three and one-half years. In addition, for a period of two and one-half years, the respondent practiced law while on the Supreme Court's Ineligible List for failure to pay his annual attorney registration fee. Finally, the respondent failed to maintain proper trust and business account records in accordance with R. 1:21-6.

**ROBERT F. LYLE**

Admitted: 1974; Moorestown (Burlington County)

**Suspension 3 Months - 172 N.J. 563 (2002)**

Decided: 6/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Sudha T. Kantor for District IV*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in his own personal matrimonial matter, made misrepresentations in his divorce complaint that he and his wife had been separated for 18 months when, in fact, the parties had been living apart for only one month.

**JOHN D. LYNCH**

Admitted: 1981; Union City (Hudson County)

**Reprimand - 174 N.J. 295 (2002)**

Decided: 9/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Kenneth J. Fost for District VC*

*Brian J. Neary for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected several client matters, failed to communicate with the clients and failed to cooperate with ethics authorities in the investigation of the matters.

**JOHN R. MAGUIRE**

Admitted: 1976; Flanders (Morris County)

**Disbarment** - Unreported (2002)

Decided: 12/10/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was disbarred in the state of New York following his conviction in the United States District Court for the Southern District of New York for the crimes of conspiracy to defraud the United States (18 U.S.C.A. §371), obstruction of justice (18 U.S.C.A. §1603) and tax fraud [26 U.S.C.A. §7206(1)]. The respondent, and others, created a company called National Abatement Contracting Corp., which was maintained and utilized as a pretense to fraudulently obtain federal contracts and earn millions of dollars for another company that had been barred from direct federal procurement contracts, without disclosing its connection to the former company. In furtherance of this scheme, respondent and others created and submitted false business records and documents to a grand jury in response to a subpoena. The respondent had been temporarily suspended from the practice of law since January 17, 1989.

**SALVATORE J. MAIORINO**

Admitted: 1998; Staten Island, New York

**Reprimand** - 170 N.J. 407 (2002)

Decided: 2/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Michael J. Gentile for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pleaded no contest to an information filed in the state of Connecticut, charging him with fourth degree sexual assault, in violation of C.G.S.A. 53a-73a(a)(2), for improperly touching a minor.

**SAMUEL A. MALAT**

Admitted: 1989; Haddon Heights (Camden County)

**Reprimand** - 174 N.J. 564 (2002)

Decided: 12/10/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Eugene McCaffrey for District IV*

*Carl D. Poplar for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney

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who, in a series of four cases, failed to cooperate with disciplinary authorities, engaged in a lack of diligence, and failed to communicate with several clients. In one other matter, respondent counseled a client to file Chapter 13 Bankruptcy for the express purpose of avoiding a levy on the client's bank account, with the understanding that respondent would fail to conclude the matter so that it would guarantee a dismissal of the bankruptcy. Respondent's action constituted an improper use of the judicial system.

**GEORGE J. MANDLE, JR.**

Admitted: 1970; Linden (Union County)

**Suspension 3 Months** - 173 N.J. 176 (2002)

Decided: 7/12/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Steven Brister for District XII*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected a real estate transaction, failed to act with diligence, and failed to adequately communicate with his clients in this matter. The Court also ordered that, prior to reinstatement, respondent must provide proof of his fitness to practice law and that, on reinstatement, respondent shall practice under a monitor approved by the Office of Attorney Ethics until further order of the Supreme Court.

The respondent has a significant disciplinary history. In 1996, he was reprimanded for misconduct in four matters, including pattern of neglect, gross neglect, failure to act with diligence and failure to cooperate with ethics authorities. *In re Mandle, 146 N.J. 520*. In 1999, he was again reprimanded for gross neglect, lack of diligence and failure to communicate with a client and was additionally ordered to return a \$500 retainer to his client. *In re Mandle, 157 N.J. 68*. In the year 2000, he was temporarily suspended from the practice of law for failing to comply with the Court's prior order requiring that he practice under a proctor. *In re Mandle, 163 N.J. 438*. In 2001, he was again reprimanded for gross neglect, lack of diligence, and failure to properly deliver funds to a client in a real estate matter, as well as failing to cooperate with disciplinary authorities. *In re Mandle, 167 N.J. 609*. Finally, in late 2001, respondent was suspended for a period of three months for gross neglect, lack of diligence and failure to cooperate with ethics authorities. *In re Mandle, 170 N.J. 70*.

**DAWN F. MANNING**

Admitted: 1996; West Orange (Essex County)

**Admonition** - Unreported (2002)

Decided: 10/23/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Robert E. Brenner for District VB  
Erika McDaniel for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a purchaser at a real estate closing. The respondent failed to inform his client to bring the correct amount of funds to closing. On the day of closing, when it was discovered that the buyer had a \$400 shortage, the respondent and the attorney for the seller decided to proceed with the closing and to withhold in escrow \$400 from a broker's commission. The respondent's failure to collect from the buyer sufficient funds to complete the closing constituted a lack of diligence.

**WILLIAM D. MANNS, JR.**

Admitted: 1978; Newark (Essex County)  
**Reprimand - 171 N.J. 145 (2002)**  
Decided: 4/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John T. Wolak for District VA  
Thomas R. Ashley for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to act diligently in representing a client in a personal injury matter and failed to communicate with his client. Moreover, the respondent knowingly made a false statement of material fact to a tribunal when he improperly stated in a certification filed with the court that he did not learn of the dismissal of the client's case until November, when, in fact, the respondent was on notice by the court's July 21 letter that the case had been dismissed.

The respondent had been previously disciplined. In 1999, the respondent received a reprimand for a pattern of neglect, lack of diligence, and failure to communicate with his client. That order also required the respondent to practice under the supervision of a proctor for a period of six months. *In re Manns, 157 N.J. 532.*

**MARTIN M. MARGOLIS**

Admitted: 1961; Verona (Essex County)  
**Admonition - Unreported (2002)**  
Decided: 7/22/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Michael J. Sweeney for Attorney Ethics  
William B. McGuire for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who notarized his client's signature on certain loan

documents even though she signed them outside of his presence.

**MICHAEL A. MARK**

Admitted: 1986; Hawthorne (Passaic County)  
**Admonition - Unreported (2002)**  
Decided: 2/13/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Robert J. Prihoda for Attorney Ethics  
Respondent appeared pro se*

The Disciplinary Review Board accepted a Motion for Discipline by Consent and held that an admonition was the appropriate sanction for an attorney who negligently misappropriated client trust funds as a result of deficient attorney trust and business account records, including a failure to reconcile the attorney trust account on a quarterly basis.

**ALAN H. MARLOWE**

Admitted: 1971; Cliffside Park (Bergen County)  
**Disbarment - 170 N.J. 394 (2002)**  
Decided: 1/23/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics  
Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who accepted \$18,000 to appeal a federal criminal conviction and then misled the client that the appeal was proceeding, when, in fact, it had been dismissed. The respondent never accounted to the client for the \$18,000 fee. The respondent also practiced law while he was suspended in a prior disciplinary case. The Disciplinary Review Board noted:

Obviously, this respondent has shown contempt for disciplinary authorities, indifference to his client's well being, inability B indeed, refusal B to conform to the standards of the profession and, moreover, unwillingness to learn from his prior mistakes. He should not be allowed to practice law again.

The respondent had an extensive record of discipline. In 1990, he was reprimanded for misrepresenting to a trial judge that he had his adversary's consent to an adjournment. *In re Marlowe (unreported)*. Also, in 1990, Mr. Marlowe was suspended for a period of three months for misconduct in two matters, including lack of diligence, pattern of neglect, failure to communicate with a client and

misrepresentation. *In re Marlowe, 121 N.J. 236.* A year later, in 1991, he was again reprimanded for failure to cooperate with disciplinary authorities and then suspended for 14 months, retroactively to September 1990, for inadequate record keeping practices, failure to correct the accounting deficiencies uncovered by the Office of Attorney Ethics' audit and failure to cooperate with the Office of Attorney Ethics in demonstrating compliance with the record keeping rules. *In re Marlowe, 126 N.J. 379.* The respondent was suspended for one year in 1997 for gross neglect, failure to abide by a client's decision, lack of diligence, failure to keep the client reasonably informed, failure to comply with attorney record keeping requirements, failure to cooperate with disciplinary authorities, and failure to notify existing clients of his suspension. *In re Marlowe, 152 N.J. 20.* Finally, in 2000, the respondent was suspended for six months for gross neglect, misrepresentation, failure to notify clients of his suspension and failure to cooperate with disciplinary authorities. *In re Marlowe, 165 N.J. 20.*

**ALLEN C. MARRA**

Admitted: 1967; Montclair (Essex County)  
**Suspension 6 Months - 170 N.J. 410 (2002)**  
Decided: 2/5/2002 Effective: 3/22/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John McGill, III for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who represented a client in a negligence action and then grossly neglected the matter, failed to reply to client's reasonable requests for information, failed to return the client's file upon termination of the representation and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent has a disciplinary history. In 1992, he was privately reprimanded for lack of diligence and failure to communicate in a civil matter. A year later, he was publicly reprimanded for failing to communicate with a client, having an employee "notarize" false signatures, failing to deposit settlement proceeds into his trust account, and failing to cooperate with disciplinary authorities. *In re Marra, 134 N.J. 521.* In 1997, respondent was suspended for a period of three months for gross neglect, failure to abide by a client's decisions, lack of diligence, failure to communicate, failure to cooperate with disciplinary authorities, and conduct involving dishonesty, fraud, deceit or misrepresentation. *In re Marra, 149 N.J. 650.* He was restored to practice on October 6, 1998.

**ALLEN C. MARRA**

Admitted: 1967; Montclair (Essex County)  
**Suspension 1 Year - 170 N.J. 411(2002)**  
Decided: 2/5/2002 Effective: 7/28/1997

*APPEARANCES BEFORE REVIEW BOARD*

*John McGill, III for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who unethically practiced law in two cases while already suspended by the Supreme Court and who, after an audit of his trust and business accounts, was found to have substantial record keeping violations, even though he had previously been the subject of a random audit.

The respondent has a disciplinary history. In 1992, he was privately reprimanded for lack of diligence and failure to communicate in a civil matter. A year later, he was publicly reprimanded for failing to communicate with a client, having an employee "notarize" false signatures, failing to deposit settlement proceeds into his trust account, and failing to cooperate with disciplinary authorities. *In re Marra, 134 N.J. 521.* In 1997, respondent was suspended for a period of three months for gross neglect, failure to abide by a client's decisions, lack of diligence, failure to communicate, failure to cooperate with disciplinary authorities, and conduct involving dishonesty, fraud, deceit or misrepresentation. *In re Marra, 149 N.J. 650.* He was restored to practice on October 6, 1998

**ALLEN C. MARRA**

Admitted: 1967; Montclair (Essex County)  
**Suspension 3 Months - 170 N.J. 412 (2002)**  
Decided: 2/5/2002 Effective: 3/22/2002

*APPEARANCES BEFORE SUPREME COURT*

*John McGill, III for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in one client matter, displayed a lack of diligence, failed to communicate with the client, failed to promptly notify the client of his suspension, and failed to prepare a written fee agreement. In a second matter, the respondent exhibited lack of diligence, failed to communicate with the client and failed to maintain an attorney business account as required by *R. 1:21-6.*

The respondent has a disciplinary history. In 1992, he was privately reprimanded for lack of diligence and failure to communicate in a civil matter. A year later, he was publicly reprimanded for failing to

communicate with a client, having an employee "notarize" false signatures, failing to deposit settlement proceeds into his trust account, and failing to cooperate with disciplinary authorities. *In re Marra*, 134 N.J. 521. In 1997, respondent was suspended for a period of three months for gross neglect, failure to abide by a client's decisions, lack of diligence, failure to communicate, failure to cooperate with disciplinary authorities, and conduct involving dishonesty, fraud, deceit or misrepresentation. *In re Marra*, 149 N.J. 650. He was restored to practice on October 6, 1998.

**DENNIS A. MAYCHER**

Admitted: 1973; Wallington (Bergen County)  
**Suspension 3 Months** - 172 N.J. 317 (2002)  
Decided: 6/4/2002 Effective: 7/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Barry D. Epstein for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to a one-count information charging him with willfully failing to maintain the originals or copies of records of transactions regarding the establishment of letters of credit of more than \$10,000 from a place outside the United States, in violation of 12 U.S.C.A. §1956, a misdemeanor offense. In this case, his client gave him \$90,000 in cash for a real estate closing. As noted by the Disciplinary Review Board in their unreported decision:

In order to avoid the filing of a currency transaction report ('CTR'), respondent had an employee go to various bank branches and make 19 separate deposits of \$9,000 each, into his attorney trust account. Respondent deposited the remaining \$4,000 into his attorney business account. According to respondent, he wanted to avoid the filing of a CTR because an inquiry by the Internal Revenue Service ('IRS') could have delayed the closing of the transaction, which would likely have caused the deal to collapse.

**DENNIS S. McALEVY**

Admitted: 1965; Union City (Hudson County)  
**Admonition** - Unreported (2002)  
Decided: 10/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*  
*Brian J. Neary for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was found guilty of contempt in the face of the court by a Superior Court judge. The Review Board found that, instead of acting courteously towards the judge, the respondent "sarcastically interfered with the judge's ability to conclude the hearing in an orderly fashion." As a result, his conduct was unethical, in violation of RPC 3.5(c).

**BRIAN D. McARDLE**

Admitted: 1986; Succasunna (Morris County)  
**Reprimand** - 171 N.J. 473 (2002)  
Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*IsraelDubin for Committee on Attorney Advertising*  
*Respondent appeared pro se*

The Supreme Court of New Jersey, on a Motion for Discipline by Consent recommended by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who published newspaper flyers containing statements that were potentially misleading to the public.

**CHARLES H. McAULIFFE**

Admitted: 1969; Chester (Morris County)  
**Reprimand** - 171 N.J.85 (2002)  
Decided: 4/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Keith L. Flicker for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Morris County, to a one-count accusation charging him with third degree conspiracy to possess a controlled dangerous substance, Tylenol with Codeine, in violation of N.J.S.A. 2C:5-2 and N.J.S.A. 2C:35-10a(1). Specifically, in 1997, the respondent obtained Tylenol and Codeine in amounts in excess of those authorized on the prescription. Although respondent had legitimate prescriptions for the medication, he arranged with a pharmacist he knew to obtain additional pills "as a matter of convenience" so that he did not have to visit his doctors or the pharmacy as often as he otherwise would.

**WILLIAM J. McDONNELL**

Admitted: 1976; South Amboy (Middlesex County)

**Admonition** - *Unreported (2002)*

Decided: 6/21/2002

*APPEARANCES BEFORE REVIEW BOARD*

*James E. Stahl for District VIII*

*William T. Harth, Jr. for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to have a written fee agreement, as required by *RPC 1.5(b)*, with a client whom he was representing in various matters over a two-year period. During this time, respondent withdrew money from his trust account as fees for representation without apprising the client of the specifics of the representation and/or the fees associated with these matters. Respondent also failed to submit billing records to the client indicating the amount of fees charged for the various proceedings.

**EUGENE F. McENROE**

Admitted: 1971; Matawan (Monmouth County)

**Suspension 3 Months** - *172 N.J. 324 (2002)*

Decided: 6/4/2002 Effective: 7/8/2002

*APPEARANCES BEFORE SUPREME COURT*

*Nitza I. Blasini for Attorney Ethics*

*Charles J. Uliano for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who willfully failed to file federal and state income tax returns for the tax years 1988 through 1994, in violation of *26 U.S.C.A. §7203*. As the Disciplinary Review Board noted in its unreported decision:

(R)espondent admitted that his purpose in not filing the returns was to free up his 'cash flow' and to pay college tuition for the couple's daughter. There can be no doubt, thus, that his failure to file the tax returns was willful.

**LAWRENCE J. McGIVNEY**

Admitted: 1990; Trenton (Mercer County)

**Admonition** - *171 N.J. 34 (2002)*

Decided: 3/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Robert J. Gilson for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney

who, while an Assistant Prosecutor, improperly signed the name of his superior to an affidavit in support of an emergent wiretap application, moments before its review by the court. The respondent knew at the time that the judge may have been misled by his action, which constituted a violation of *RPC 3.3(a)(5)*. The respondent did bring the matter to the attention of the court within one day of his misconduct and had his superior properly sign the affidavit.

**KEITH A. McKENNA**

Admitted: 1989; Morristown (Morris County)

**Reprimand** - *172 N.J. 644 (2002)*

Decided: 6/27/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Denelle Waynick for District VA*

*James B. Ventantonio for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to act diligently in representing a client in a wrongful termination of employment action. Further, the respondent settled the matter in direct contradiction to directions received from the client.

**JOHN G. MENNIE**

Admitted: 1986; Ocean (Monmouth County)

**Reprimand** - *174 N.J. 335 (2002)*

Decided: 9/17/2002

*APPEARANCES BEFORE SUPREME COURT*

*Brian Gillet for Committee on Attorney Advertising*

*David B. Rubin for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who published a misleading advertisement that he had obtained a \$7 million verdict, without disclosing the fact that that verdict had been set aside as grossly disproportionate to the injuries sustained by the plaintiff.

**ROBERT S. MILLER**

Admitted: 1964; East Orange (Essex County)

**Suspension 3 Months** - *170 N.J. 259 (2002)*

Decided: 1/8/2002 Effective: 2/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Mark Denbeaux for District VA*

*Henry N. Luther, III for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a criminal defendant without providing a written fee agreement, without providing the client



sufficient information to make an informed decision, and who engaged in a conflict of interest and made misleading statements to his clients and to the court.

The respondent has prior discipline. In 1985, he was publicly reprimanded for improperly entering into a business transaction with a client, failing to act with diligence in an estate matter and withdrawing legal fees from estate funds without the prior consent of his client. *In re Miller, 100 N.J. 537*. In 1995, he received an admonition for lack of diligence and failure to communicate in a domestic relations matter. On March 1, 1999, he was temporarily suspended for failing to pay administrative costs assessed in connection with the above admonition. He was restored to practice on April 6, 1999.

**RAJANIKANT C. MODY**

Admitted: 1975; Jersey City (Hudson County)

**Suspension 3 Months - 170 N.J. 406 (2002)**

Decided: 2/5/2002 Effective: 3/11/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Wanda Molina for District VI*

*James F. Ryan for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who improperly engaged in a prohibited attorney-client business transaction by borrowing \$15,000 from clients whom he had previously represented in the purchase of the property. The respondent then defaulted after paying less than \$500. Additionally, the respondent's second mortgage loan was without notice to or consent from the first mortgagee, a practice referred to as "silent seconds" because they are prohibited by the first mortgagee. The respondent also failed to cooperate with disciplinary authorities during the investigation of this matter despite representations that he would do so.

The respondent has a disciplinary history. In 1988, he was privately reprimanded for representing both the buyer and seller of a business, thereby creating a conflict of interest. In 1989, he was again privately reprimanded for requesting an adjournment of a telephone conference with an administrative law judge, representing that he would be in another court in Middlesex County. When the judge tried to reach respondent at the telephone number that respondent had provided, he discovered that the telephone number was answered by a malfunctioning answering machine in Essex County.

**PHILIP J. MORAN**

Admitted: 1975; Skillman (Somerset County)

**Admonition - Unreported (2002)**

Decided: 2/11/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brenda F. Engel for District VII*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to timely pay his client's (the purchaser's) real estate taxes, sewer and water charges and home warranty premium until three months after the closing, while failing to reply to his client's numerous telephone calls for information. The respondent also failed to return to the clients \$350 representing an overpayment made by them towards the closing proceeds. Furthermore, although the respondent did not represent the sellers, he collected a \$15 Federal Express fee at closing for the purpose of overnighting the payoff check to the mortgagee. However, because the payoff check was not sent timely and was sent by regular mail, the mortgagee required that, pursuant to the sellers' mortgage document, an additional month's interest be assessed against the sellers. That amount of \$819.51 was ultimately paid by the attorney from his own funds. However, after the closing, it was discovered that \$1,059.50 was due back to the sellers. Instead of making the repayment, the respondent reimbursed himself \$819.50 previously paid to the mortgagee and then failed to refund the balance of \$239.99 that was not in dispute.

**KEITH O. D. MOSES**

Admitted: 1990; Jersey City (Hudson County)

**Admonition - Unreported (2002)**

Decided: 10/23/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nesle A. Rodriguez for District VI*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to reply to several requests for information from a district ethics committee about two grievances filed against him.

**RICHARD P. MULÉ**

Admitted: 1982; Trenton (Mercer County)

**Disbarment by Consent - 171 N.J. 144 (2002)**

Decided: 4/2/2002

*REPRESENTATIONS*

*Janice L. Richter for Attorney Ethics*

*Lindsay L. Burbage for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of in

excess of \$104,000 in a real estate transaction. The respondent was temporarily suspended from the practice of law in New Jersey on February 25, 2002.

**GERALD A. NUNAN**

Admitted: 1983; Morristown (Morris County)

**Suspension 3 Months - 174 N.J. 405 (2002)**

Decided: 11/1/2002 Effective: 12/2/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Jane E. Doran for District X*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, while ineligible to practice law in New Jersey by reason of his nonpayment of the Annual Attorney Registration fee, failed to represent a matrimonial client diligently, failed to properly communicate with the client and advise him that his answer and defense had been stricken and that a warrant had been issued for his arrest. The respondent also failed to cooperate with disciplinary authorities during the investigation and processing of this matter. In 1998, respondent was previously admonished for gross neglect, lack of diligence, failure to communicate and failure to cooperate with disciplinary authorities in that matter.

**CRAIG V. O'CONNOR**

Admitted: 1976; Morristown (Morris County)

**Reprimand - 174 N.J. 298 (2002)**

Decided: 9/5/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Andrew J. Blair for District XI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who, while representing a client in connection with a fraud and breach-of-contract case, misrepresented to the client that he had filed a complaint, when such was not true. The respondent had previously entered into a diversionary agreement, which he failed to fulfill, thus leading to the instant proceedings.

**DANIEL J. O'HARA, JR.**

Admitted: 1971; Summit (Union County)

**Disbarment by Consent - 172 N.J. 326 (2002)**

Decided: 6/11/2002

*REPRESENTATIONS*

*John J. Janasie for Attorney Ethics*

*Gleb Glinka, of Cabot, VT, consulted with respondent for the purpose of assuring the voluntariness of his consent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend allegations that he knowingly misappropriated in excess of \$600,000 from estate funds. The respondent had been temporarily suspended from the practice of law in New Jersey since January 30, 2002. *In re O'Hara, 170 N.J. 397.*

**STEVEN M. OLITSKY**

Admitted: 1976; Caldwell (Essex County)

**Disbarment - 174 N.J. 352 (2002)**

Decided: 10/1/2002

*APPEARANCES BEFORE SUPREME COURT*

*David E. Johnson, Jr. for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who practiced law after he was suspended, pleaded guilty to stalking a paramour, pleaded guilty to three counts of the unauthorized practice of law, knowingly offered evidence he knew to be false and knowingly made a false statement of fact or law to a tribunal.

The respondent had an extensive history of discipline. In 1993, he was privately reprimanded for failure to communicate with a client and failure to prepare a written fee agreement. In 1996, he was admonished for failure to prepare a written fee agreement and failure to inform a client that he would not perform any legal work until his attorney fee was paid in full. He was suspended for three months, effective June 1, 1997, for banking and record keeping violations, failure to safeguard property and conduct involving dishonesty, fraud, deceit or misrepresentation, including commingling personal and client funds in his trust account to avoid an Internal Revenue Service levy on his personal funds. In June 1998, he was again suspended for three months, consecutive to his prior suspension, for misconduct in three matters, including gross neglect, lack of diligence, failure to explain a matter to the extent reasonably necessary to permit the client to make an informed decision about the representation, failure to communicate with a client and failure to provide clients with a written fee agreement. In 1999, he was suspended from the practice of law for a period of six months, retroactive to November 16, 1997, for gross neglect, pattern of neglect, failure to communicate with a client, failure to prepare a written fee agreement, continued representation of a client

following termination of the representation and failure to surrender client property on termination of the representation. Finally, in 2000, respondent was suspended for an additional six months, effective May 16, 1998, for lack of diligence and failure to communicate with a client.

**RAFAEL M. PANTOJA, JR.**

Admitted: 1985; New York City, New York

**Disbarment - 170 N.J. 319 (2002)**

Decided: 1/23/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who pled guilty in the Supreme Court of the State of New York, County of New York, to three counts of grand larceny in the second degree, two counts of attempted grand larceny in the second degree, and one count of grand larceny in the third degree, totaling approximately \$250,000 in funds and property to which he was not entitled.

**PAUL J. PASKEY**

Admitted: 1983; Bayonne (Hudson County)

**Suspension 3 Months - 174 N.J. 334 (2002)**

Decided: 9/17/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Thomas M. Venino, Jr. for District VI*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in two separate matters, demonstrated gross neglect, failure to communicate and failure to cooperate with disciplinary authorities. In 1998, he was admonished for gross neglect, lack of diligence and failure to communicate in a civil matter, including failure to advise his client that the complaint had been dismissed.

**PAUL J. PASKEY**

Admitted: 1983; Bayonne (Hudson County)

**Suspension 3 Months - 174 N.J. 562 (2002)**

Decided: 12/10/2002 Effective: 12/18/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Richard N. Campisano for District VI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected two separate client matters, failed to communicate with clients and, in one case, misrepresented the status of the case to a client.

The respondent was previously disciplined. In 1998, he received an admonition for gross neglect, lack of diligence and failure to communicate with the client. In May 2002, he was temporarily suspended from the practice of law after the discovery of serious irregularities in his record keeping practices. Later, in 2002, the Supreme Court suspended respondent for three months in a default matter for gross neglect, failure to communicate with the client, and failure to cooperate with disciplinary authorities. *In re Paskey, 174 N.J. 334.*

**ARTHUR S. PATAKY**

Admitted: 1959; Union City (Hudson County)

**Suspension 3 Months - 170 N.J. 599 (2002)**

Decided: 2/21/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Owen P. Burzynski for District VB*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who agreed to represent clients in recovering \$100,000 from their former accountant who had sold them fraudulent municipal bonds. The respondent, while ineligible to practice law in New Jersey due to his failure to pay the annual attorney registration fee for a period of five years, grossly neglected their matter and never filed a lawsuit against the accountant and never followed up on the matter, refusing to return the clients' files. The respondent also failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**MICHAEL G. PAUL**

Admitted: 1989; Metuchen (Middlesex County)

**Suspension 3 Months - 173 N.J. 23 (2002)**

Decided: 6/27/2002 Effective: 7/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Steven D. Altman for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney

who was discovered in an undercover police operation to have received a bag of cocaine containing 1.83 grams. After being indicted in Middlesex County for possession of cocaine, contrary to the provisions of *N.J.S.A. 2C:35-10(a)(1)*, a third degree crime, respondent was enrolled in the Middlesex County Pretrial Intervention Program for a period of 12 months.

**BEN W. PAYTON**

Admitted: 1992; Colonia (Middlesex County)  
**Suspension 3 Months - 172 N.J. 34 (2002)**  
Decided: 4/25/2002 Effective: 7/16/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Anne L. Cascone for District XII*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a client in a wrongful termination of employment lawsuit, but then failed to contact his client and ignored her repeated telephonic and written inquiries about the status of the case. The respondent also failed to provide his client with a written retainer agreement, as required under *RPC 1.5(b)*.

The respondent has a disciplinary history. In 1997, he received an admonition for gross neglect, lack of diligence and failure to communicate with a client. In 2001, a reprimand was issued to him for a lack of diligence, failure to communicate with a client, failure to communicate a fee in writing, failure to expedite litigation, and failure to cooperate with disciplinary authorities. *In re Payton, 167 N.J. 2*. Again, in 2001, respondent was suspended for a period of three months for gross neglect, lack of diligence, failure to communicate with clients, failure to provide the client with a written fee agreement and record keeping deficiencies in his trust and business accounts, in violation of *R. 1:21-6. In re Payton, 168 N.J. 109*.

**JAMES F. PEARN, JR.**

Admitted: 1983; Maple Glen, Pennsylvania  
**Suspension 3 Years - 172 N.J. 316 (2002)**  
Decided: 6/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years, based upon respondent's three-year suspension in the Commonwealth of Pennsylvania, was the appropriate discipline for an attorney who charged excessive fees and engaged in a pattern of misrepresentations to clients

and courts. Specifically, from July 1991 through September 1996, respondent billed numerous clients for approximately 340 hours of services not provided. As a result, his law firm returned between \$30,000 and \$40,000 to the relevant clients. The respondent did not disclose to the clients that he had not performed the services for which they had paid and that their cases had been or could be adversely affected.

**THOMAS A. PENN**

Admitted: 1977; Elizabeth (Union County)  
**Suspension 3 Years - 172 N.J. 38 (2002)**  
Decided: 4/25/2002 Effective: 5/25/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Jules D. Zalon for District VB*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who represented a client as a defendant in a mortgage foreclosure action, failed to file or serve an answer and permitted a default to be entered against the client. Thereafter, he advised the client that the case had been successfully concluded and fabricated an order and signed the name of a judge to the order in order to placate the client. The respondent then lied to his adversary and ethics officials. Finally, the respondent practiced law at a time while he was declared ineligible by the Supreme Court for failure to pay his annual attorney registration fee.

**THOMAS A. PENN**

Admitted: 1977; Elizabeth (Union County)  
**Suspension 3 Months - 173 N.J. 190 (2002)**  
Decided: 7/12/2002 Effective: 5/25/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Jules D. Zalon for District VB*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was retained by a client to represent her in a will contest for which he was paid \$750. The respondent neither performed any services for the client nor contacted her thereafter. The respondent also failed to cooperate with disciplinary authorities during the processing of this matter.

The respondent was previously disciplined. In 1996, he was suspended from the practice of law for a period of three years after he fabricated and signed a

court order, made misrepresentations (including in a certification) to his client, his adversary and the ethics investigator, failed to communicate with his client, failed to explain a matter to permit the client to make informed decisions regarding the representation and practiced law while ineligible. *In re Penn*, 172 N.J. 38.

**ROGER C. PETERMAN**

Admitted: 1993; Haworth (Passaic County)  
**Suspension 6 Months - 174 N.J. 341 (2002)**  
Decided: 9/17/2002 Effective: 12/5/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Louis P. Sengstacke for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Passaic County, to one count of obtaining a controlled dangerous substance (Oxiconin) by fraud, in violation of *N.J.S.A. 2C:35-13.*, a third degree crime.

The respondent had been temporarily suspended from the practice of law since September 5, 2001, following his guilty plea. Additionally, respondent was disbarred by the Supreme Court of Pennsylvania in 1995 following a conviction of two counts of failure to make required disposition of funds received. When he committed the offense, in 1980, he was addicted to heroin. Thereafter, he applied for admission in New Jersey. The Supreme Court of New Jersey, in 1992, reviewed the Committee on Character recommendation and admitted the respondent, finding that it was not clear that "a knowing misuse of non-client funds in 1980 would have invariably warranted disbarment" (in New Jersey). *Application of Peterman*, 139 N.J. 201, 209 (1993).

**ALFRED A. PORRO, JR.**

Admitted: 1959; Lyndhurst (Bergen County)  
**Disbarment - 174 N.J. 401 (2002)**  
Decided: 10/30/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent did not appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was convicted of three counts of mail fraud (18 U.S.C.A. §341 and 2), one count of conspiracy to obstruct justice (18 U.S.C.A. §371), nine counts of false statements to a financial institution (18 U.S.C.A. §1014) and three counts of false subscription on a tax return (26 U.S.C.A. §7206(1)). His wife was also convicted of a

number of the same counts. In commenting on the character of these individuals, the Disciplinary Review Board found that:

Respondents committed numerous serious crimes, starting in 1987 and continuing until 1994, when they lied to federal agents investigating them, and fabricated documents in response to a grand jury subpoena. Furthermore, respondents used their positions as attorneys to commit and to conceal their crimes. Finally, their crimes were motivated by personal greed. Therefore, disbarment is the appropriate sanction.

**JOAN A. PORRO**

Admitted: 1980; Lyndhurst (Bergen County)  
**Disbarment - 174 N.J. 400 (2002)**  
Decided: 10/30/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics Respondent*  
*did not appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was convicted of three counts of mail fraud (18 U.S.C.A. §341 and 2), one count of conspiracy to obstruct justice (18 U.S.C.A. §371), one count of tax evasion (26 U.S.C.A. §7201) and four counts of false subscription on a tax return (26 U.S.C.A. §7206(1)). Her husband was also convicted of a number of the same counts. In commenting on the character of these individuals, the Disciplinary Review Board found that:

Respondents committed numerous serious crimes, starting in 1987 and continuing until 1994, when they lied to federal agents investigating them, and fabricated documents in response to a grand jury subpoena. Furthermore, respondents used their positions as attorneys to commit and to conceal their crimes. Finally, their crimes were motivated by personal greed. Therefore, disbarment is the appropriate sanction.

**JOSEPH E. POVEROMO**

Admitted: 1988; Hackensack (Bergen County)  
**Reprimand - 170 N.J. 625 (2002)**  
Decided: 2/21/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Brian D. Iton for District IIA  
Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who failed to cooperate with disciplinary authorities during the investigation and processing of an ethics grievance.

**JOSEPH E. POVEROMO**

Admitted: 1988; Hackensack (Bergen County)

**Reprimand - 170 N.J. 627 (2002)**

Decided: 2/21/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Charles J. Kahwaty for District IIA  
Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who agreed to represent a client in two personal injury actions and then failed to do any work. The respondent failed to keep the client informed of the status of her matters and failed to cooperate with disciplinary authorities during the investigation of this ethics grievance.

**JOHN M. POWER**

Admitted: 1992; Paramus (Bergen County)

**Reprimand - 171 N.J. 470 (2002)**

Decided: 4/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Israel Dubin for Committee on Attorney Advertising  
Michael P. Ambrosio for respondent*

The Supreme Court of New Jersey accepted a Motion for Discipline by Consent recommended by the Disciplinary Review Board and reprimanded a respondent who caused a flyer to be distributed in the Bergen Record, the Star-Ledger and other newspapers providing information about living trusts, which contained statements that had the potential to mislead prospective clients. The Supreme Court also ordered that, for a period of two years, respondent shall submit for approval to the Committee on Attorney Advertising all proposed advertisements, solicitations, flyers and related communications for his practice.

**ROBERT M. READ**

Admitted: 1944; Westfield (Union County)

**Reprimand - 170 N.J. 319 (2002)**

Decided: 1/23/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics  
Joseph L. Garrubbo for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an 85 year old attorney who charged excessive fees in two estate matters, failed to utilize retainer agreements and misrepresented the nature of his fees and/or commissions in both matters.

**RONALD REICHSTEIN**

Admitted: 1959; Bayonne (Hudson County)

**Reprimand and Temporary Suspension**

*172 N.J. 647 (2002)*

Decided: 7/2/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Ronald L. Washington for District VC  
Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand coupled with a temporary suspension from the practice of law was the appropriate discipline for an attorney who assisted his client in the transfer of the marital home in an attempt to prevent a judgment creditor from collecting on its judgment. Thereafter, respondent assisted in the improper sale of the house to innocent purchasers and also prepared and had his client sign a false affidavit of title in connection with the sale.

**KIRK D. RHODES**

Admitted: 1981; Scotch Plains (Union County)

**Disbarment by Consent - 173 N.J. 327 (2002)**

Decided: 7/25/2002

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics  
Edwin J. McCreedy for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who pled guilty in the Superior Court of New Jersey, Law Division, Union County, to an accusation charging him with misapplication of entrusted property held for clients, the amount of which exceeded \$75,000, a second degree crime. The respondent had been temporarily suspended from the practice of law since June 27, 2001. *In re Rhodes, 168 N.J. 412.* The respondent had also received an admonition in 1996 for negligently misappropriating \$10,000 in clients' funds.

**DANIEL D. RICHARDS**

Admitted: 1963; Far Hills (Somerset County)

**Disbarment - 172 N.J. 583 (2002)**

Decided: 6/18/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics  
Respondent appeared pro se*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to the first six counts of an 18 count federal superseding indictment charging him with embezzlement from an organization receiving federal benefits, in violation of 18 U.S.C.A. §666(a)(1)(A). Factually, the respondent was the general partner of several real estate limited partnerships that built and operated federally subsidized low income rural housing projects. Pursuant to loan agreements and mortgages, as well as federal regulations, each limited partnership was required to establish and maintain a reserve account. The respondent agreed with the Rural Renting Housing Program of the Farmers' Home Administration that no funds could be withdrawn from the projects' reserve accounts without that entities prior approval. Despite this restriction, respondent embezzled \$64,000 by making unauthorized withdrawals from the reserve.

**JEFFREY M. RIEDL**

Admitted: 1973; Wyckoff (Bergen County)

**Reprimand** - 172 N.J. 646 (2002)

Decided: 7/2/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics  
Frank J. Cuccio for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a real estate matter by failing to secure a discharge of mortgage for approximately 18 months after the mortgage was satisfied, failed to supervise his paralegal, negligently executed closing documents in four separate transactions and allowed his paralegal to sign trust account checks.

**HAMDI M. RIFAI**

Admitted: 1994; Newark (Essex County)

**Reprimand** - 171 N.J. 435 (2002)

Decided: 4/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics  
Dominic J. Aprile for respondent*

The Supreme Court of New Jersey, on review of the Disciplinary Review Board's recommendation to accept a Motion for Discipline by Consent, held that a reprimand was the appropriate discipline for an attorney who agreed to handle a complex litigation matter on

behalf of a client who had previously been represented by another law firm. During the transition between the two law firms, certain orders were entered but not served on the respondent that led to judgments against his clients for which writs of execution were obtained. Thereafter, the respondent took some action in the matter and was able to obtain an order vacating the default judgments. However, his conduct constituted gross neglect and lack of diligence as well as a failure to communicate with the client. Ultimately, the clients retained new counsel. The respondent, however, did not release the file to the new attorney as required under RPC 1.16(d), requiring the attorney to obtain an order directing the attorney to turn over the file.

**ROBERT E. RIVA**

Admitted: 1979; Short Hills (Essex County)

**Disbarment** - 172 N.J. 232 (2002)

Decided: 5/9/2002

*APPEARANCES BEFORE SUPREME COURT*

*John J. Janasie for Attorney Ethics  
Respondent appeared pro se*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated clients' trust funds. The respondent had deposited a \$92,500 deposit for a real estate transaction into his trust account. Beginning five days after that deposit and for the next three months, respondent periodically issued to himself 33 trust account checks bearing the notation "fees" in their memo columns, although he did not identify a particular client matter. As a result, the shortage for the deposited monies reached over \$24,000. The respondent failed to keep proper trust account records and, at the time he issued a trust account check, he did not know with any certainty whether he had sufficient funds to cover the disbursement. Although he alleged that he believed that he had \$30,000 of his family's monies that were deposited in the trust account and therefore could not have knowingly misappropriated the funds, the Disciplinary Review Board found that there was no evidence to support this claim.

In 1999, the respondent was reprimanded for gross neglect, lack of diligence and misrepresentation to a client about the status of a matter. *In re Riva, 157 N.J.34*. Additionally, in 1999, the Supreme Court ordered that all checks drawn on respondent's trust account be co-signed by an individual approved by the Office of Attorney Ethics. *In re Riva, 157 N.J.34*.

**RICHARD M. ROBERTS**

Admitted: 1971; West Caldwell (Essex County)

**Admonition** - *Unreported* (2002)

Decided: 7/8/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Peter A. Greene for District VB*  
*Michael J. D'Alessio for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to provide his client in a criminal matter with a written retainer agreement, in violation of *RPC 1.5(b)*.

**STEPHEN H. ROSEN**

Admitted: 1982; Glen Ridge (Essex County)  
**Suspension 3 Months** - *170 N.J. 630 (2002)*  
Decided: 2/21/2002 Effective: 3/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*  
*C. Robert Sarcone for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who displayed gross neglect, lack of diligence, charged an unreasonable fee, breached an escrow agreement and engaged in a pattern of neglect in three client matters, and, in a fourth client matter, also exhibited gross neglect, lack of diligence over a six-year period in settling an estate, failed to communicate with his clients and failed to protect their interests on termination of the representation.

The respondent was previously disciplined. In 1995, he received a reprimand for lack of diligence, failure to communicate with a client and conflict of interest violations. *In re Rosen, 139 N.J. 387*. In 1996, he was admonished for improperly affixing his jurat on closing documents and failing to cooperate with ethics authorities.

**ROBERT G. ROSENBERG**

Admitted: 1976; Paterson (Passaic County)  
**Reprimand** - *170 N.J. 402 (2002)*  
Decided: 2/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Thomas J. McCormick for Attorney Ethics*  
*Salvatore T. Alfano for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated client trust funds in amounts ranging from \$400 to \$12,000 between January 1, 1997 and June 30, 1998. The respondent also failed to maintain appropriate trust and business account records as required by *R. 1:21-6*. The Court also ordered that the respondent submit to the Office of Attorney Ethics quarterly reconciliations of his attorney trust and business accounts prepared by a certified public

Office of Attorney Ethics

accountant approved by the Office of Attorney Ethics for the indefinite future. The Court further ordered that, for a period of two years, the respondent practice law under the supervision of a practicing attorney approved by the Office of Attorney Ethics. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

In 1992, the respondent was privately reprimanded for gross neglect and lack of diligence.

**WESLEY S. ROWNIEWSKI**

Admitted: 1991; Newark (Essex County)  
**Admonition** - *Unreported (2002)*  
Decided: 1/10/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*  
*Respondent failed to appear*

The Disciplinary Review Board, on a certified record from the District VA (Essex-Newark) Ethics Committee, held that an admonition was the appropriate discipline for an attorney who failed to cooperate with the Office of Attorney Ethics during its investigation and processing of a grievance, including failing to file a timely answer to a formal complaint.

**JOEL B. RUBINSTEIN**

Admitted: 1990; Marlton (Burlington County)  
**Suspension 3 Months** - *171 N.J. 31 (2002)*  
Decided: 3/5/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Susan L. Moreinis for District IV*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, while retained to pursue a collection action in New Jersey, failed to file the complaint until nearly one year after he was retained, pursued the matter with a lack of diligence, and also failed to maintain a bona fide office in New Jersey, as required by *R. 1:21-1(a)*.

**SAMUEL L. SACHS**

Admitted: 1982; East Windsor (Mercer County)  
**Admonition** - *Unreported (2002)*  
Decided: 2/14/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Eugene McCaffrey, Jr. for District IV*  
*Hal K. Haveson for respondent*



The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to properly supervise his secretary, allowing the dismissal of three cases for various deficiencies and neglected a fourth matter resulting in the client's termination of the attorney's representation.

**ALFRED SANDERSON**

Admitted: 1955; Woodbury (Gloucester County)

**Admonition** - *Unreported (2002)*

Decided: 2/11/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Paul J. Felixon for District IV*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, in a driving while intoxicated case, made discourteous and disrespectful communications to the municipal court judge and to the municipal court administrator.

**WILLIAM E. SCHMELING**

Admitted: 1981; Manasquan (Monmouth County)

**Suspension 3 Years** - *174 N.J. 539 (2002)*

Decided: 11/25/2002 Effective: 02/22/1999

*APPEARANCES BEFORE SUPREME COURT*

*John McGill, III for Attorney Ethics*

*Edward A. Genz, Jr. for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years, retroactive to the date of respondent's temporary suspension, was the appropriate discipline for an attorney who grossly neglected the administration of an estate by failing to safekeep the estate's funds and property, failing to comply with record keeping provisions, and failing to cooperate with disciplinary authorities during the investigation and processing of this matter. As a result, the respondent's reckless disregard of his fiduciary responsibilities cost the estate hundreds of thousands of dollars.

**MARC M. SCOLA**

Admitted: 1993; Allamuchy (Warren County)

**Disbarment** - *175 N.J. 58 (2002)*

Decided: 12/10/2002

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney

who pled guilty in the Superior Court of New Jersey, Law Division, Warren County, to one count of third degree theft by deception, in violation of *N.J.S.A. 2C:20-4* and *N.J.S.A. 2C:2-6*, and one count of third degree witness tampering, in violation of *N.J.S.A. 2C:28-5(a)(1)*. The respondent had been temporarily suspended from the practice of law since July 23, 2001. *In re Scola, 168 N.J. 636 (2001)*.

**ADAM K. SHALOV**

Admitted: 1988; Red Bank (Monmouth County)

**Disbarment by Consent** - *174 N.J. 290 (2002)*

Decided: 9/4/2002

*REPRESENTATIONS*

*Janice L. Richter for Attorney Ethics*

*Peter W. Kenny for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending charges alleging the knowing misappropriation of \$252,000 of mortgage proceeds he received in a real estate transaction. The respondent had been temporarily suspended from the practice of law since August 16, 2002.

**DANIEL N. SHAPIRO**

Admitted: 1984; Hackensack (Bergen County)

**Reprimand** - *174 N.J. 368 (2002)*

Decided: 10/15/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Robyn M. Gnudi for District IIB*

*Michael L. Kingman for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in four client matters, engaged in gross neglect, lack of diligence, failure to communicate with clients and failure to cooperate with disciplinary authorities during the investigation of the matter.

**K. KAY SHEARIN**

Admitted: 1980; Elsmere, Delaware

**Suspension 3 Years** - *172 N.J. 560 (2002)*

Decided: 6/18/2002 Effective: 7/17/2000

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent did not appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who was suspended for a period of three years in the state of

Delaware for knowingly disobeying the order of Delaware Chancery Court, demonstrating a reckless disregard for the truth by making statements characterizing the mental health of the vice-chancellor of that court and because she prosecuted a patently frivolous lawsuit and appeal over many months causing two federal courts, many judicial defendants and many other members of the legal system to waste time and resources on matters lacking in merit. The suspension was made retroactive to July 17, 2000. That was the date on which she was previously suspended for a period of one year for earlier misconduct in the same chancery court matter where she made false statements of material fact to the court, engaged in conduct intended to disrupt that tribunal, brought a non-meritorious claim, failed to disclose to a tribunal legal authority known to be directly adverse to the client's position and not disclosed by opposing counsel, and making a material false statement to a third party. *In re Shearin*, 166 N.J. 558.

**AARON M. SMITH**

Admitted: 1981; Camden (Camden County)  
**Disbarment by Consent** - 170 N.J. 626 (2002)  
Decided: 2/26/2002

*REPRESENTATIONS*

*Walton W. Kingsbery, III for Attorney Ethics*  
*Wayne Powell for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted that he could not successfully defend pending disciplinary charges alleging numerous violations including the distribution of cocaine, practicing law while ineligible, gross neglect, pattern of neglect, receiving an unreasonable fee and failure to cooperate with disciplinary authorities.

At the time of his Consent to Disbarment, two recommendations for discipline issued by the Disciplinary Review Board were pending with the Supreme Court. Both of these recommendations by the Board involved separate recommendations for three-month suspensions.

**PAUL W. SONSTEIN**

Admitted: 1973; Voorhees (Camden County)  
**Suspension 3 Months** - 174 N.J. 293 (2002)  
Decided: 9/5/2002 Effective: 10/5/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*  
*Philip B. Seaton for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney

who overreached his client by charging over \$11,000 more in legal fees than he was entitled to under the contingency fee rule, signed his client's name to the personal injury settlement check without her consent, failed to advise the lienholder, who had an interest in the settlement funds, that the funds were in his possession, and, although he assured the lienholder that he would protect its lien, which he knew to be over \$29,000, escrowed only \$15,000 and then failed to pay the lienholder.

**WILLIAM B. SPARKS**

Admitted: 1983; Woodbury (Gloucester County)  
**Suspension 3 Months** - 172 N.J. 91 (2002)  
Decided: 5/9/2002 Effective: 6/10/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Liane P. Levenson for District I*  
*Thomas H. Ward for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected a client's matter and failed to reapply for Medicaid benefits, for which the client would have been entitled, and ignored monthly invoices sent by the care facility to which his ward was confined. Additionally, respondent misled the facility about his actions and ultimately stopped communicating with his client. As a result, both he and his client were the subject of a lawsuit in which the respondent defaulted, resulting in a judgment against him personally in the amount of \$58,923.

The respondent had been previously disciplined. In 1988, he received a private reprimand due to a nine-month delay in preparing mortgage documents. In 1991, he was privately reprimanded for failure to take action on a client's matter, resulting in the dismissal of the complaint; failure to reply to the client's inquiries about the status of the matter; and failure to reply to the district ethics committee investigator's request for information about the grievance. Six years later, in 1997, he was publicly reprimanded for gross neglect, lack of diligence and failure to communicate in three client matters. *In re Sparks*, 151 N.J. 478.

**JEFFREY M. SPIEGEL**

Admitted: 1992; Warwick, New York  
**Suspension 3 Years** - 172 N.J. 74 (2002)  
Decided: 5/9/2002 Effective: 10/20/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who pled guilty in the Supreme Court of the State of New York to a violation of Section 352c(5) of the New York General Business Law, the "Martin Act", a Class E felony. The respondent's criminal conduct consisted of trading in securities of several companies after having received confidential non-public information about such companies as the result of insider trading, for which the respondent received trading profits of \$66,281. Additionally, he passed the tip along to others, who reaped a total illegal trading profit of \$917,925. The respondent had been temporarily suspended from the practice of law in New Jersey since October 22, 2000. *In re Spiegel*, 165 N.J. 514.

**JON STEIGER**

Admitted: 1975; Manasquan (Monmouth County)  
**Admonition - Unreported (2002)**  
Decided: 7/22/2002

**REPRESENTATIONS BEFORE REVIEW BOARD**

*Jeffrey S. Apell for District IIIB*  
*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to reply to numerous communications from a district ethics committee, thus failing to cooperate with the disciplinary system as required by court rule.

**ROBERT S. SUSSER**

Admitted: 1979; Red Bank (Monmouth County)  
**Suspension 2 Years - Unreported (2002)**  
Decided: 4/1/2002 Effective: 12/10/2000

**APPEARANCES BEFORE REVIEW BOARD**

*Brian J. Molloy was special presenter*  
*Theodore W. Geiser for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of two years was the appropriate discipline for an attorney who engaged in a flagrant conflict of interest and then, after filing a substitution of counsel, continued to represent the clients "behind the scenes" by concealing his further involvement in the case. The respondent also made a material misstatement of fact to a bankruptcy court when he stated in his petition that he had set aside sufficient funds to pay his personal mortgage obligations when, in fact, this was untrue.

The respondent has a disciplinary history. In 1989, he received a private reprimand for engaging in a conflict of interest by representing a corporation that owed \$47,000 to a matrimonial client and then became a

stockholder and officer in a corporation that assumed the indebtedness to the matrimonial client. In 1997, he was suspended from the practice of law for a period of three years for prematurely releasing escrow funds to a corporation in which he had an interest and for misrepresenting the status of the escrowed funds to the buyer's attorney. *In re Susser*, 152 N.J. 37.

**JOSEPH TABOADA, JR.**

Admitted: 1974; Newark (Essex County)  
**Admonition - Unreported (2002)**  
Decided: 3/15/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Michael H. Freeman for District VB*  
*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained to obtain permanent legal resident status for a client upon his marriage to a United States Citizen. Although the respondent had not regularly represented the client previously, he did not communicate to him, in writing, the basis or rate of the fee before or within a reasonable time after beginning the representation as required by *RPC 1.5(b)*.

**FREDERICK M. TESTA**

Admitted: 1973; West Caldwell (Essex County)  
**Admonition - Unreported (2002)**  
Decided: 3/12/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Rhonda L. Casson for District XI*  
*Anthony Fiorello for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, in representing the executrix of an estate, sold the decedent's house but failed to act diligently when he did not make final estate distribution until one year after the house was sold. Additionally, the respondent did not provide a detailed accounting of legal fees, as requested by the estate's subsequent attorneys. Further, the respondent failed to reply to the district ethics committee's investigator when she attempted to obtain information about the grievance.

**TERRY G. TUCKER**

Admitted: 1985; Bridgeton (Cumberland County)  
**Reprimand - 174 N.J. 347 (2002)**  
Decided: 10/1/2002

**APPEARANCES BEFORE REVIEW BOARD**

*Frederic L. Shenkman for District I*  
*Joseph D. O'Neill for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who made unwanted, sexual advances to a bankruptcy client.

**GARY H. UNTRACHT**

Admitted: 1979; Basking Ridge (Somerset County)

**Disbarment - 174 N.J. 344 (2002)**

Decided: 9/23/2002

*APPEARANCES BEFORE SUPREME COURT*

*Nitza I. Blasini for Attorney Ethics*

*Lawrence S. Lustberg for respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated clients' trust funds in various ways between January 1998 and March 2000. More particularly, in at least 14 client matters, the respondent drew checks for his fees and/or costs prior to depositing the corresponding settlement funds in his trust account, thereby invading the funds of other clients; issued to himself more than 140 trust account checks, totaling \$137,545 for fees and costs, without attributing the disbursements to any client matter; in at least 27 matters, paid settlement funds to clients months after he had deposited the settlement proceeds and taken his fee, it being his practice to use the funds -- \$85,641.88 -- to cover advanced and excessive fees he paid out to himself. Respondent admitted that he knew, at least by March 1999, that his practice of writing trust account checks, without assuring himself that the corresponding settlement funds had been received, was leading to the invasion of trust funds. Furthermore, he made a knowing decision not to rectify this practice.

This matter was discovered solely as a result of the Random Audit Compliance Program.

**AUGUSTINE U. UZODIKE**

Admitted: 1990; East Orange (Essex County)

**Disbarment - 170 N.J. 395 (2002)**

Decided: 1/29/2002

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated over \$41,000 in clients' trust funds. The respondent also failed to cooperate with the Office of Attorney Ethics' investigation of this matter, by reason of which he was temporarily suspended from the practice of law on August 18, 1998. He was then reinstated to practice on September 18, 1998 after he appeared for an audit. This matter was discovered

solely as a result of the Trust Overdraft Notification Program.

The respondent had been previously disciplined. In 1999, he was suspended from the practice of law for a period of six months for gross neglect, failure to communicate with a client, failure to safeguard property, record keeping deficiencies and giving false material information to disciplinary authorities. *In re Uzodike, 159 N.J. 510.* In 2000, Mr. Uzodike was again suspended for a period of three months for failing to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation. *In re Uzodike, 165 N.J. 478.*

**DONALD C. VAILLANCOURT**

Admitted: 1985; Fort Lee (Bergen County)

**Disbarment by Consent - 173 N.J. 172 (2002)**

Decided: 7/11/2002

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*

*Robert B. Reed for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who pled guilty in the United States District Court for the District of New Jersey to an information charging him with mail fraud, in violation of *18 U.S.C.A. §1341 and 2.* The information charged the respondent with mail fraud in connection with skimming \$2.2 Million from the Grand Union Supermarket chain, where he was employed as a vice president. The respondent had been temporarily suspended from the practice of law since May 7, 2002. *In re Vaillancourt, 172 N.J. 39.*

**KENNETH VAN RYE**

Admitted: 1979; Elmwood Park (Bergen County)

**Suspension 6 Months - 170 N.J. 405 (2002)**

Decided: 2/5/2002 Effective: 9/20/2001

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Louis D'Arminio and Mark Lichtblau for District IIA*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who failed to cooperate with disciplinary authorities during the investigation and processing of two ethics grievances. In addition, in one grievance, the respondent failed to prepare a written fee agreement, failed to reply to the client's reasonable request for information and failed to maintain attorney trust and business accounting records, as required by *R. 1:21-6.*

The respondent has a lengthy disciplinary history. In 1991, he was suspended for three months for

failure to maintain attorney books and records in accordance with *R. 1:21-6*, failure to submit a written formal accounting to a client regarding receipts and disbursements, failure to properly designate an account as an "Attorney Trust Account" and withdrawal of fees from a client account without first depositing them into his Attorney Business Account. The respondent also improperly witnessed the false signature on a document and affixed his jurat. *In re Van Rye, 121 N.J. 664*. In 1992, the respondent was again suspended from the practice of law, this time for two years, for entering into a business transaction with a client without advising him to obtain independent counsel, executing a jurat on a document outside the presence of the signer, improperly altering a deed, signing closing documents without a power-of-attorney and disbursing mortgage proceeds without obtaining the requisite authorization. *In re Van Rye, 128 N.J. 108*. In 2001, he was again suspended from the practice of law for a period of three months for failing to act with diligence in representing his clients and for failing to properly communicate with them. The respondent also failed to cooperate with disciplinary authorities during the processing of this matter. *In re Van Rye, 167 N.J. 592*.

**RAFAEL A. VARGAS**

Admitted: 1989; New York City, New York  
**Suspension 3 Years - 170 N.J. 255 (2002)**  
Decided: 1/8/2002 Effective: 3/3/2000

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to a one-count information charging him with making false statements on immigration and naturalization documents, in violation of *18 U.S.C.A. §1001*. Factually, the respondent falsified INS notices of approval for prior clients by changing the names on the documents. Thereafter, he submitted the false documents to the INS to illegally obtain residency status for new clients. Moreover, respondent lied to investigators, claiming that a paralegal had falsified the documents.

The respondent had been temporarily suspended from the practice of law in New Jersey since March 3, 2000. *In re Vargas, 163 N.J. 1*.

**DONNA J. VELLEKAMP**

Admitted: 1984; Closter (Bergen County)  
**Reprimand - 171 N.J. 74 (2002)**  
Decided: 3/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Samuel J. Samaro for District IIB*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who under pressure from her supervisor attorney, Melinda Lowell, made misrepresentations to matrimonial clients on the clients' bills and counseled and assisted a matrimonial client to cash a bearer bond to pay Vellekamp's supervisor's legal bill, in violation of a court order.

**ANTHONY N. VERNI**

Admitted: 1990; West Orange (Essex County)  
**Suspension 3 Months - 172 N.J. 315 (2002)**  
Decided: 6/4/2002 Effective: 7/1/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Eric Tunis for District VC*  
*Kalmen H. Geist for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who charged excessive fees in three matters and knowingly made false statements of material fact to disciplinary authorities during the processing of the ethics grievances. In one uncomplicated divorce matter, among other things, the respondent attempted to make the divorce case appear more complicated than it was in order to justify a higher fee. For example, he charged \$550 for the preparation of a case information statement, when in fact he never prepared the document. In another matter involving litigation in the state of Florida regarding stolen funds and trade secrets, respondent accepted a \$2,500 retainer from a client although respondent was not licensed to practice in the state of Florida.

In the third matter, the respondent represented a client who was sued by his television cable provider for theft of services. He accepted a \$5,000 retainer and billed his client for over \$8,700. A district fee arbitration committee determined that the respondent had overcharged the client and reduced the fee by almost half. Among respondent's excesses was a charge of 1.5 hours (\$300) to prepare a form acknowledgment of service, and 1.0 hour (\$200) to prepare a cover letter to the court clerk enclosing papers for filing. The fee arbitration panel determined that each of these items should have taken only minutes to prepare. Further, during the processing of this disciplinary case, the respondent lied to the district ethics committee when he stated that he had drafted interrogatories in one case on his own, without the use of All-State's forms. In fact, he had used these purchased forms.

The respondent was previously disciplined. In 2001, he was reprimanded for gross neglect and failure to comply with court directives and inquiries. *In re Verni*, 167 N.J. 276.

**SCOTT E. WALTERSHIED**

Admitted: 1992; Fairfield (Essex County)  
**Disbarment by Consent** - 172 N.J. 97 (2002)  
Decided: 5/9/2002

*REPRESENTATIONS*

*John McGill, III for Attorney Ethics*  
*Richard Kahn consulted with respondent solely to assure the voluntariness of his consent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of a respondent who admitted that he could not successfully defend a pending formal complaint alleging the knowing misappropriation of at least \$1,900 of proceeds in a real estate matter.

**SHIRLEY WATERS-CATO**

Admitted: 1977; East Orange (Essex County)  
**Suspension 6 Months** - 171 N.J. 72 (2002)  
Decided: 3/5/2002

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who was retained in 1995 to represent a client in a bus accident litigation. Thereafter, she took no action on the client's behalf and, after she was suspended from the practice of law in an unrelated matter in April 1995, simply shut down her office and ignored her responsibilities to communicate with the client and notify her of respondent's suspension in writing so that she could engage another attorney. The respondent also failed to cooperate with disciplinary authorities during the investigation of this matter.

The respondent has a significant disciplinary history. In 1991, she received a private reprimand for misconduct in three matters, which included failure to utilize a retainer agreement, conflict of interest, direct communication with a client represented by counsel, lack of diligence and gross neglect. In 1995, the respondent was suspended for a period of three months for record keeping violations and failure to cooperate with ethics authorities. *In re Waters-Cato*, 139 N.J. 498. Again, in 1995, the respondent was suspended from practice for one year, retroactive to April 4, 1995, for gross neglect, pattern of neglect, false statement and failure to disclose a material fact to a seller's attorney, misrepresentations of

the status of client matters, conduct prejudicial to the administration of justice, and failure to cooperate with disciplinary authorities. *In re Waters-Cato*, 142 N.J. 472. In 1997, she received a three-year suspension from practice for gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to return a client file upon termination of the representation, and failure to cooperate with disciplinary authorities. *In re Waters-Cato*, 151 N.J. 492. Finally, in 1999, the respondent was suspended from the practice of law for three months for gross neglect, lack of diligence, failure to communicate with her client, and failure to cooperate with disciplinary authorities.

**BERNARD I. WEINSTEIN**

Admitted: 1967; Howell (Monmouth County)  
**Admonition** - *Unreported* (2002)  
Decided: 7/22/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Tanis Deitch for District IX*  
*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to reply to reasonable requests from his client as to the status of two personal injury cases and failed to return the client's file to his new attorney when requested.

**MICHAEL J. WEINTRAUB**

Admitted: 1971; Flemington (Hunterdon County)  
**Suspension 6 Months** - 171 N.J. 78 (2002)  
Decided: 3/19/2002

*APPEARANCES BEFORE REVIEW BOARD*

*William S. Wolfson for District XIII*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who engaged in an improper business transaction with a client prohibited by *RPC 1.8(a)* and engaged in a course of deceitful conduct by manipulating his client into paying respondent's bills. The respondent also misrepresented to the client in a personal injury matter that the insurance adjuster had agreed to a \$300,000 settlement when such was not the case. That matter was ultimately settled by a new attorney for \$70,000.

**HELAYNE M. WEISS**

Admitted: 1993; Woodridge (Bergen County)  
**Reprimand** - 173 N.J. 323 (2002)  
Decided: 7/18/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Alfred C. Pescatore for District IIB*

*Frederic S. Kessler for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected an estate matter and failed to act diligently. The respondent failed to file a fiduciary income tax return for more than four years after she had been retained. Moreover, the respondent prepared no estate accounting, nor any refunding bonds and releases for the beneficiaries of the estate.

**WILLIAM P. WELAJ**

Admitted: 1973; Somerville (Somerset County)

**Suspension 3 Months - 170 N.J. 408 (2002)**

Decided: 2/5/2002 Effective: 3/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*John J. Janasie for Attorney Ethics*

*Michael B. Himmel for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in a conflict of interest which adversely affected the administration of justice in Somerset County. Specifically, the respondent represented in excess of 120 criminal defendants in Somerset County at a time when his former law partner, Nicholas Bissell, was the prosecutor of Somerset County. During this period of time, the respondent unethically engaged in several business ventures with the prosecutor, in spite of the fact that he knew that these business ventures created an impermissible conflict of interest. Additionally, respondent's conduct was not only unethical itself, but his participation also facilitated Prosecutor Bissell's violation of conflict of interest rules and decisions prohibiting a county prosecutor's former law associate from practicing criminal law in the same county while a business relationship existed.

**JEROME T. WILLIAMS**

Admitted: 1979; Passaic (Passaic County)

**Reprimand - 172 N.J. 325 (2002)**

Decided: 6/4/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who willfully failed to timely file federal and state income tax returns for the years 1995 through 1998 and

failed to maintain required attorney trust and business account records in accordance with Rule 1:21-6.

The respondent was previously disciplined. In 1995, he received a reprimand for gross neglect and lack of diligence in a civil proceeding. *In re Williams, 139 N.J. 445*. Later, in 1995, respondent also was reprimanded for failure to collect sufficient funds to pay a title insurance fee and failure to reply to the title company's attempts to collect the fee. In addition, he commingled personal and client funds, failed to maintain trust and business account records and failed to cooperate with disciplinary authorities in the processing of that matter. *In re Williams, 142 N.J. 553*.

**DAVID J. WITHERSPOON**

Admitted: 1994; Newark (Essex County)

**Admonition - Unreported (2002)**

Decided: 3/18/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Stephen H. Knee for District VA*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to maintain proper trust and business account records as required by *R. 1:21-6*, commingled personal and trust funds in his trust account and issued trust account checks for personal and other non-client expenses. Additionally, the respondent's letterhead was misleading by listing mail drop addresses in a locale in which he did not maintain a law office.

**LEONARD J. WITMAN**

Admitted: 1975; Florham Park (Morris County)

**Admonition - 174 N.J. 338 (2002)**

Decided: 9/17/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Michael J. Sweeney for Attorney Ethics*

*Jeffrey Speiser for respondent*

The Supreme Court of New Jersey held that an admonition was the appropriate discipline for an attorney who, in connection with litigation involving the mental competency of a client to execute a will, filed an affidavit with the court expressing the opinion that the client was capable of signing the will and trust documents without revealing the fact that he executed a prior affidavit expressing the opinion that the client was incapable of signing these instruments. Additionally, the respondent gave inaccurate testimony at a deposition in the matter.

**JAMES H. WOLFE, III**

Admitted: 1979; Orange (Essex County)

**Admonition - Unreported (2002)**

Decided: 6/4/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Virginia A. Lazala for District VB*

*Respondent failed to appear*

The Supreme Court of New Jersey held that an admonition was the appropriate discipline for an attorney who failed to cooperate with disciplinary authorities during the investigation of this matter. The substantive disciplinary charges against him were dismissed.

The respondent has an extensive disciplinary history. In 1998, he was admonished for failing to advise his clients of the status of their matters. In 2001, he was reprimanded for gross neglect, lack of diligence and lack of communication. *In re Wolfe, 167 N.J. 277*. He also received a three-month suspension in 2001 for gross neglect, lack of diligence, failure to keep a client reasonably informed and failure to cooperate with disciplinary authorities. *In re Wolfe, 167 N.J. 278*. Finally, the respondent was again reprimanded in 2001 for failure to communicate with a client. *In re Wolfe, 170 N.J. 71*.

**CASELL WOOD, JR.**

Admitted: 1974; Plainfield (Union County)

**Suspension 3 Months - 170 N.J. 628 (2002)**

Decided: 2/21/2002 Effective: 3/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Michael B. Blacker for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who negligently misappropriated clients' trust funds due to his failure to maintain appropriate required attorney trust account records, and who employed Leroy Gipson, a disbarred attorney, to perform services for him. In 1985, the respondent was privately reprimanded for similar record keeping violations.

**PETER A. WOOD**

Admitted: 1993; Williamstown (Gloucester County)

**Suspension 3 Months - 174 N.J. 507 (2002)**

Decided: 11/13/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a client in a products liability claim. The respondent filed suit and settled the case for \$2,000, while misrepresenting to the client that the case was settled for \$25,000. Moreover, he had the client sign a release that did not list the settlement figures. Thereafter, he ignored the client's repeated telephone calls inquiring when the monies would be available, and, due to his further inaction, caused the lawsuit to be dismissed with prejudice. Additionally, respondent failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**ALLEN ZARK**

Admitted: 1976; Bayonne (Hudson County)

**Admonition - Unreported (2002)**

Decided: 2/8/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Kim R. Onsdorf for District VI*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a client in a personal injury action and failed for a period of seven months to keep his client adequately informed about the status of the matter. Additionally, the respondent failed to cooperate with ethics authorities during the investigation of the matter.





**ATTORNEY  
DISCIPLINE  
SYSTEM**

**Chapter Three**



“Today, we again reaffirm the rule announced in *Wilson* and hold that disbarment is the appropriate sanction in cases where it has been shown, by clear and convincing evidence, that an attorney has knowingly misappropriated client funds. We accept as an inevitable consequence of the application of this rule that rarely will an attorney evade disbarment in such cases. Public confidence in the “integrity and trustworthiness of lawyers” requires no less.” (Citing *In re Wilson*, 81 *N.J.* 451, 456)

Chief Justice Deborah T. Poritz  
*In re Greenberg*, 155 *N.J.* 138, 151 (1998)



# THE DISCIPLINE SYSTEM

## ANNUAL HIGHLIGHTS

This year was one of the most challenging years for the attorney disciplinary system since its major restructuring in 1994. Both an overall increase in total pending caseloads and an increasing backlog in the Office of Attorney Ethics' (OAE) complex disciplinary caseload were the primary symptoms. As shown in **Figure 11**, total pending statewide disciplinary caseloads have been growing since 1999. At the end of that year, the number of pending disciplinary cases reached their lowest level (1,093) in over a decade. However, for the next three years that number has grown from 1,215 in 2000, to 1,269 in 2001, to 1,314 at the end of 2002. After five straight years of calendar clearance following a major restructuring of the disciplinary system in 1994, 2002 concluded the third straight year where the number of cases disposed did not eclipse the number of cases added.

The OAE's backlog challenges mentioned at the outset of this section relate to the loss of experienced staff in the OAE's Complex Investigative Group, together with a continued increase in the number of new complex cases filed over the last three years. The OAE's Complex Group handles serious, complex and emergent disciplinary matters statewide.

The staffing problems experienced by the OAE were explained in last year's annual report. They involved the continued loss of several of our most experienced forensic auditors and investigators with over 20 years of expertise. From 1999 through 2001 the OAE had a 16% average vacancy rate in its Complex Investigative Group, which has nine authorized line positions. As noted last year, the impact of such losses on complex and long-term investigations is profound. While there was little turnover in 2002, the impact

### Disciplinary Caseload Progression

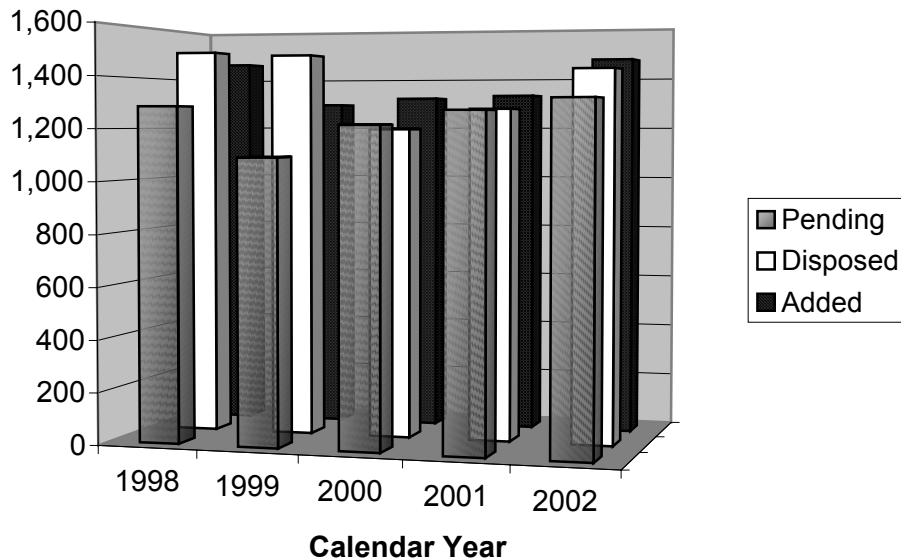


Figure 11

of several years of prior vacancies continued to be felt in 2002 and will continue into 2003. The result is a lower degree of compliance with Supreme Court time goals, despite increased efforts to cope with the problem.

Coupled with a continuing increase in the number of new complex cases filed, the backlog of OAE cases continued to grow in 2002. The trend of increasing OAE dockettings of complex matters began in 2000 when 440 new matters were opened, compared to 425 new cases in 1999. In 2001 the increase continued with 526 additions. In 2002, 687 new investigations were added. A number of factors have come together to explain increased filings. Primary among them is well known – the economy. Lawyers suffer economic difficulties, just as does the general population. An additional factor is the increasing number of lawyers admitted to the New Jersey Bar. As shown in **Figure 13**, the increase in the number of lawyers admitted to practice in this state is dramatic and always factors into regulatory efforts. Lawyer growth increases competition among lawyers and causes more lawyers to push the ethical envelope. Lawyers are also often involved in business ventures of all kinds that require financial resources. As the economy slows, many of them are pressed to meet their obligations and temptations to use other people’s money, temporarily or for longer periods, increases. Inevitably, some succumb. 2002 saw increases in trust account overdraft notifications from financial institutions, as well as other grievances about lawyers’ handling money. These matters can often be difficult and time-consuming to unravel and to investigate. Financial matters often involve painstaking investigations and prosecutions.

The number of the OAE’s backlogged cases increased in 2002, continuing the past trend. Beginning at the end of 2000 the OAE had 63 cases in backlog. That number increased to 97 at the end of 2001. By the end of 2002, the backlog reached 133 cases. These matters range in age from 1½ to 3½ years. At the same time, the number of OAE active cases pending investigation rose from 265 in 2000, to 331 at the conclusion of 2001, to its current number of 464 in 2002.

In order to help to deal with this trend, the Supreme Court authorized the transfer of two OAE investigators who had been working in the OAE’s District VA (Essex – Newark). Those individuals will be deployed in 2003 to assist in dealing with the OAE’s increasing backlog. It is hoped that the addition of these investigators will help to begin to stem the rise in these older complex over-goal cases. Volunteer attorney members of District VA will assume investigations of a number of cases in that district for 2003.

Overall, the attorney discipline system began the year 2002 with a total caseload of 1,269 grievances

that was carried over from prior years.

During the year, 1,472 new filings were received and docketed and 1,428 were disposed of. As of December 31, 2002, the system had a total pending caseload of 1,314 matters remaining. **Figure 12.** Allowing for 272 untriable (i.e. inactive) cases, the total active caseload remaining at year-end was actually 1,042. Of the active cases pending at year's end, almost eighty-five percent (84.9%) are in the investigative stage, while just over (15.1%) are in the hearing process. Last year, the year-end breakdown was 77% investigations and 23% hearings.

<b>Statewide Grievance Caseload</b>		
<b>Pending 1/1/02</b>		<b>1,269</b>
Filings	1,472	
Dispositions	1,428	
<b>Pending 12/31/02</b>		<b>1,314</b>
Investigations	885	
Hearings	187	
Untriable	272	

**Figure 12**

Statewide, at the end of calendar year 2002, there was a one percent drop in compliance with Supreme Court investigative goals, from 76% in 2001 to 75% in 2002. Time goals call for standard and complex investigations to be completed within six and nine months of docketing, respectively. The change is more dramatically shown when looking at the average age of cases pending at year’s end. At the conclusion of 2001 the average investigative age was 161 days, or 5.4 months. By the end of 2002, that figure rose to 184 days, or 6.1 months.

The compliance rate and the age of investigations ranged widely within the disciplinary system. The volunteer district committees have performed well at a rate of 84% for 2002, with an average age of 125 days (4.2 months). Their compliance rate is up from 77% in 2001, where the average age was 129 days (4.3 months). The OAE’s Complex Group met time goals for pending investigations 71% of the time at an average age of 218 days, or 7.3 months. This compares to a 2001 time goal rate of 71% with an average age of 203 days, or 6.8 months. The OAE’s

District Group was compliant 80% or more of the time for most of the year, but ended up at 60%. At year's end, that group had an average investigative age of 236 days, or 7.8 months, compared to last years 91% compliance rate, with an average age of 128 days, or 4.3 months. There are two reasons for the decrease in compliance. The first relates to a long-term employee illness. The second reason is due to the inability of a volunteer district secretary to process the cases in that district over a significant period of time. A new secretary was installed in early 2003. That secretary is now resolving old cases and working to reduce the secretarial backlog.

Disciplinary hearings also have time goals. The goal is for all hearings to be completed within six months from the time an answer is filed. Either a three-person district panel or, in complex and difficult matters, a special ethics master, presides over hearings. Statewide, the compliance rate remained almost the same at 54% at the end of 2001 (with an average age of 229 days, or 7.6 months) compared to a 53% compliance rate (and an average age of 266 days (8.9 months)) by year-end 2002. Forty-six percent (46%) of hearings were in backlog in 2001, compared to 47% at the end of 2002. In recent years, the OAE has noted a trend in the increasing length of contested hearings in its cases. Over the last two years several cases have consumed about 50 separate days of hearing. The typical hearing has also increased from one to two days to about three to five days.

In conclusion, the three-year trend of an increase in OAE backlog of complex cases, and new OAE cases is cause for serious concern about the disciplinary system. Some reallocation of resources has been made for 2003 in an attempt to correct the problems of aging complex cases. If these steps do not succeed, the quality of justice may suffer and provable cases of unethical conduct may be lost.

Historically, the problem of caseload increases and backlog is cyclical in New Jersey. Over the years the Supreme Court has repeatedly addressed the unacceptable backlog in investigations and the lack of sufficient resources to handle them through careful studies by blue ribbon commissions every ten years: the Kirchner Committee in 1971, the Sullivan Commission in 1981 and the Michels Commission in 1991. Now, eleven years after the Michels Commission was empanelled, we again are seeing a developing caseload problem. Each commission that has studied such problems in the past has recommended to the Court that additional resources be provided. The attorney discipline process in this state continues to be subject to a delicate balance. Resources must be adjusted promptly, as necessary, to meet increasing caseloads and backlogs. Our lodestar must be the Supreme Court's goals and the public's confidence in our regulatory effort. Future budget requests will continue to address the resources necessary to meet these goals.

## Attorney Population

New Jersey continues to be among the fastest growing lawyer populations in the country. Its location in the populous northeast business triangle between New York, Philadelphia and Washington, D.C. is undoubtedly one factor attracting new lawyers to the bar. Practicing near three of the largest metropolitan centers in the country provides great business opportunities and geographic flexibility in serving clients.

The Garden State attorney population has increased more than six fold in the last 32 years, growing from 11,408 in 1970 to the present total of 77,958, including those attorneys who were admitted in December 2002. **Figure 13.** Moreover, the 2002 figure is more than twice the total of 38,408 lawyers admitted to practice law in the state just 14 years ago in 1988.

Currently, there is one lawyer for every 110 people in the Garden State. At the end of 2002, New Jersey had 77,958 lawyers out of a total population of 8,590,300.

On average, over each of the last three years 2,648 new lawyers were admitted to practice. At the current admissions rate, projections show that by the end of the year 2006, just three years away, a total of 88,551 lawyers will be members of the New Jersey Bar. Moreover, if current recent trends continue, we will reach 101,793 attorneys by the year 2011. **Figure 13.**

Nationally, New Jersey ranks sixth out of 51 jurisdictions in the number of lawyers admitted to practice. According to a July 1, 2002 survey, the top five most populous states for lawyers are in New York (188,921), California (186,315), Pennsylvania (86,031), Texas (80,199) and the District of Columbia (76,317). New Jersey had 75,177 admitted attorneys at that time.

The growth in our bar population will continue to be a factor in the number of disciplinary inquiries and grievances filed, as well as the number of attorneys who are sanctioned annually for ethical misconduct.

## Lawyer Population Growth

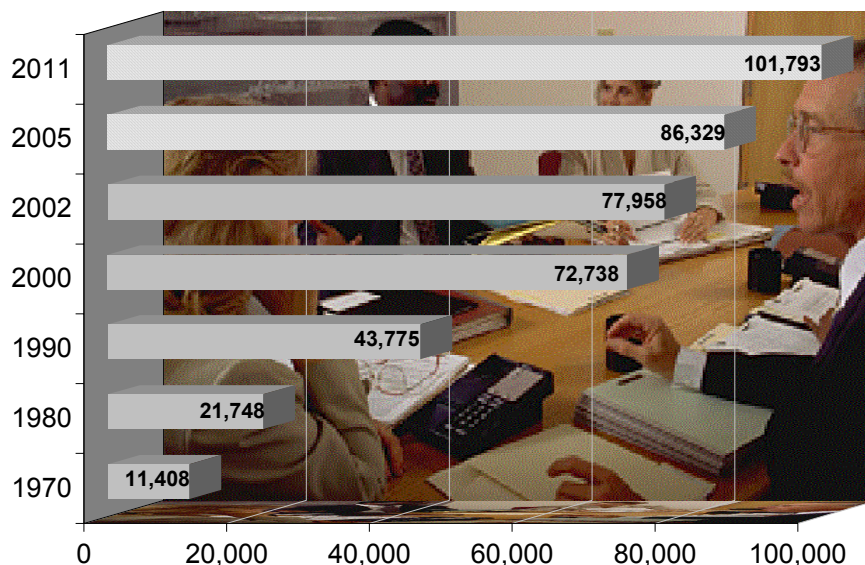


Figure 13

## Administration

New Jersey's attorney disciplinary system consists of three levels. **Figure 14.** Those levels are:

- ❖ Office of Attorney Ethics and District Ethics Committees
- ❖ Statewide Disciplinary Review Board, and
- ❖ Supreme Court of New Jersey

The first level consists of 17 regionalized district ethics committee (referred to as "committees"), supervised and managed by the Office of Attorney Ethics (OAE). District committees generally are established along county lines.

District committees consist of attorney and public members who serve pro bono to investigate, prosecute and decide disciplinary matters. Each committee consists of three officers: a chair, who is the chief executive officer and the one responsible for all investigations; a vice chair, who is responsible for all cases in the hearing stage; and a secretary, who is the

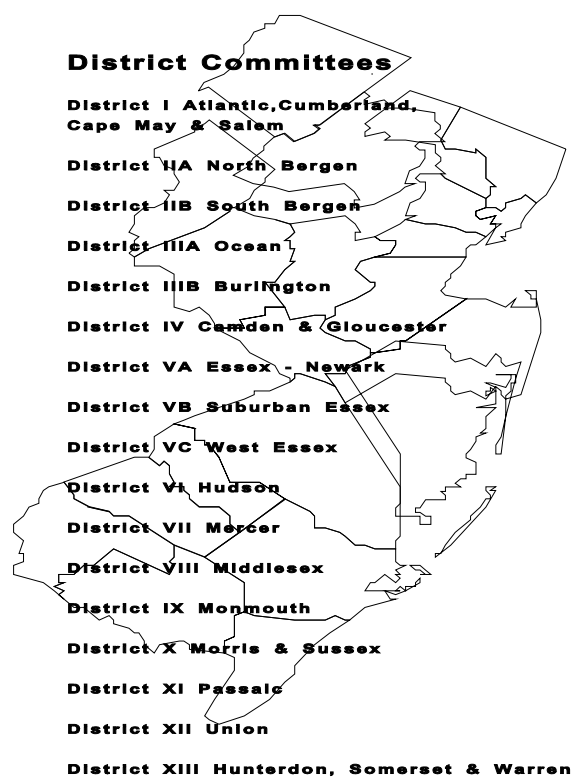
administrator who receives and screens all inquiries and routes all docketed grievances.

The OAE is responsible for overseeing the operations of all district ethics committees. Through its District Investigative Group, the OAE also investigates all grievances in District IV (Camden & Gloucester Counties) and a small portion of the cases in District VA (Essex-Newark) and in District IIIA (Ocean County). Through its Complex Investigative Group, the OAE also exercises statewide jurisdiction over the investigation and prosecution of serious, complex and emergent matters.

The second level of the disciplinary system is the Disciplinary Review Board (the Review Board). The Review Board is the intermediate appellate tribunal in disciplinary matters. Subject to the Supreme Court's confirmatory order, the Review Board's decisions to impose discipline are final in all cases, except recommendations for disbarment. The Review Board also hears appeals from dismissals following investigation or hearing.

The Supreme Court of New Jersey is the third and highest level of the disciplinary system. It decides all emergent applications by the OAE for temporary

suspensions of attorneys. The Court hears and decides all recommendations for disbarment, as well as any other disciplinary recommendations where it has granted a petition for leave to appeal. Additionally, the Court reviews all decisions by the Review Board (other than admonitions) and enters confirmatory orders that actually impose all discipline.





# New Jersey Discipline System

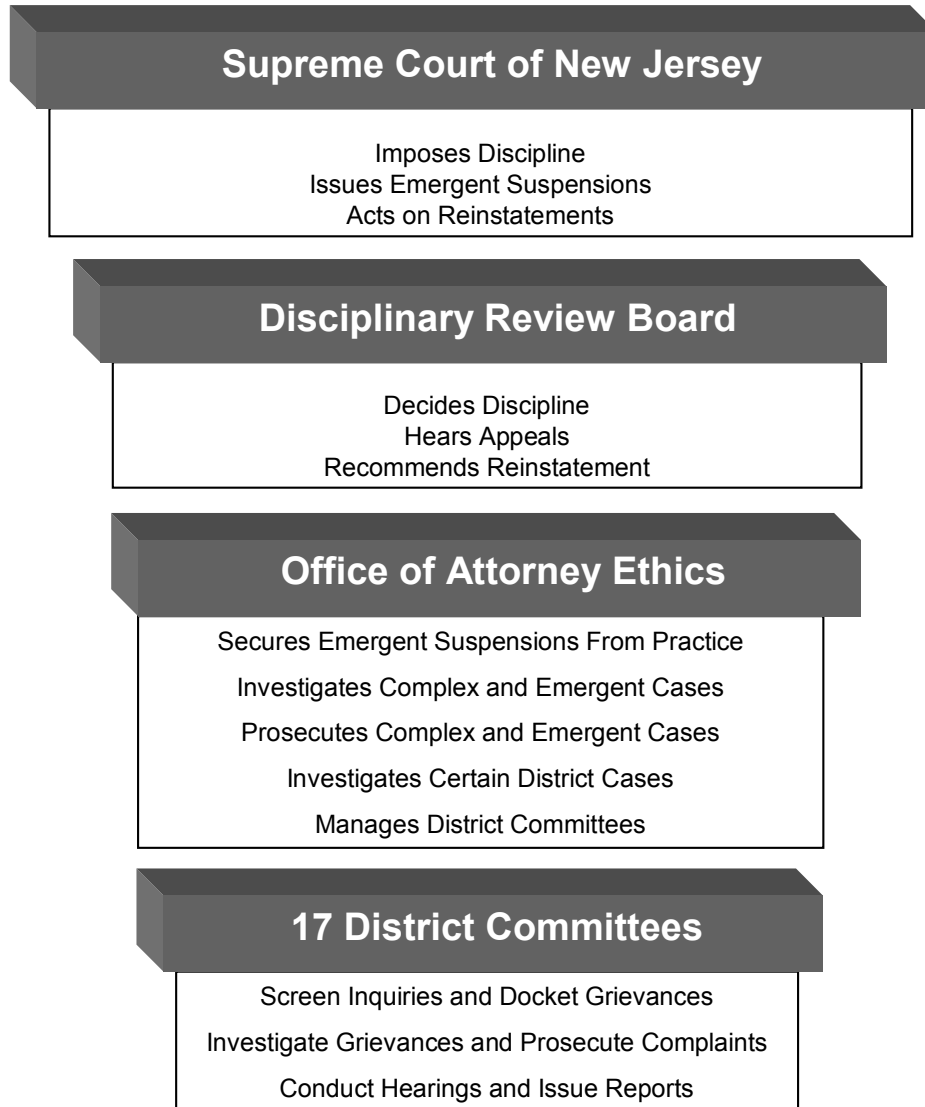


Figure 14

## Communications To The Discipline System

The New Jersey disciplinary system receives thousands of communications each year, both by phone and in writing. District ethics secretaries and the Office of Attorney Ethics (OAE) receive telephone communications through their directly dialed numbers, as well as through a toll-free information hotline (1-800-406-8594). During 2002, an estimated 11,500 calls were received. These offices also receive written communications, which are divided into two primary classifications: inquiries and docketed grievances.

Inquiries are written communications to the disciplinary system. These communications run the gamut from requests for information, including grievance forms, to completed grievances themselves. In 2002, district secretaries and the OAE received and handled approximately 6,900 written inquiries.

Communications to the disciplinary system have been described as following the model of a funnel, in terms of how these matters are handled and progress through the system. **Figure 15.** That is, the disciplinary system receives thousands of telephone calls. Many are requests for general information or requests for attorney grievance forms. The system receives fewer written inquiries regarding attorneys, including letters and completed attorney grievance forms. Some of these written inquiries do not state facts on which a disciplinary investigation may appropriately be instituted. Therefore, more inquiries are filed than are docketed for investigation.

Unlike most states, New Jersey does not docket every communication to the disciplinary system. Rather, district ethics secretaries, who are practicing attorneys, evaluate all inquiries filed with the system in accordance with court rules for screening cases. If the secretary determines that the inquiry is a fee dispute, involves certain pending civil or criminal litigation, or meets other specific criteria outlined in court rules, the secretary will decline to docket the case. If the facts alleged in the inquiry would not constitute misconduct even if proven (for example, where the lawyer is simply alleged to have been rude or used inappropriate language, or where the lawyer did not pay a personal bill), after consultation

with a public member designated annually by the chair of the committee, the secretary will also decline to docket the case. In such event the secretary will notify the grievant of the reason that the case is declined and the specific court rule or other authority mandating declination. There is no right of appeal from these determinations.

If the secretary determines that the facts alleged in the inquiry, if proven, would constitute unethical conduct and if the inquiry is not otherwise declined for the reasons noted above, the inquiry is docketed as a grievance. Of the approximately 6,900 inquiries received this year by the disciplinary system, about 5,400 were screened out and not docketed. The disciplinary system docketed a total of 1,472 for investigation.

Of the cases investigated, many are dismissed finding either no unethical conduct or insufficient proof of attorney misconduct. Some cases investigated result in a decision that the unethical conduct by the attorney is "minor misconduct" under the rules. In these cases, the attorney is placed in diversion, with his or her consent. The attorney must admit the misconduct and is usually required to perform some remedial action, such as refund the fee to the client or take a diversionary educational program conducted by the New Jersey State Bar Association. In a portion of the cases investigated, the district chair or the Director determines that there is a reasonable prospect of finding unethical conduct by clear and convincing evidence. It is only those cases that, under our court rules, warrant filing of a complaint and conducting a disciplinary hearing. In 2002, 182 formal complaints were filed. Many of these complaints combine multiple docketed grievances. The overwhelming number of cases in which a complaint is filed result in findings of unethical conduct. Because disciplinary hearings may span two calendar years from the filing of the complaint to the rendition of a hearing report, the number of cases in which discipline is imposed annually may exceed the number of complaints filed in a given year. In 2002, 267 discipline sanctions and 64 diversions were imposed on New Jersey lawyers.

# Discipline System Contacts/Action

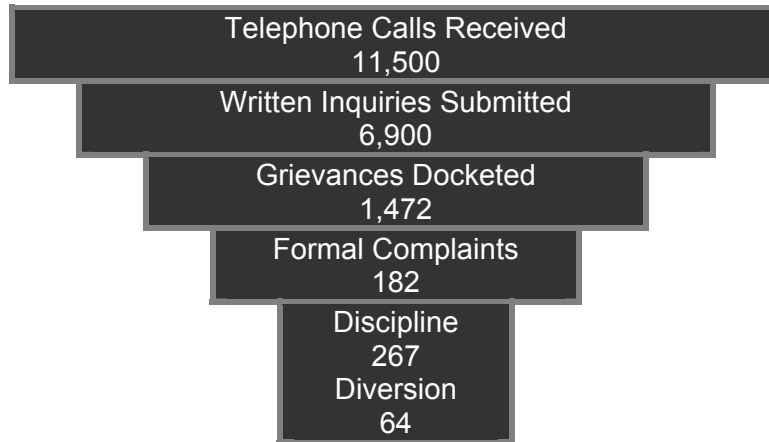


Figure 15

## Grievance Filings

This year the number of grievances filed increased by 10.6%, as a total of 1,472 ethics grievances were filed with and docketed by the disciplinary system. Last year, the increase was just under 1%, with 1,330 new filings.

The number of docketed grievances filed in a given year results from a number of factors. Consequently, no conclusions can be drawn from reviewing the data for a single year. However, the results over a period of time can indicate trends. The 2002 numbers demonstrate a continued, increasing pattern in the number of grievances docketed against New Jersey lawyers. This represents the third consecutive year in which filed grievances increased (**Figure 16**). Not since 1999 did the number of cases added decrease. While part of the reason for the increasing trend is related to the general growth in the number of attorneys admitted to the New Jersey Bar, there is no direct correlation between the two. In fact, the increasing disciplinary trend is not keeping pace with the increase in the number of new lawyers admitted each year. At the beginning of 1998, there were a total of 65,153 attorneys admitted in

this state. By the end of 2002, the state added 12,805 new practitioners, for a total of 77,958 lawyers, of which 57,484 are active. Only 2.6% of all active practitioners had grievances docketed against them this year. **Figure 17**. This means, that 97.4% of them did not.

As more lawyers are admitted, however, the business of law becomes more and more competitive. Some lawyers take ethical risks. The poor economy is undoubtedly another factor affecting our filings. Like members of the general population, some lawyers become financially stretched, some to the point where they engage in misconduct they might not if their finances were in better shape. Some lawyers, of course, move beyond the breaking point during difficult economic times. Indeed, the discipline system is seeing an increasing number of trust account overdrafts reported by financial institutions throughout the state, as well as other grievances alleging mishandling of monies and improper business transactions with clients. From 2000 to 2002, grievances filed relating to money offenses have grown from 27.7% to 36.4%.

### Changes In Grievances

Year	Filings	Change	Overall
2002	1,472	10.6%	.08%
2001	1,330	0.8%	
2000	1,320	2.0%	
1999	1,294	-11.3%	
1998	1,460	--	

**Figure 16**

What types of misconduct cause grievants to complain to disciplinary authorities? This is an important question in order to understand why grievances are filed against lawyers. The primary reason grievances are opened continues to center around concerns about the handling of money (36.4%). **Figure 18.** In 2001, such allegations constituted 34.4% of all docketed grievances, while in 2000 they accounted for 27.7%. These grievances may include allegations ranging from misappropriation of funds, failure to account for funds, failure to pay monies promptly, to a failure to adequately explain

### Lawyer Grievance Analysis

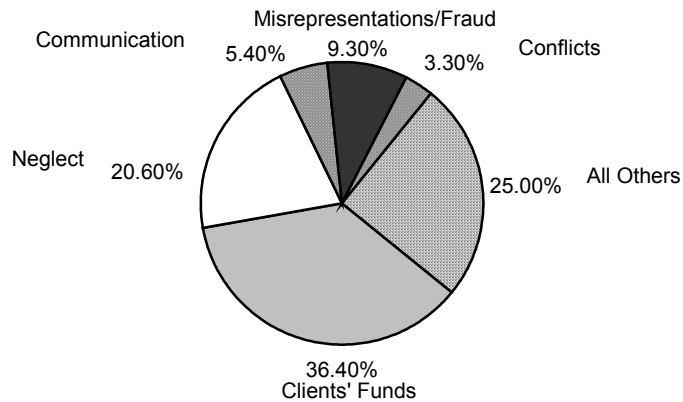
Year	Filings	Lawyers*	%
2002	1,472	57,484	2.6%
2001	1,330	56,278	2.3%
2000	1,320	55,687	2.3%
1999	1,294	54,581	2.4%
1998	1,460	53,125	2.7%

\*Active Lawyers: Lawyers Fund for Client Protection

**Figure 17**

disbursements. In second place are grievances involving neglect (20.6%), up from 18.4% last year. When clients and others perceive that their matters are being given less than diligent attention, they complain. Allegations of misrepresentation and fraud (9.3%) are the third most frequent cause for grievances. Last year these allegations constituted 9.0%. Rounding out the top five causes are lack of communication allegations (5.4% in 2002 vs. 8% last year) and conflicts of interest (3.3% this year, as opposed to 4.3% in 2001).

### Most Common Grievances: 2002



**Figure 18**

# Grievance/Investigation Flowchart

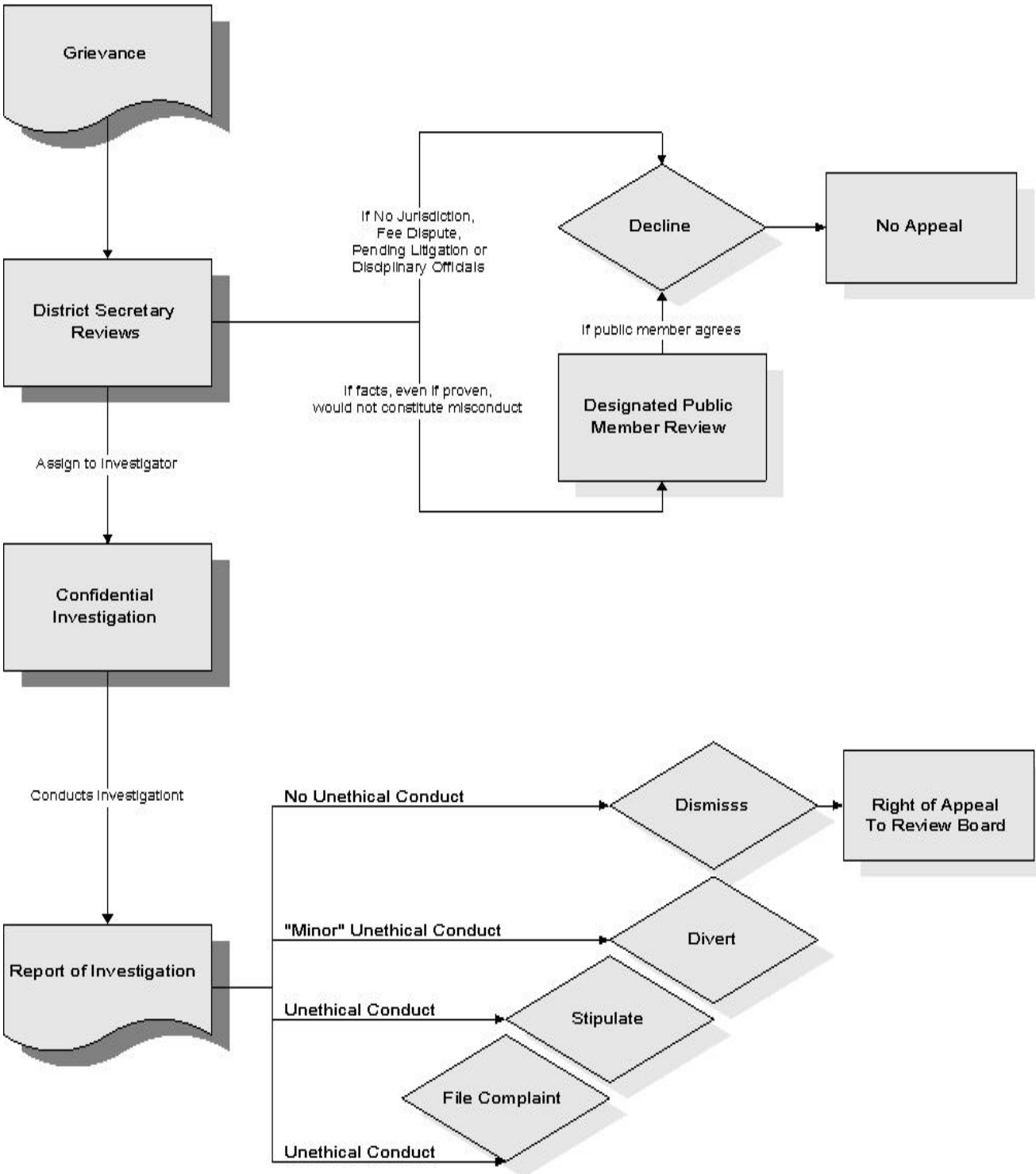


Figure 19

## Confidential Investigations

On receipt of a grievance alleging conduct by a lawyer that, if proven, would be unethical, the secretary docketed the case and assigns the matter for investigation necessary to determine the validity of the allegations. **Figure 19.** Under Supreme Court rules, all disciplinary investigations are confidential until and unless a complaint has been filed and served. Confidentiality does not prevent the filing of other litigation against the lawyer or discussion of the matter with counsel. However, it does mean that the fact that a grievance has been filed may not be disclosed.

At the conclusion of the investigative process, a written report is submitted to the chair of a committee, who determines whether there is adequate proof of misconduct. If the chair finds that there is no reasonable prospect of proving misconduct, the chair directs the secretary to dismiss the matter and to provide the grievant with a copy of the report of investigation.

The grievant has a right to appeal the decision to dismiss the case to the statewide Review Board. If, however, the chair determines that there is a reasonable prospect of proving unethical conduct by clear and convincing evidence, a complaint is prepared and served

on the lawyer. The lawyer, referred to as the respondent, has 21 days to file an answer.

Additionally, where both the chair and the Director, OAE agree that the attorney is guilty of "minor" misconduct and the attorney admits to the misconduct, the case may be diverted. "Minor" misconduct is unethical conduct that will warrant no more than an admonition, the least serious disciplinary sanction available. Diversion results in non-disciplinary treatment, usually conditioned on certain remedial action by the respondent. The decision to divert a case is not appealable.

Supreme Court goals call for standard investigations to be completed within six months and complex investigations within nine months from the date a case is docketed until an investigative report is filed and the case dismissed, diverted or a complaint is filed. Most district cases are classified as standard matters. At the end of December 2002, the average age of all pending cases under investigation throughout the attorney disciplinary system was 184 days, or 6.1 months. Seventy-five percent of all of these cases met the Supreme Court's time goals. Last year, the average age was 161 days (5.4 months) and 76% met time goals.



## Public Hearings

Once a formal complaint is issued and served on a respondent, the record in the case is public. **Figure 20.** The complaint, all pleadings subsequently filed and records subsequently made are available for review at the office of the district secretary or at the OAE, in connection with cases prosecuted by it. In unusual situations, however, a protective order may limit disclosure.

The hearing of the matter is also public. Complaints are generally tried before a hearing panel consisting of three members, composed of two lawyers and one public member. In complex cases, a special ethics master may be appointed by the Supreme Court to decide the matter.

The procedure in disciplinary hearings is similar to that in court trials. A court reporter makes a verbatim record of the entire proceeding. Testimony is taken under oath. Attendance of witnesses and the production of records may be compelled by subpoena. The hearing is open to the public.

After conclusion of the hearing, the panel deliberates in private and takes one of the following actions:

- ❑ Dismisses the complaint, if it finds that the lawyer has not committed misconduct; or
- ❑ Determines that the lawyer is guilty of misconduct for which discipline, i.e., admonition, reprimand, censure, suspension or disbarment, is required.

At the end of December 2002, a total of 187 hearings were pending, compared to 224 at that time last year. Statewide, the average pending age of these hearings was 266 days, or 8.9 months. Fifty-three percent of these hearings were within Supreme Court goals. Last year, the average age was 228 days (7.6 months) and 54% met time goal standards.



# Hearing/Appellate Flowchart

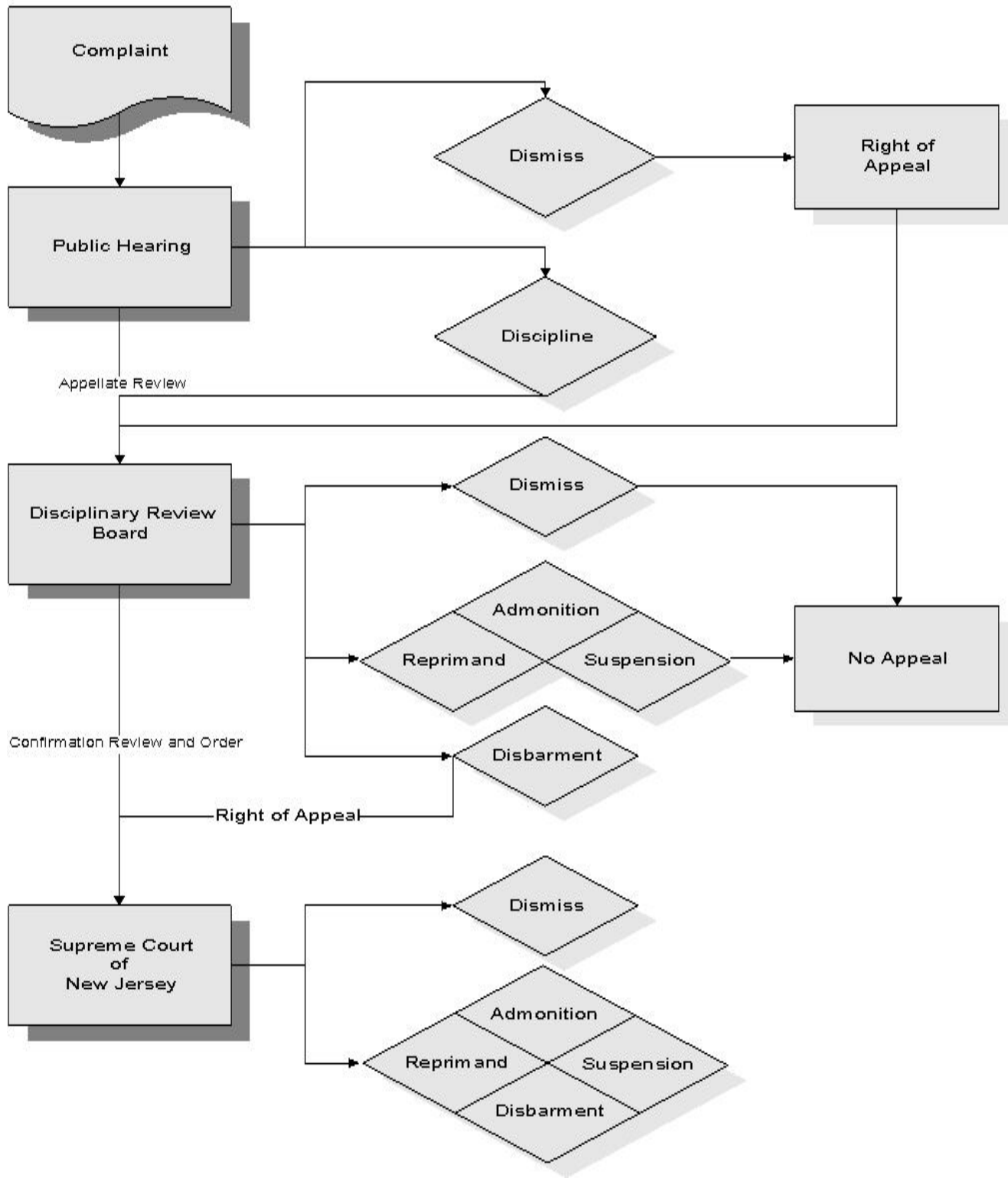


Figure 20



# Appellate Review

The Disciplinary Review Board (Review Board) is composed of nine members; presently five are lawyers, one is a retired appellate division judge and three are public members. As is true

at the district level, all Review Board members volunteer their time to the profession. Current members of the Review Board for 2002 are:

**Rocky L. Peterson, Esq., Chair**  
Hill, Wallack, Esqs.  
of Princeton  
Mercer County

**Mathew P. Boylan, Esq.**  
Lowenstein, Sandler, P.C.  
of Livingston, Essex County

**Ms. Ruth Jean Lolla**  
of Tuckerton  
Ocean County

**Louis Pashman, Esq.**  
Pashman Stein, P.C.  
of Hackensack  
Bergen County

**Mary J. Maudsley, Esq. Vice Chair**  
April, Maudsley & Goloff, Esqs.  
of Marmora  
Cape May County

**Hon. Warren Brody**  
of Roselle  
Union County

**William J. O'Shaughnessy, Esq.**  
McCarter & English, L.L.P.  
of Newark, Essex County

**Ms. Barbara F. Schwartz**  
of Vineland  
Cumberland County

**Spencer V. Wissinger, III**  
of Morristown  
Morris County

The Review Board meets monthly in Trenton at the Richard J. Hughes Justice Complex. Oral Arguments are held. At that time the Review Board also decides appeals, requests for reinstatement by suspended attorneys and recommendations for the imposition of discipline.

In the event that a committee dismisses a docketed grievance after investigation or hearing, the grievant, the respondent or the OAE have the right to appeal to the Disciplinary Review Board. There is no charge for the appeal.

When a hearing panel finds misconduct warranting discipline, the panel's report and recommendation is forwarded to and considered by the Review Board. If, after reviewing a matter in which an admonition is recommended, the Review Board determines that an admonition is adequate discipline, it issues a written letter of admonition. Where a hearing panel files a report recommending reprimand,

censure, suspension or disbarment, oral argument is routinely scheduled before the Review Board. The respondent may appear in person and may be represented by counsel. The Presenter of the district committee or OAE Ethics Counsel appears to present the matter to the Review Board.

For the OAE, 2002 was a busy year as OAE ethics counsel conducted a total of 55 oral arguments in disciplinary matters at the Review Board level. No witnesses are permitted at oral argument and no testimony is taken. However, the argument is open to the public. If the Review Board determines that a reprimand, censure, suspension, transfer to disability inactive status or disbarment be imposed, its written decision is reviewed by the Supreme Court of New Jersey.

# Supreme Court

Under the State Constitution, the Supreme Court has exclusive authority over the regulation of the practice of law in New Jersey. *N.J. Const. Art. VI, Section II, P3*. The Supreme Court sets the terms for admission to the practice of law in the state and regulates the professional conduct of attorneys.

The Supreme Court of New Jersey is the highest court in the state. It is composed of a Chief Justice and six Associate Justices. **Figure 21**. After seventeen years on the Court, Associate Justice Gary S. Stein retired effective September 1, 2002. On September 18, 2002 Associate Justice Barry T. Albin of Woodbridge was sworn in. The Supreme Court hears arguments in the

Richard J. Hughes Justice Complex in Trenton. Supreme Court Justices are appointed by the Governor and confirmed by the State Senate for initial terms of seven years. On reappointment, they are granted tenure until they reach the mandatory judicial retirement age of 70.

Only the Supreme Court can order disbarment. In all other matters, the decision of the Disciplinary Review Board becomes final on the entry of a confirmatory order by the Court, unless it grants leave to appeal. The OAE represents the public interest in all cases before the Court. During 2002, OAE attorneys appeared 43 times for oral argument.

## SUPREME COURT OF NEW JERSEY



From left to right, top row, **Justice Jaynee LaVecchia** of Morristown, **Justice Virginia Long** of Trenton, **Justice Peter G. Verniero** of Flemington, **Justice James R. Zazzali** of Red Bank; Bottom row, **Justice Gary S. Stein** of Hackensack, **Chief Justice Deborah T. Poritz** of Trenton, **Justice James H. Coleman, Jr.** of Springfield

**Figure 21**

# Funding

The Supreme Court requires the payment of an annual registration fee to support the attorney discipline system. This fee constitutes dedicated funds earmarked exclusively for the attorney discipline and fee arbitration systems. *R. 1:20-2(b)*. The Court also requires a distinct annual payment to be made to fund the Lawyers' Fund for Client Protection, *R. 1:28-2*, as well as a separate fee for the benefit of the Lawyers' Assistance Program. For administrative efficiency, the annual attorney registration fee is collected by a single agency, the Lawyers' Fund for Client Protection. In calendar year 2002, the annual fees assessed, depending on the number of years attorneys were admitted to the New Jersey Bar, are shown in **Figure 22**.

## Annual Registration Fee

Year of Admission	5-50 Years	3-4 Years	2nd Year
Attorney Discipline	\$ 115	\$ 115	\$ 25
Lawyers' Fund	\$ 50	\$ 25	\$ 0
Lawyers' Assistance	\$ 5	\$ 5	\$ 3
<b>Total Fee</b>	<b>\$ 170</b>	<b>\$ 145</b>	<b>\$ 28</b>

**Figure 22**

When the Supreme Court reorganized the attorney discipline system in 1995, the disciplinary portion of the annual fee was set at \$125 for most New Jersey lawyers. (i.e. those admitted between 3 to 50 years). It has remained at that level every year thereafter. However, New Jersey lawyers have enjoyed six straight years of rebates as high as \$30 per year, as the annual fee has been temporarily reduced from 1997 through 2002. This extended string of rebates is unparalleled for annual attorney assessments across the country. In 2002, the rebate was \$10, as the Court set the temporary annual disciplinary fee at \$115. For the first time in nine years, a fee increase will be necessary for 2003.

No taxpayers' monies are used to fund attorney professional responsibility in New Jersey. All funds come exclusively from the Court's annual statewide registration fee on attorneys.

Nationally, New Jersey's lawyer registration fee is among the lowest in the country. A July 1, 2002 survey prepared by the OAE for the National Organization of Bar Counsel, Inc. showed that New Jersey ranked 6th (at 75,177 admitted attorneys) out of 51 United States jurisdictions in attorney size, yet it ranked only 42nd (at \$170) out of 51 jurisdictions in the amount of mandatory fees required in order to practice. Last year, New Jersey ranked 43rd in the country in the amount of mandatory annual fees. Unquestionably, lawyers in the Garden State are receiving a bargain.

Nationwide, the average mandatory annual fee was \$304, up from the 2001 average of \$294. The range of mandatory fees across the country starts at \$85 in Maryland and is as high as \$2,616 in Oregon, where the annual fee includes a mandatory malpractice charge that averages \$2,100.

## Disciplinary Oversight Committee

The Supreme Court has established a committee of eleven members, six attorneys and five public members, to review the attorney disciplinary system. While the committee has no operational responsibilities, it is responsible to assess the system and to report to the Court on any necessary changes or improvements to insure that the system functions efficiently and in the public interest. This

committee also reviews the annual budget submitted to the Supreme Court by the Director, Office of Attorney Ethics and the Chief Counsel, Disciplinary Review Board. The annual budget approved by the Supreme Court for calendar year 2002 is \$8,256,718. Following are the members of the Oversight Committee, all of whom serve pro bono:

**Lanny S. Kurzweil, Esq., Chair**  
Partner in McCarter and English, Esqs.  
of Newark

**Richard L. Bland, Jr., Esq.**  
Essex County Prosecutor's Office  
of Newark

**Ms. Elizabeth Logan Buff**  
Medical Center at Princeton  
of Princeton

**Michael K. Furey, Esq.**  
Partner in Riker, Danzig, Esqs.  
of Morristown

**Harriett A. Kass**  
Director, Public-Private Partnerships  
Careerplace-On-Line  
of Princeton

**Raymond Ocasio**  
Executive Director, LaCasa De Don Pedro, Inc.  
of Newark

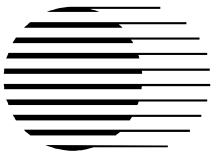
**Kathryn Flicker, Esq., Vice Chair**  
Deputy First Assistant Prosecutor  
for Mercer County  
of Trenton

**Mr. Robert Boyle**  
Representative of William H. Hintelmann  
Real Estate and Insurance Agency  
of Rumson

**John J. Degnan, Esq.**  
President, Chubb & Son, Inc.  
of Warren

**Ms. Carol Gershaw**  
Senior Director, Business Information Serv.  
Shering Sales Corporation  
of Union

**Raymond S. Londa, Esq.**  
Partner in Londa and Londa, Esqs.  
of Elizabeth



## OFFICE OF ATTORNEY ETHICS

The Office of Attorney Ethics (OAE) was established by the Supreme Court of New Jersey on October 19, 1983 as the investigative and prosecutorial arm of the Supreme Court in discharging its constitutional authority to supervise and discipline New Jersey attorneys. *N.J. Const. Art VI, Section II, P3.*

The OAE has programmatic responsibility for 17 district ethics committees, which investigate and

prosecute grievances alleging unethical conduct against attorneys. It also administers 17 district fee arbitration committees (**Chapter 4**), which hear and determine disputes over legal fees between attorneys and clients. Likewise, the OAE conducts the Random Audit Program (**Chapter 1**), which undertakes audits of private law firm trust and business accounts to see that mandatory record keeping practices are followed. The office also oversees

the collection and analysis of the Annual Attorney Registration Statement (**Chapter 5**), which collects demographic and bank account information about all New Jersey lawyers.

Importantly, the OAE also is vested with exclusive investigative and prosecutorial jurisdiction in certain types of matters, such as emergent, complex or serious disciplinary cases, matters where an attorney has been criminally charged, matters involving allegations against a sitting judge concerning conduct while an attorney, cases where district committees have not resolved an investigation within a year, as well as any case where the Review Board or the Supreme Court refers a matter to that office. *R.1:20-2(b)(1)*. Moreover, effective March 1, 1995, the Supreme Court assigned to the OAE the investigation of all cases in Districts IV (Camden and Gloucester Counties) and District VA (Essex-Newark), in addition to part of the caseload in District IIIA (Ocean County).

The Supreme Court appoints the OAE Director. The Court, on recommendation of the Director, appoints other ethics counsel. The Director hires all other staff, subject to the approval of the Chief Justice. The OAE consists of a Director, First Assistant, Assistant Ethics Counsel, Counsel to the Director and eight Deputy Ethics Counsel.

Following is a biography of key legal staff, who average over 20 years of experience:

*Director, Office of Attorney Ethics*

**David E. Johnson, Jr. of West Windsor**

Admitted to Practice 1971  
A.B. Rutgers University 1968  
J.D. University of Memphis  
Law School 1971  
M.P.A. Rider University 1984  
Appointed Director in 1983

**Law Practice:** Associate of Wesley L. Lance, Esq., of Clinton (1971-76); Attorney for Central Ethics Unit of the Administrative Office of the Courts (1976-80); Chief, Division of Ethics and Professional Services (1980-83).

**Related Experience:** Associate Editor, University of Memphis Law Review (1969-1971); Author of Trust and Business Accounting for Attorneys (4th Edition 1998); President, National Organization of Bar Counsel, Inc. (1990-91); Member, Supreme Court's New Jersey Ethics Commission (1991-93); member New Jersey State Insurance Fraud Steering committee (1996-98); member United States Department of Justice Immigration Fraud Working Group (1997-1998).

*First Assistant Ethics Counsel*

**John J. Janasie of Ocean Gate**

B.S. Saint Peters College 1970  
J.D. Rutgers School of Law - Newark 1973  
Joined OAE in 1986

**Law Practice:** Associate at the law firm of Holzapfel and Perkins of Cranford (1973-76), Assistant Prosecutor for Union County (1976-84), Senior Associate at the law firm of Sauer, Boyle, Dwyer and Canellis of Westfield (1984-86).

**Related Experience:** Chief of Economic Crimes Unit at Union County Prosecutor's Office (1982-84).

*Assistant Ethics Counsel*

**Thomas J. McCormick of Moorestown**

Admitted to Practice 1972  
B.A. With Honors  
University of Maryland 1969  
J.D. Rutgers School of Law - Newark 1972  
Joined OAE in 1983

**Law Practice:** Assistant Prosecutor for Mercer and Burlington Counties (1973-78); Managing attorney for Insurance Company of North America's South Jersey Office (1978-83).

**Related Experience:** Law Secretary to Honorable Arthur W. Lewis, Presiding Judge of the Appellate Division of the Superior court (1972-73), temporarily assigned to the Supreme Court; Chair and Member of Supreme Court's Burlington County Ethics Committee (1978-81).

*Counsel to Director*

**Richard J. Engelhardt of Lawrenceville**

Admitted to Practice 1973  
A.B. Cum Laude Rutgers University 1968  
J.D. Cornell University Law School 1973  
Joined OAE 1977

**Law Practice:** Deputy Attorney General, Division of Criminal Justice, Appellate Section (1973-75).

**Related Experience:** Assistant Counsel to Supreme Court's Disciplinary Review Board and the Supreme Court's Advisory Committee on Judicial Conduct (1977-83); Secretary to Supreme Court's Unauthorized Practice of Law Committee (1980-83).

*Deputy Ethics Counsel*

**Janet Brownlee Miller of Mt. Holly**

Admitted to Practice 1981  
B.A. Monmouth College 1962  
M.A. Indiana University 1967  
J.D. With Honors Rutgers School of Law  
Camden 1981  
Joined OAE 1995

**Law Practice:** Associate at James Logan, Jr., Esq. (1982-94); Owner, Law Offices of Janet Brownlee Miller (1994-95), all of Mt. Holly.

**Related Experience:** Associate Editor, Rutgers Law Journal (1979-81); Law Secretary to Honorable Paul R. Kramer and Victor Friedman, Superior Court, Burlington County (1981-82); Member of Supreme Court's District IIIB (Burlington County) Ethics Committee (1990-94).

*Deputy Ethics Counsel*

**Walton W. Kingsbery, III of Shrewsbury**

Admitted to Practice 1980

B.A. Washington and Lee University 1976

J.D. Washington and Lee University

School of Law 1980

Joined OAE 1992

**Law Practice:** Associate of Richard A. Amdur of Oakhurst (1981-84); Associate and then Partner at Reussille, Mausner, Carotenuto, Bruno and Barger of Red Bank (1984-92).

**Related Experience:** Law Secretary to Honorable Patrick J. McGann, Jr., Superior Court, Monmouth County (1980-81); Municipal Prosecutor, Borough of Shrewsbury (1987-92); Secretary and Member of Supreme Court's District IX (Monmouth County) Ethics Committee (1988-92).

*Deputy Ethics Counsel*

**Michael J. Sweeney of Florence**

Admitted to Practice 1977

B.A. St. Joseph's University 1974

J.D. Temple University 1977

Joined OAE 1993

**Law Practice:** Associate of Dietz, Allen and Sweeney (1977-82); Partner at Sweeney and Sweeney (1982-90); Owner, Law offices of Michael J. Sweeney (1990-93); all of Mt. Holly.

**Related Experience:** Chair and Member of Supreme Court's District III (Burlington and Ocean Counties) Fee Arbitration Committee (1987-91).

*Deputy Ethics Counsel*

**John McGill, III of Edgewater Park**

Admitted to Practice 1985

B.A. Cleveland State University 1976

J.D. Salmon P. Chase College of Law

Northern Kentucky University 1984

Joined OAE 1990

**Law Practice:** Assistant Prosecutor for Essex County 1986-90).

**Related Experience:** Law Secretary to Honorable Philip M. Freedman, Superior Court, Essex County (1985-86).

*Deputy Ethics Counsel*

**Nitza I. Blasini of Atlantic County**

Admitted to Practice 1983

B.A. University of Puerto Rico 1972

J.D. Rutgers School of Law - Camden 1982

Joined OAE 1993

**Law Practice:** Assistant Prosecutor for Camden County (1984-87); Assistant Prosecutor for Atlantic County (1987-88); Assistant Prosecutor for Cumberland County (1988-90); Public Defender for Cape May County (1990-93).

*Deputy Ethics Counsel*

**Lee A. Gronikowski of Allentown**

Admitted to Practice 1984

B.A. Magna Cum Laude

Rider University 1981

J.D. Syracuse University Law School 1984

Joined OAE 1993

**Law Practice:** Associate of Lindabury, McCormick and Estabrook of Westfield (1984-87); Assistant Prosecutor for Middlesex County (1987-89); Deputy Attorney General, Division of Criminal Justice, Securities Fraud Section (1989-93).

**Related Experience:** Major in the US Air Force Reserve assigned as Assistant Staff Judge Advocate with Headquarters, 21st Air Force, McGuire Air Force Base.

*Deputy Ethics Counsel*

**Brian D. Gillet of Wall**

Admitted to Practice 1983

B.A. Northwestern University 1979

J.D. Seton Hall University Law School 1982

Joined OAE 1995

**Law Practice:** Special Assistant United States Attorney (1988-92); Assistant Prosecutor for Union County (1983-93); Senior Associate at Giordano, Halleran and Ciesla of Middletown (1993-95).

**Related Experience:** Principal Law Secretary to Honorable V. William DiBuono, Assignment Judge of Union County (1982-83); Certified Criminal Trial Attorney (Inactive).

*Deputy Ethics Counsel*

**Janice R. Richter of Cream Ridge**

Admitted to Practice 1981

B.S. Trenton State College 1978

J.D. Rutgers School of Law - Camden 1980

Joined OAE 2001

**Law Practice:** Associate at Brown & Connery Law Firm of Westmont (1980-1987); Owner, Law Offices of Janice L. Richter, P.C. of Cherry Hill (1988-97); Of Counsel, Braverman, Kaskey & Caprara of Cherry Hill (1997-2001).

**Related Experience:** Chair and Member of Supreme Court's District IV (Camden & Gloucester Counties) Ethics Committee (1987-91); Special Ethics Master (1994-96); Certified Civil Trial Attorney.

Gerald J. Smith, Chief of Investigations, heads the OAE's investigative units. He is assisted by Assistant Chief Auditor, Gus P. Pangis and Assistant Chief Investigator, Jeanine E. Verdel.

*Chief of Investigations*

**Gerald J. Smith of Elkins Park**

B.S. LaSalle University 1961

Joined OAE 1988

**Experience:** Criminal Investigation Division, United States Treasury Department, Internal Revenue Service (1961-81); Branch Chief, Philadelphia District Office (1981-87).

**Related Experience:** Assistant to the Assistant Regional Commissioner of the Criminal Investigation Division.

*Assistant Chief Auditor*

**Gus P. Pangis of Stroudsburg**

B.B.A. City College of New York 1963

Joined OAE 1992

**Experience:** Criminal Investigation Division, United States Treasury Department, Internal Revenue Service (1963-81); Assistant Chief, Manhattan District Office (1981-87); Chief Brooklyn District Office 1987-89).

*Assistant Chief Investigator*

**Jeanine E. Verdel of Hamilton Square**

B.A. Glassboro State College 1981

Joined OAE 1990

**Experience:** Paralegal at Duane, Morris and Heckscher (1981-82); Loan Office, P.B. Mortgage Co. (1982-84); Supervisor, N.J. Housing and Mortgage Finance Agency (1984-86); Supervising Investigator, New Jersey Real Estate Commission (1986-90).

OAE investigators are divided into two groups. The Complex Investigative Group consists of nine forensic auditors and investigators. This unit primarily investigates complex matters often involving misappropriation of trust funds, frauds and related white-collar misconduct. The unit also handles other serious and emergent matters where temporary suspensions of attorneys are sought to protect the public and the bar. Supervision is divided between the Chief of Investigations and the Assistant Chief Auditor. This group investigates OAE cases on a statewide basis.

### Complex Investigative Group

Gerald J. Smith  
*Chief of Investigations*  
Gus P. Pangis  
*Assistant Chief Auditor*

#### Disciplinary Auditors & Investigators

Barbara M. Galati	G. Nicholas Hall
Cynthia L. Gehring	Greg Kulinich
Robert J. Gudger	Gary K. Lambiase
Rajat K. Gupta	Carol A. Palmer
William M. Ruskowski	

The District Investigative Group consists of seven investigators. Deputy Ethics Counsel-in-Charge and the Assistant Chief Investigator provide supervision. Over the past 7-½ years, this group has investigated standard and complex cases in three specific geographic areas: Essex-Newark (District VA); Camden and Gloucester Counties (District IV) and part of Ocean County (District IIIA). The Supreme Court of New Jersey set the group's assignment on March 1, 1995.

### District Investigative Group

Walton W. Kingsbery, III  
*Deputy Ethics Counsel*  
Jeanine E. Verdel  
*Assistant Chief Investigator*

#### Disciplinary Investigators

Julie K. Bakle	Margaret M. Cox
Alan P. Beck	Denise A. Gamble
Mary Jo Bolling	Susan R. Perry-Slay
Wanda L. Riddle	

An Administrative staff of six supports the OAE's disciplinary work.

### Administrative Staff

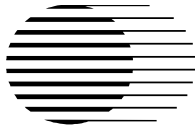
Susan F. Robert  
*Law Office Administrator*  
Mark S. Wagner  
*Manager, Information Systems*  
Bonnie M. Kauffman  
*Local Area Network Administrator*

Gail C. Tilton, *Administrative Assistant*  
Rhonda L. Hardinger, *Administrative Assistant*

The OAE's Support Staff for discipline consists of 13 secretaries and assistants.

### Disciplinary Support Staff

Ruth Bailey	T. Paul Dawson
Danette Brown	Gail S. Gross
Therese M. Bruck	Lavette D. Mims
Patricia C. Bramley	Rosalind J. Roberts
Anderia L. Calhoun	Patricia D. Strieffler
Barbara A. Cristofaro	Emma Tomlinson
Sharon D. Vandegrift	



# DISTRICT ETHICS COMMITTEES

The attorney disciplinary system consists of full-time members of the OAE and volunteer attorneys and public members serving 17 regionalized district ethics committees.

Volunteer attorney members serve as investigators in all districts except for Essex-Newark (VA) and Camden-Gloucester (IV) and, on an ad hoc basis, in Ocean (IIIA), where OAE full-time investigators work. Public members join their volunteer attorney counterparts on hearing panels in cases where a formal complaint has been filed. Volunteer attorneys also prosecute cases before hearing panels in all district committees.

The OAE supports the efforts of all volunteer district ethics committees. Deputy Ethics Counsel Janet Brownlee Miller, who serves as Statewide Ethics Coordinator, spearheads this effort. She is aided by Caroline E. Allen, Administrative Assistant and, on a part-time basis, by Sharon D. Vandegrift, Support Staff.

As of September 1, 2002 there were 484 volunteer attorney and public members of district committees serving pro bono across the state. Following is a list of members who served on the Supreme Court's district ethics committees during the 2002-2003 term.

	Term Expires
<b>DISTRICT I</b>	
Atlantic, Cape May, Cumberland and Salem Counties)	
<b>Secretary:</b> Frank L. Corrado of Wildwood	
Frederic L. Shenkman of Atlantic City, Chair	2003
Alan J. Cohen of Atlantic City, Vice Chair	2004
Anthony D. Buonadonna of Vineland	2003
Jorge C. Godoy of Bridgeton	2003
Thomas L. Grimm of Bridgeton	2003
Lian P. Levenson of Atlantic City	2003
Linda S. Best of Wildwood Crest	2004
Jose A LaBoy of Vineland	2004
Linda T. Pirolli of Bridgeton	2004
Carl N. Tripician of Northfield	2004
Sherri Affrunti of Lawrenceville	2005
Stanley L. Bergman, Jr. of Atlantic City	2005
Hance C. Jaquett of Ocean City	2005
John T. Lenahan of Woodstown	2005
Mary Todd Merenich of Linwood	2005
James H. Pickering Jr. of South Seaville	2005
William S. Donio of Hammonton	2006
Paula R. Hetzel of Longport	2006
Mark Pfeffer of Atlantic City	2006
Trinna Rodgers of Atlantic City	2006
Patricia A. Harris of Egg Harbor	2003
Joyce Penny Gould of Wildwood	2003
William G. Cottman of Wildwood	2004
Robert Helsabeck of Absecon	2005
Joseph M. Dolan of Atlantic City	2006
Rev. Paul C. Wise of Atlantic City	2006

Office of Attorney Ethics

	Term Expires
<b>DISTRICT IIA</b>	
(North Bergen County)	
<b>Secretary:</b> Morton R. Covitz of Hackensack	
Edward J. Bowen, Jr. of River Edge, Chair	2003
Richard C. McDonnell of Ramsey, Vice Chair	2004
Mark R. DiMaria of Paramus	2003
John Sloan Guerin of Paramus	2003
Charles J. X. Kahwaty of Ridgewood	2003
Brian D. Iton of Englewood	2004
Celine Y. November of Hackensack	2004
Marvin H. Sunshine of River Edge	2004
Ellen K. Bromsen of Englewood	2005
Helen L. Glass of Hackensack	2005
Michael P. Kemezis of Paramus	2005
Jeffrey A. Lester of Hackensack	2005
Deborah L. Ustas of Hackensack	2005
Joseph M. Ariyan of Hackensack	2006
E. Gregory M. Cannarozzi of Oradell	2006
Patrick J. Kelly of Maywood	2006
Anna Navatta of Hackensack	2006
Lorraine Teleky-Petrella of Hackensack	2006
Anthony Barchetto of Parsippany	2003
Reverend Vernon C. Walton of Englewood	2003
Robert Mark Kutik of Hackensack	2005
William J. Meisner of Mahway	2005
Marge Wyngaarden of Westwood	2005
Tiberio Fabricante of Closter	2006
Michele Phibbs of Upper Saddle River	2006

<b>DISTRICT IIB</b>	
(South Bergen County)	
<b>Secretary:</b> Morton R. Covitz of Hackensack	
Stephen H. Roth of Hackensack, Chair	2003
Glenn R. Reiser of Hackensack, Vice Chair	2004
Susan C. Berger of Newark	2003
Kevin P. Cooke, of Hackensack	2003
Donald A. Ottaunick, of Hackensack	2003
Steven Pontell, of Fort Lee	2003
Samuel J. Samaro of Hackensack	2003
Carol A. Personette of Hackensack	2004
Alfred C. Pescatore, Jr. of Hackensack	2004
Richard G. Potter of Hackensack	2004
Jay D. Rubenstein of Hackensack	2004
Howard Stern of Wayne	2004
Sharon Clancy of Hackensack	2005
Thomas J. Herten of Hackensack	2005
Gordon Allen Washington of Englewood	2005
Edward P. D'Allessio of Hackensack	2006
Jerrold S. Fond of Hackensack	2006
John R. Johnson of Hackensack	2006
Geril L. Squire of Closter	2006
Rustine Tilton of Elmwood Park	2006
Linda Mulcair of Woodridge	2003
Bernard M. Nangle of Rutherford	2003
Stephen J. Eschbacher of Westwood	2004
Cynthia M. Johnson of Englewood	2004
Michael Bertty of Teaneck	2006
Alma Scott-Buczak of Cliffside Park	2006



<b>DISTRICT IIIA</b> (Ocean County)		<b>Term Expires</b>
<b>Secretary:</b> Steven Secare of Toms River		
Michael Roger Bateman of Lakewood, Chair		2003
Peter R. Strohm of Lakewood, Vice Chair		2004
Scott W. Geldhauser of Brick		2003
Barry K. Odell of Brick		2003
Natalie Pouch of Toms River		2003
Guy P. Ryan of Toms River		2003
Harold Eugene Creacy of Toms River		2004
Barbara A. Baggett of Brick		2005
Mary Ann Pelly Bogan of Point Pleasant		2005
Bette A. Hughes of Point Pleasant		2005
Kevin Neal Starkey of Brick		2005
Robert Leo Tarver, Jr. of Toms River		2005
Carmine R. Villani of Point Pleasant Beach		2005
A. Leslie Burton-Clark of Bricktown		2006
Joan Crowley of Toms River		2006
Jonathan S. Fabricante of Lakewood		2006
Suzanne M. Jorgensen of Brick		2006
Gregory Patrick McGuckin of Forked River		2006
Daniel D. Olszak, Jr. of Lakewood		2006
Kathleen Peterson of Toms River		2006
Leniah Johnson of Seaside Heights		2003
Brian Swedberg (Rev.) of Toms River		2004
Richard Gross of Brick		2005
Kathleen Hoffmann of Brick		2005

<b>DISTRICT IIIB</b> (Burlington County)		
<b>Secretary:</b> Cynthia S. Earl of Mt. Laurel		
Stan R. Gregory of Pemberton, Chair		2003
Betsy G. Liebman of Mt. Laurel, Vice Chair		2004
Melissa A. Czartoryski of Pemberton		2003
Leslie Marie Gore of Trenton		2003
Brian M. Guest of Burlington		2003
Robert F. Rupinski of Mt. Holly		2003
Thomas J. Orr of Burlington		2004
Patricia Ronayne of Moorestown		2004
Nancy T. Abbott of Burlington		2005
Jeffrey S. Apell of Browns Mills		2005
Patricia P. Davis of Cinnaminson		2005
George J. Singley of Mt. Laurel		2005
Paul Allen Snyder of Marlton		2005
Janice L. Heinold of Marlton		2006
J. Llewellyn Mathews of Cherry Hill		2006
Pamela Adriano Moy of Moorestown		2006
Martin Pappaterra of Mt. Holly		2006
Michael S. Rothmel of Mt. Holly		2006
Warren S. Wolf of Delran		2006
Joan K. Geary of Florence		2004
Ronald Monokian of Lumberton		2006
Barbara L. Williams of Mt. Holly		2006

<b>DISTRICT IV</b> (Camden and Gloucester Counties)		
<b>Secretary:</b> Mark S. Kancker of Mt. Laurel		
Nancy D. Gold of Cherry Hill, Chair		2003
Patricia B. Santelle of Westmont, Vice Chair		2003
Barbara Ann Johnson of Cherry Hill		2003
John A. Jones of Cherry Hill		2003
Sudha Tiwari Kantor of Princeton		2003
Carol Finkelstein Laskin of Cherry Hill		2003
Sujeet K. Mohanty of Voorhees		2003
Richard Charny of Cherry Hill		2004
James Herman of Cherry Hill		2004

	<b>Term Expires</b>
Mati Jarve of Cherry Hill	2004
Ralph R. Kramer of Haddon Heights	2004
Michael P. Madden of Haddonfield	2004
Jane L. McDonald of Cherry Hill	2004
Katherine Wade Battle of Camden	2005
Anne S. Cantwell of Cherry Hill	2005
Shereen C. Chen of Pennsauken	2005
Gerald Faber of Cherry Hill	2005
Theresa C. Grabowski of Haddon Heights	2005
Howard C. Long, Jr. of Laurel Springs	2005
John Morelli of Voorhees	2005
Robert A. Porter of Cherry Hill	2005
James R. Thompson of Cherry Hill	2005
Julia R. Battista of Cherry Hill	2006
Steven M. Janove of Cherry Hill	2006
John P. Jehl of Haddonfield	2006
John J. Murphy, III, of Cherry Hill	2006
Lee M. Perlman of Cherry Hill	2006
Laura D. Rucolo of Cherry Hill	2006
Robert H. Williams of Haddonfield	2006
Philip E. Freeman, Sr. of Camden	2003
Helen Amster of Cherry Hill	2004
Edward M. Taylor of Somerdale	2004
Alan Klein of Cherry Hill	2005
Joyce Alexander May of Haddon Heights	2005
Peggy Leone of Merchantville	2006
Carl Mogil, D.O. of Cherry Hill	2006

<b>DISTRICT VA</b> (Essex County - Newark)		
<b>Secretary:</b> James A. Scarpone of Newark		
Linda Pope Torres of Newark, Chair		2003
Tonya M. Smith of Newark, Vice Chair		2004
Michael Harris Freeman of		2003
Stephen H. Knee of Newark		2003
Keith E. Lynott of Newark		2003
Daniel J. O'Hern, Jr. of Newark		2003
John T. Wolak of Newark		2003
Charles Stewart Cohen of Newark		2004
Howard Mark Erichson of Newark		2004
Lynn B. Norcia of Stirling		2004
David Howard Stein of Newark		2004
Seth T. Taube of Newark		2004
Denelle J. Waynick of Newark		2004
Scott Weber of Newark		2004
Elizabeth R. Charters of Newark		2005
Denise Marie Crump of East Orange		2005
Corliss R. Franklin of Newark		2005
Anne Marie Kelly of Newark		2005
Edward J. O'Donnell of Livingston		2005
Douglas H. Amster of Newark		2006
Stefanie A. Brand of Newark		2006
Eric R. Breslin of Newark		2006
Richard F. Connors, Jr. of Newark		2006
Nancy Lem of Newark		2006
Sofia Samuel Lipman of Newark		2006
Elizabeth A. Kenny of Newark		2006
Frank V. Cioppettini, Jr. of Far Hills		2003
Tyrone Garrettof Newark		2003
Charon J. W. Motayne of Newark		2003
Brenda Murphy of Newark		2003
Margaret M. Pego of Berkeley Heights		2003
John Randolph Smith of North Brunswick		2003
Sheile Caruso of Newark		2004
Scott R. Krieger of Livingston		2005

	Term Expires
<b>DISTRICT VB</b>	
(Essex County - Suburban Essex)	
<b>Secretary:</b> Seth Ptasiwicz of Newark	
Stewart M. Leviss of Short Hills, Chair	2003
Robert E. Brenner of Somerville, Vice Chair	2004
Jane deSales Barrett Montclair	2003
Sandra LI Bograd of Roseland	2003
Irwin P. Burzynski of Millburn	2003
Gary A. Carlson of West Orange	2003
Maurine J. Donovan of West Orange	2003
Denzil R. Dunkley of Newark	2003
Peter A. Greene of West Orange	2003
Edward A. Jerejian of Orange	2003
Mark S. Parry of Bloomfield	2003
Edward A. Wiewiorka of West Orange	2003
George L. Caceres of Newark	2004
Brenda Eady Stafford of Florham Park	2004
Herbert I. Waldman of Maplewood	2004
Steven A. Weiner of West Orange	2004
Loria B. Yeadon of West Orange	2004
Cynthia M. Craig of West Orange	2005
Steven H. Daniels of Springfield	2005
Joel D. Fierstein of Denville	2005
Raymond Louis Hamlin of Newark	2005
David B. Katz of Livingston	2005
Walter A. Lucas of West Orange	2005
James A. Mella of Short Hills	2005
Lorraine Racciatti of Florham Park	2005
Edna Ball Axelrod of South Orange	2006
Jean R. Campbell of Montclair	2006
Kenneth J. Isaacson of Wayne	2006
Lisa Kaplan of Livingston	2006
Sonya M. Longo of Short Hills	2006
Anthony Mazza of West Orange	2006
Michael R. Ricciardulli of Millburn	2006
Brad S. Schenerman of Newark	2006
Thomas P. Scrivo of Morristown	2006
Bradley M. Wilson of West Orange	2006
Dr. Harry M. Zutz of Maplewood	2003
Marie Bagby of Newark	2004
Rhoda B. Denholtz of Short Hills	2004
Jean Milano of West Orange	2004
Ronnie Schuman Brown of Short Hills	2005
Chuck Lanyard of Fair Lawn	2005

	Term Expires
<b>DISTRICT VC</b>	
(Essex County - West Essex)	
<b>Secretary:</b> Philip McGovern, Jr. of Newark	
A. Lawrence Gaydos, Jr. of Montclair, Chair	2003
Kenneth J. Fost of Morristown, Vice Chair	2004
Burton Eichler of Roseland	2003
Rufino Fernandez, Jr. of Livingston	2003
Linda Ballan of Bloomfield	2004
Morris Bauer of Roseland	2004
Bernard Schenkler of Roseland	2004
Jeffrey Campisi of Roseland	2005
Brian H. Fenlon of Roseland	2005
Thomas D. Foti of Roseland	2005
Beatrice E. Kandell of Livingston	2005
Ralph M. Lowenbach of Roseland	2005
Judith D. Musser of Upper Montclair	2005
Sheila Hughes Mylan of Verona	2005
Thomas A. Sparno of Roseland	2005
Mary Joan Sugrue of Bloomfield	2005
Kathleen McCormick Campi of Upper Montclair	2006
Barbara A. Dennis of Bloomfield	2006
Stephen P. Haller of Livingston	2006
Gary J. Lustbader of West Orange	2006

Office of Attorney Ethics

	Term Expires
Karen Meislik of Montclair	2006
Richard L. Scharlat of Newark	2006
Jill Tobia Sorger of Montclair	2006
Lindsey H. Taylor of Roseland	2006
G. Glennon Troublefield of Roseland	2006
Robert M. Briggs of Roseland	2004
David H. Jameson of Livingston	2004
Paul Erlich of Glen Ridge	2005
Arthur J. Thompson of Montclair	2005
Robert Cohen of Springfield	2006
Kristine H. O'Connor of Essex Falls	2006

**DISTRICT VI**  
(Hudson County)  
**Secretary:** Jack Jay Wind of Jersey City

Amy R. Winsten of Jersey City, Chair	2004
Nesle A. Rodriguez of Jersey City, Vice Chair	2004
Tomas Espinosa of Jersey City	2003
Gina M. Galante of Jersey City	2003
Jeffrey G. Garrigan of Jersey City	2003
Margaret M. Marley of Jersey City	2003
Aglaia Papadopoulos-Vlantes of Jersey City	2003
Ramon de la Cruz of Ridgefield	2004
James F. Dronzek of Jersey City	2004
Norman S. Karpf of Palisades Park	2004
Mary Ann Olsen of Bayonne	2004
Eugene T. Paolino of Jersey City	2004
Richard N. Campisano of Jersey City	2005
John J. Elefthrow of Jersey City	2005
Cataldo F. Fazio of Paramus	2005
Perry Florio of Secaucus	2005
James Patrick Flynn of Newark	2005
Marc J. Keane of Jersey City	2005
Rolando Orbe of West New York	2005
Stanley R. Pietruska of Bayonne	2005
Lawrence Sindoni of Jersey City	2005
Gregory J. Castano, Jr. of West Caldwell	2006
Howard S. Feintuch of Jersey City	2006
Jeffrey R. Jablonski of Kearny	2006
Julien X. Neals of Secaucus	2006
Wendy J. Parmet of Jersey City	2006
Edward G. Davin, III of Jersey City	2003
Reverend Tyrone Chess of Jersey City	2005
Ana J. Garcia of West New York	2005
Zohreh Behin of Jersey City	2006
Rene R. Escobar of Chatham	2006
Paul A. Foddai of Jersey City	2006

**DISTRICT VII**  
(Mercer County)  
**Secretary:** Alan G. Frank, Jr. of Lawrenceville

Robert J. Durst, II of Lawrenceville, Chair	2003
Roberto A. Rivera-Soto of Philadelphia, Vice Chair	2004
David B. Beckett of Lawrenceville	2003
Brenda F. Engel of Trenton	2003
Murray A. Gendzel of Trenton	2003
Brian F. Hofmeister of Lawrenceville	2003
Joan K. Josephson of Lawrenceville	2003
Alfred Eugene Ramey, Jr. of Trenton	2003
Mark A. Solomon of Princeton	2003
Audrey L. Anderson of Pennington	2004
Gregory J. Giordano of Lawrenceville	2004
Craig J. Hubert of Mercerville	2004
Arun Deshbandu Lavine of Lawrenceville	2004
Stuart A. Tucker of Lawrenceville	2004
Gina Gloria Bellucci of Trenton	2005
David John Byrne of Lawrenceville	2005

	<b>Term Expires</b>
Peter R. Freed of Princeton	2005
Brian J. Mulligan of Trenton	2005
David Schroth of Trenton	2005
Karen A. Confoy of Trenton	2006
Samuel M. Gaylord of Lawrenceville	2006
Susan J. Knispel of Trenton	2006
Anna M. Lascurain of Trenton	2006
Anthony M. Massi of Trenton	2006
Lee Neuwirth of Princeton	2003
Ray Montgomery of Trenton	2005
Sharon H. Press of Princeton	2006
B. Lynn Robinson of Columbus	2006

**DISTRICT VIII**  
(Middlesex County)

**Secretary:** Manny Gerstein of Edison

Robert G. Kenny of New Brunswick, Chair	2003
Timothy J. Little of Woodbridge, Vice Chair	2004
Patrick W. Foley of New Brunswick	2003
Susan K. Hagerty of Cranbury	2003
Cheryl M. Spilka of Old Bridge	2003
Craig M. Terkowitz of Piscataway	2003
Mark J. Bressler of Edison	2004
Hillary L. Brower of East Brunswick	2004
C. Judson Hamlin of Bedminster	2004
Bruce J. Kaplan of New Brunswick	2004
Candice Sang-Jasey of Trenton	2004
Steven M. Tannenbaum of Metuchen	2004
Raymond P. DeMarco of Dunellen	2005
Richard A. Deutchman of New Brunswick	2005
Marcia L. Hendler of North Brunswick	2005
Heidi A. Lepp of Metuchen	2005
Barry A. Weisberg of Woodbridge	2005
Michele Labrada of New Brunswick	2006
Barbara T. Lang of Piscataway	2006
Michael J. Rossignol of Piscataway	2006
Peter Tus-Man Tu of Plainsboro	2006
George Boghosian of East Brunswick	2003
Paul Jacobson of East Brunswick	2003
Florence M. Gardner of New Brunswick	2004
Jeanne A. Kushinsky of Edison	2005
Jerry Kaplan of Edison	2006
Dawn McPhee of New Brunswick	2006

**DISTRICT IX**  
(Monmouth County)

**Secretary:** Kathleen A. Sheedy of Red Bank

Tanis B. Deitch of Eatontown, Chair	2004
Dennis Russell O'Brien of Asbury Park, Vice Chair	2004
David M. Epstein of Neptune	2003
M. Scott Tashjy of Middletown	2003
Paul X. Escandon of Allenhurst	2004
Frank S. Gaudio of Red Bank	2004
Vernon McGowen, Jr. of Neptune	2004
Paul F. Schaaf, Jr. of West Long Branch	2004
Ambar I. Abelar of Long Branch	2005
R. Diane Aifer of Middletown	2005
Allison Ansell of Ocean	2005
Judson Bernard Barrett of Oakhurst	2005
David A. Laghlin of Neptune	2005
Linda L. Piff of Wall	2005
Susan M. Scarola of Freehold	2005
Scott J. Basen of Freehold	2006
Honora O'Brien Kilgallen of Wall Township	2006
James A. Paone, II of Freehold	2006
Mary T. Donohue of Hazlet	2003
Jose Miguel Burgos of Long Branch	2004

	<b>Term Expires</b>
James Cooper of Eatontown	2006
Susan M. Schneider of Freehold	2006

**DISTRICT X**  
(Morris and Sussex Counties)  
**Secretary:** Bonnie C. Frost of Denville

Stuart M. Lederman of Morristown, Chair	2003
Brian J. Fruehling of Madison, Vice Chair	2004
Henry J. Aratow of Morristown	2003
Christopher DeFalco of Morristown	2003
James M. DeMarzo of Morristown	2003
John O'Farrell of Morristown	2003
Deborah E. Nelson of Short Hills	2003
Caroline Record of Morristown	2003
David S. Sager of Morristown	2003
James Stewart of Roseland	2003
Carole Ruth White-Connor of Bedminster	2003
Michael R. Clarke of Florham Park	2004
Vivian Demas of Chatham	2004
Glenn T. Gavan of Newton	2004
George J. Grochala of Morristown	2004
Robert M. Leonard of Florham Park	2004
Alan Strelzik of Newton	2004
Jefferson T. Barnes of Chatham	2005
Mark Andrew Blount of Chester	2005
Robert D. Correale of Morristown	2005
Laura Ann Kelly of Morristown	2005
Margaret Anne Kerr of Morris Plains	2005
Michael M. Luther of Parsippany	2005
Joseph V. MacMahon of Riverdale	2005
Lauren Koffler O'Neill of Roseland	2005
Peter Petrou of Parsippany	2005
Janet L. Pisansky of Morristown	2005
John M. DeMarco of Morristown	2006
Larisa V. K. Gjivoje of Newark	2006
Kurt W. Krauss of Parsippany	2006
Christopher J. McAuliffe of Mountain Lakes	2006
Arlene E. Pasko of Kinnelton	2006
James M. Porfido of Morristown	2006
Frank R. Allocca of Chester	2003
Jairo A. Betancourt of Morristown	2003
Barry Pierce of Morristown	2003
Bonnie Wolfanger of Morristown	2004
William D. Primus of Morristown	2005
J. Peter Borbas of Boonton	2006
Sherry E. Jorge of Hillsborough	2006
Mary E. Van Kirk of Morristown	2006

**DISTRICT XI**  
(Passaic County)  
**Secretary:** Robert L. Stober of Clifton

Michael A. Sternick of Paterson, Chair	2003
Patrick J. DeMarco of North Haledon, Vice Chair	2004
Mary Pat Gallagher of Wayne	2003
Robert C. LaSalle West Paterson	2003
Susan E. Champion of Wayne	2004
Kenneth F. D'Amato of Clifton	2004
Diane M. Dewey of Hawthorne	2004
Martin F. Murphy of Riverdale	2004
Kathleen A. Browning of Hawthorne	2005
JoAnn G. Durr of Wayne	2005
Patrick J. Caserta of Wayne	2006
Ellen Jo Gold of Paterson	2006
Maria J. LaSala of Wayne	2006
Imre Karaszegi, Jr. of Clifton	2006
Lawrence M. Maron of New Brunswick	2006
Frank L. Pondelick of Paterson	2006

Office of Attorney Ethics

	<b>Term Expires</b>
Raymond Damiano of Little Falls	2003
John Susani of Paterson	2003
Ken Morris, Jr. of Paterson	2004
Jackie Bonney of Wayne	2006

**DISTRICT XII**  
(Union County)

**Secretary:** Nicholas D. Caruso of Berkeley Heights

William B. Ziff of Westfield, Chair	2003
Grace D. Mack of West Orange, Vice Chair	2004
Michael F. Brandman of Cranford	2003
Anabela Dacruz-Melo of Elizabeth	2003
Marvin T. Braker of Union	2004
Rosa Maria Conti of Springfield	2004
Stephen F. Hehl of Union	2004
Richard P. Krueger of Linden	2004
Jamie K. Von Ellen of Cranford	2004
Leigh Walters of Springfield	2004
Kelly A. Waters of Newark	2004
David Wendel of Springfield	2004
Mark P. Dugan of Elizabeth	2005
Robert J. Logan of New Providence	2005
Theresa E. Mullen of Clark	2005
Judith De Rosa of Fairfield	2006
R. Scott Eichhorn of Springfield	2006
Bill R. Fenstemaker of Elizabeth	2006
Catherine J. Flynn of New Providence	2006
Marjorie B. Leffler-Wachtel of Westfield	2006
Jonathan W. Romankow of Westfield	2006
Kenneth B. Rotter of Newark	2006
Stephen J. Tafaro of New Providence	2006
Marlene DeRosa-Centanni of Watchung	2003
Joseph Gold of Springfield	2003
Andrew J. Pelliccio of Cranford	2004
Jean Reisen of Summit	2005

**DISTRICT XIII**  
(Hunterdon, Somerset and Warren Counties)  
**Secretary:** Julie M. Marino of Bridgewater

Donna P. Legband of Skillman, Chair	2003
John R. Lanza of Flemington, Vice Chair	2004
John H. Fitzgerald of Belvidere	2003
Elinor P. Mulligan of Hackettstown	2003
Linda Del Tufo of Basking Ridge	2004
Roseanne De Torres of Lebanon	2004
Lauretta A. Rush-Masuret of Bernardsville	2004
Kenneth J. Skowronek of Flemington	2004
Christopher M. Troxell of Phillipsburg	2004
Christopher T. Walsh of Somerset	2004
Robert J. Foley of Raritan	2005
Karen A. Gugliotta of Phillipsburg	2005
Rosalyn A. Metzger of Somerville	2005
Mary Rose Mott of Baptistown	2005
Donald E. Souders, Jr. of Phillipsburg	2005
Thomas J. Welchman of Somerville	2005
Patrick T. Collins of Somerville	2006
William J. Courtney of Flemington	2006
J. Rebecca Goff of Whitehouse	2006
Lance J. Kalik of Morristown	2006
Nancy L. McDonald of Morristown	2006
Carol L. Perez of Whitehouse	2006
David W. Trombardore of Somerville	2006
Richard G. Wallace of Blairstown	2003
Thomas J. Rafferty of Somerville	2004
Michele Chen of Watchung	2005
Paul McCormick of Flemington	2006

# **FEE ARBITRATION SYSTEM**

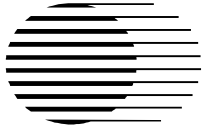
## **Chapter Four**



“The policy underlying the fee arbitration system is the promotion of public confidence in the bar and the judicial system.

‘If it is true - and we believe it is - that public confidence in the judicial system is as important as the excellence of the system itself, and if it is also true - as we believe it is - that a substantial factor that erodes public confidence is fee disputes, then any equitable method of resolving those in a way that is clearly fair to the client should be adopted.... The least we owe to the public is a swift, fair and inexpensive method of resolving fee disputes.’” (Quoting from *In re LiVolsi*, 85 N.J. 576, 601-602 (1981))

Associate Justice James H. Coleman, Jr.  
*Saffer v. Willoughby*, 143 N.J. 256, 263 (1996)



# FEE ARBITRATION PROCESS

## 2002 Highlights

Calendar clearance was again the word for fee arbitration in 2002, as committees continued to work hard to handle a total of 1,877 disputes over lawyers' fees. That total consisted of 631 matters carried over from 2001 and 1,246 new filings. This was the fourth year out of the last five that the fee arbitration system cleared more cases than it added. **Figure 23.** In 2002, fee committees took in 1,246 new cases and disposed of 1,282 matters. As a result, the number of cases pending at year's end decreased to 595 from 631 at the conclusion of 2002. The number of pending cases has remained relatively consistent over the

last five years. The pending year-end totals were 641 cases in 1998, 638 in 1999, 650 in 2000, 631 in 2001 and 595 this year.

The average number of cases pending before each of the 17 district fee arbitration committees remained at a very manageable level of 35 cases per district. These achievements are a testament to the continued hard work of over 290 volunteer attorneys and public members. Their work is coordinated and administered by the Office of Attorney Ethics, aided by a statewide database that tracks all fee cases.

### Calendar Clearance Continues

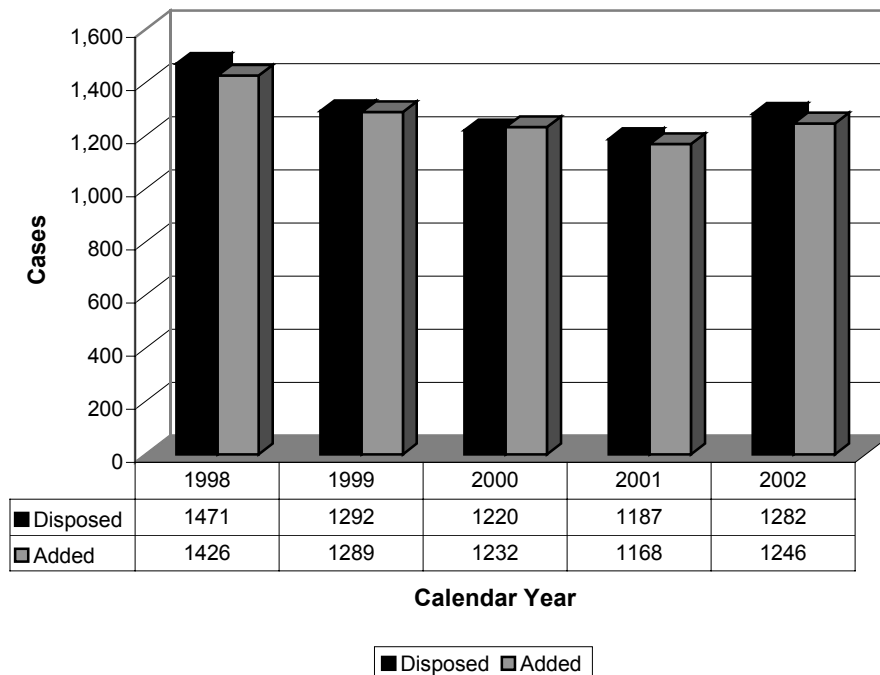


Figure 23

## Origin and Administration

The Attorney Fee Arbitration System in New Jersey operates independently of the attorney disciplinary system. The Supreme Court of New Jersey created the current system in 1978 to deal solely with attorney-client fee disputes, in recognition of the fact that fee disputes are not disciplinary matters.

The New Jersey program was the second in the country, behind Alaska, to see the wisdom of offering clients and attorneys an inexpensive, fast and confidential method of resolving fee disagreements. Today, New Jersey remains one of only a handful of states to offer a mandatory, statewide program. Other such programs exist in Alaska, California, District of Columbia, Maine, New York, Montana, North Carolina, South Carolina and Wyoming. These programs offer a real remedy to clients who believe that they have been charged more than a reasonable fee. Lawyers in New

Jersey are also required to notify the client of the availability of fee arbitration prior to bringing a lawsuit. If the client chooses fee arbitration, the lawyer must arbitrate the matter.

The fee arbitration process is a model of simplicity. It is a two-tiered system that operates statewide. **Figure 24.** The Office of Attorney Ethics (OAE) administers it. Deputy Ethics Counsel John McGill, III is the OAE's Statewide Fee Coordinator. Fee Assistant, Gerry M. Stults, Secretary Mercedes R. Schneider and Support Staff, Mary Zienowicz assist him. Fee arbitration is conducted on two levels:

- 17 District Fee Arbitration Committees and
- Statewide Disciplinary Review Board.

## Initiating Arbitration

Fee arbitration is initiated by a client's filing of an arbitration request form with the secretary of the fee committee in a district where the lawyer maintains an office for the practice of law. Both the client and attorney are required to pay a \$50 administrative filing fee for utilizing the fee arbitration system. Fee committees have jurisdiction irrespective of whether the attorney has been "suspended, resigned, disbarred or transferred to 'Disability-Inactive' status since the fee was incurred." *R. 1:20A-3(a)*. District fee committees are organized along geographic lines that are identical to ethics committee districts.

Since attorney participation in New Jersey's fee program is mandatory, the request form requires that the

client consent to be bound by the results of the fee arbitration process. In order to insure that consent is informed, all fee secretaries provide clients with a "Fee Information Pamphlet," which explains the Fee Arbitration process. Fee committees adjudicate fee controversies between lawyers and clients. They do not render advisory opinions. To assist lawyers who have questions about the ethical propriety of certain types of fee provisions or agreements, the Supreme Court has established an Advisory Committee on Professional Ethics, which renders advisory opinions. That committee also answers general ethics questions in an advisory manner.

## Procedural Rules

In fee matters, the burden of proof is on the attorney to prove, by a preponderance of the evidence, that the fee charged is reasonable. In accordance with *Rule of Professional Conduct 1.5*, there are at least eight factors that may be considered in establishing the reasonableness of a fee:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
2. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
3. The fee customarily charged in the locality for similar legal services;
4. The amount involved and the results obtained;
5. The time limitations imposed by the client or by the circumstances;
6. The nature and length of the professional relationship with the client;
7. The experience, reputation, and ability of the lawyer or lawyers performing the services; and
8. Whether the fee is fixed or contingent.



# Fee Arbitration System



Figure 24

## Attorney Response

After a fee arbitration request form has been filed with the secretary, a questionnaire, called an Attorney Fee Response Form, is sent to the attorney. In addition to requesting a copy of the bill, any written fee agreement and any time records, the attorney is required to reply to the client's explanation on the initial request form as to why the client disagrees with the attorney's bill. The attorney must serve a copy of the Attorney Fee Response on the client and must file copies

with the secretary, along with the \$50 administrative filing fee, within 20 days after the attorney's receipt of the client's initial request for arbitration. Within that same time period, the attorney may join as a third party any other "attorney or law firm which the original attorney alleges is...potentially liable in whole or part for the fee..." *Rule 1:20A-3(b)*. At any time thereafter, the matter can be set down for a hearing.

## Hearing

Cases involving fees of \$3,000 or more are heard before panels of three members, usually composed of two lawyers and one public member. Fee committees have been composed of both lawyers and public members since April 1, 1979. Public member participation in the decision-making process is a particular strength of New Jersey's attorney fee arbitration system. Hearings are scheduled on at least ten days' written notice. There is no discovery. However, all parties have the power of subpoena, subject to rules of relevancy and materiality. No stenographic or other transcript of the proceedings is maintained, except

in exceptional circumstances at the direction of the Disciplinary Review Board (Review Board) or the Director, Office of Attorney Ethics. All proceedings are conducted formally and in private, but the strict rules of evidence need not be observed. If the total amount of the fee charged is less than \$3,000, the hearing may be held before a single attorney member of the committee. A written arbitration determination, with a brief statement of reasons annexed, is prepared usually within thirty days. The secretary mails the decision to the parties, who are notified of their rights to appeal to the Review Board.

## Appellate Review

A limited right of appeal to the Review Board is provided. The grounds for appeal are as follows:

- Failure of a member to be disqualified in accordance with *R.1:12-1*;
- Failure of the committee to substantially comply with mandatory procedural requirements;
- Actual fraud on the part of any member of the committee, or

- Palpable mistake of law by the Fee Committee, which mistake has led to an unjust result.

Either the attorney or the client may take an appeal within 21 days after receipt of the fee committee's written determination by filing a notice of appeal in the form prescribed by the Review Board. Timely filing of a notice of appeal acts as an automatic stay of execution on any judgment obtained on the fee committee's determination. All appeals are heard by the Review Board on the record. Its decision is final. There is no right of appeal to the Supreme Court of New Jersey.

**Figure 25** shows a flowchart of the process, from initiation of fee arbitration, through docketing, hearing, decision and a limited appeal to the Review Board.

# Arbitration Flowchart

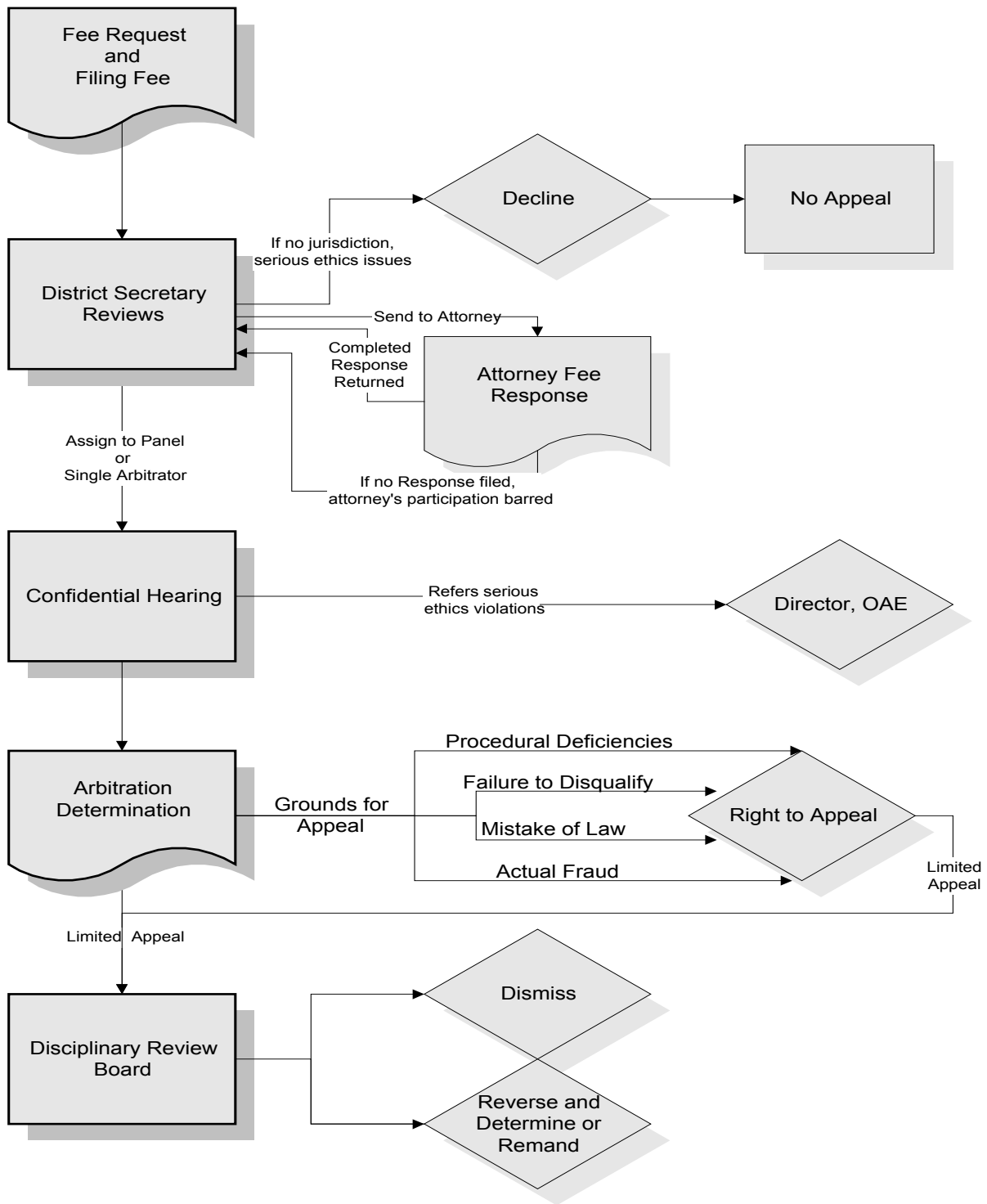


Figure 25



# FEE ARBITRATION CASELOAD

## Fee Dispute Filings

Fee arbitration filings increased by 6.6% in 2002, to 1,246 from 1,168 in 2001. This represents the first increase in the number of new fee cases in the last four years. **Figure 26.**

Overall, the number of filings has shown a decrease since 1998 when a total of 1,426 new fee matters were docketed. The number of new cases filed in a given year results from a number of factors. Consequently, no conclusions can be drawn from reviewing the data for a single year. However, the results over a period of time can indicate trends. The trend since 1998 is clearly down, showing a -12.6% downturn overall. However, the 2002 numbers deviate from that pattern and demonstrate a one-year upward swing. Whether or not this is the beginning of a new trend is something that will have to await future statistics.

The overall decline in filings from 1998 to 2001 is largely attributable to the increased screening authority given to fee secretaries in 1995 under *Rule 1:20A-2(d)*, which provides that the fee secretary shall have the authority in the first instance to resolve all questions of jurisdiction. Rather than accepting filing fees and docketing matters of questionable jurisdiction, only to have these matters later dismissed by the committee for lack of jurisdiction, the fee secretaries have become more pro-active in exercising their jurisdictional review function under this rule. This heightened sensitivity to jurisdictional issues not only protects the parties from the payment of unnecessary filing fees where the committees obviously lack jurisdiction (for example where the fee

was previously determined by court order), but it helps to ensure efficient use of valuable committee time.

The 2002 increase in filings demonstrates that fee arbitration remains a very popular alternative to civil litigation. Lawyers are required to specifically notify clients of the availability of fee arbitration as a prerequisite to filing a lawsuit to recover a fee. *R. 1:20A-6*. As a result, clients are aware of and continue to take advantage of the fee arbitration system. This is not surprising since fee arbitration presents a simple, less threatening and more expeditious alternative to civil litigation.

### Changes In Fee Disputes

Year	Filings	Change	Overall
2002	1,246	6.6%	-12.6%
2001	1,168	-5.2%	
2000	1,232	-4.4%	
1999	1,289	-9.6%	
1998	1,426	--	

Figure 26

## Types of Cases Filed

The type of legal matter handled is a primary factor in determining which clients will resort to fee arbitration. Domestic relations matters (including matrimonial, support and custody cases) generate the most fee arbitrations. **Figure 27.** During 2002, 37.5% of all fee disputes arose out of this type of practice. This represents a decrease over domestic relations cases filed a year earlier when they accounted for 43.4% of all filings.

Historically, family actions have always ranked first in this category. Given the extreme emotional and often volatile nature of these matters, this statistic is not surprising. Efforts in this state are ongoing to minimize fee disputes in this area. In 1982, the Supreme Court adopted *R. 1:21-7A* regarding retainer agreements in family actions. That rule required all such agreements for legal services to be in writing and signed by both the lawyer and the client. The rule further provided that a signed duplicate copy of the fee agreement be delivered

to the client. In 1999, an even more comprehensive rule was adopted, *R. 5:3-5*, which continues the written fee agreement requirements of the former rule. In addition, the new rule requires that the agreement must provide for periodic billing at least every 90 days and that the agreement have annexed a statement of client's rights and responsibilities. This new rule also prohibits charging "non-refundable retainers and the holding of mortgages or other liens on clients' property to secure a fee in family actions.

New Jersey became the first state in the nation to adopt the American Bar Association's Model Rules of Professional Conduct in 1984. Under *RPC 1.5(d)* contingent fees may not be based on securing a divorce, the amount of alimony or support, or the amount of the property settlement reached. This prohibition is also included under new *R. 5:3-5*.

Moreover, *RPC 1.5(b)* governing "Fees," as modified for adoption in New Jersey, insures communications on all fees between lawyers and clients at the inception of the relationship. The New Jersey rule provides that, not only in matrimonial matters, but also in all actions:

When the lawyer has not regularly represented the client, the basis or rate

for the fee shall be communicated in writing to the client before or within a reasonable time after commencing the representation.

Criminal matters (including indictable, quasi-criminal and municipal court cases) and "other litigation" matters rank second and third in frequency of generating fee arbitration proceedings. Criminal cases account for 13.5% of all fee disputes filed, up slightly from 12.4% last year. As with matrimonial cases, contingent fees are prohibited as a matter of policy in criminal cases. Other litigation matters amount to 8.7% of new filings in 2002, compared to 9.2% last year.

Real Estate matters provided the fourth most frequent cause for fee arbitration filings at 7.5% versus 5.5% last year. The category of "other non-litigation" disputes followed next at 5.7%, compared to 5.1% in 2001. Estate/Probate disputes were virtually unchanged at 4.7% of filings; it stood at 4.8% in 2001. Contract matters were next at 4.1% (4.0% in 2001), followed by bankruptcy/ insolvency/foreclosure matters, at 3.0% versus 2.9% in 2001.

Two point one percent of filings involved landlord/tenant cases. Collection cases were ninth with 2.2% and labor cases were in tenth place, representing 1.9% of all fee filings.

## Types Of Practice

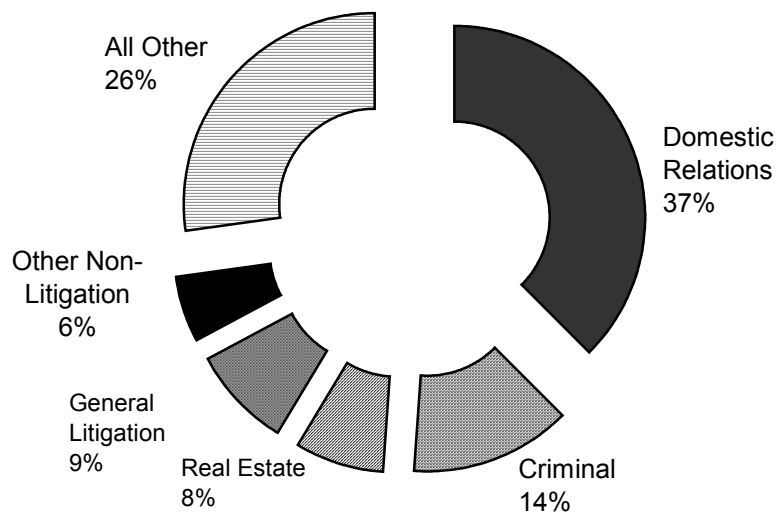


Figure 27

## Age of Caseload

Almost seven out of every ten (68.1%) fee disputes disposed of (1,282) in 2002 had an average age of less than 180 days. **Figure 28.** This is a noticeable improvement from the 62.8% figure for disposed cases during the same period in 2001. The percent of the oldest cases (i.e. those over one year old) decreased from 12.0% in 2001 to 9.7% this year. Cases in the mid range – from 6 to 12 months of age – also decreased from 25.3% last year to 22.3% this year.

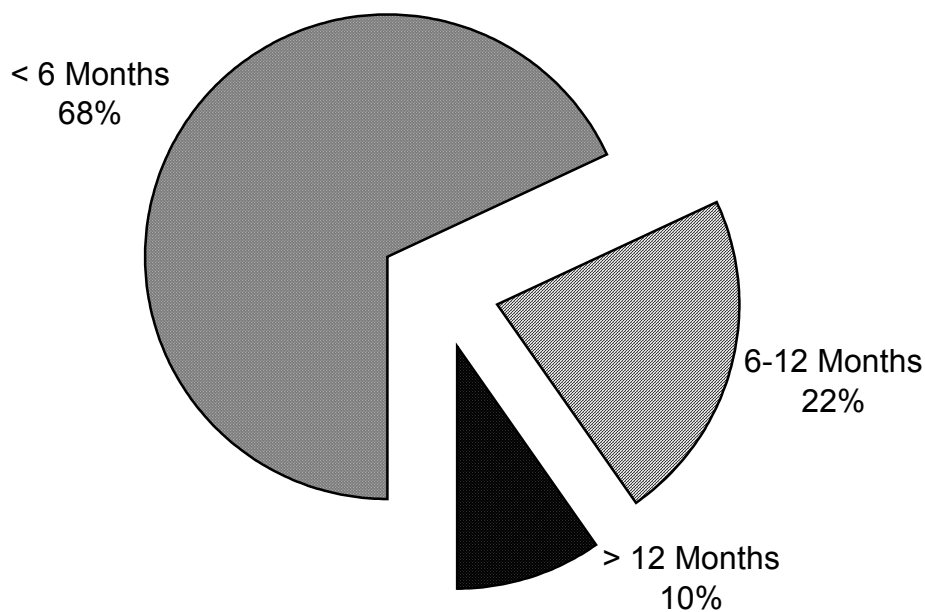
As a result of the hard work of committees in achieving more timely dispositions within these age groups, the overall average disposed age improved from 188 days in 2000 to 181 days for 2002.

At the end of calendar year 2002, there were a total of 595 cases pending. This compares to 631 matters at the conclusion of 2001. **Figure 29.**

<b>Statewide Fee Arbitration Caseload</b>		
<b>Pending 1/1/02</b>		<b>631</b>
Filings	1,246	
Dispositions	1,282	
<b>Pending 12/31/02</b>		<b>595</b>

**Figure 29**

## Age of Disposed Cases



**Figure 28**

## Nature of Dispositions

Of the 1,282 cases disposed of by fee committees in 2002, 91% were either arbitrated by fee committees (64% or 824 cases) or settled by the parties voluntarily (27% or 343 cases) after fee arbitration was initiated. The percentage of formal determinations for 2002 was identical to 2001 at sixty four percent. Settled matters comprised 27% of year 2002 dispositions, up slightly from 25% in 2001. Clients voluntarily withdrew almost 1.0 % of all cases disposed.

Fee committees declined to arbitrate 2% of all cases for jurisdictional reasons pursuant to *R.1:20A-2*, where, for example, a court had already determined the fee to be reasonable or where the primary issues raised

substantial legal questions in addition to the basic fee dispute. One point one percent of all cases were transferred to a different district for hearing due to a conflict of interest on the part of a member of a fee committee or because the fee dispute was originally filed in the wrong district. The Office of Attorney Ethics disposed the remaining 5.2% of the cases primarily by administrative dismissal. Such dispositions occur for a variety of reasons, including death of an attorney or client, failure of a client to respond to repeated notices of hearing and repeated relocations by a client who was incarcerated in prison so as to make scheduling of hearings impractical.

## Monetary Results

Fee committees disposed of 1,167 cases (91% of all dispositions) through formal determinations and voluntary settlements by the parties. These cases involved total billings by New Jersey attorneys in the amount of \$20,384,260. This represents a 30% increase over the 2001 total of \$15,644,508 settled or arbitrated.

During the year 2002, the committees conducted 824 hearings involving \$15,677,048 in total attorney's fees charged. In 36.1% of the cases (276 hearings), they upheld the attorney's fees in full. In the remaining 63.9% of the fee cases (489 hearings), they reduced the fees by a total of \$6,316,572, which represents 51.6% of the total billings subject to reduction.

Since the parties are not required to provide specific details in settled matters, available information is incomplete. In the 343 reported settlements the original billings totaled \$4,707,212. The clients agreed to pay the entire fee charged in only 30 (8.7%) of the 343 settlements. In the remaining 313 settlements, the attorneys agreed to voluntarily reduce their fees by 67.8%. These bills were compromised by the parties to \$2,96,551 representing a 67.8% reduction from the original amount billed.

The amount of reductions was specifically analyzed in ranges of from less than \$100 up to \$20,001 to \$50,000. In over 53% of the hearings resulting in a reduction, the dollar amount of the reduction was between \$251 and \$2,000. In settled matters, 37.7% of the cases involved reductions in the \$251 to \$2,000 range. The average bill in cases formally determined was \$19,025, while the average reduction in these matters was \$11,611.

In New Jersey, tort cases, including most negligence matters, have long been the subject of fee limitations. *Rule 1:21-7*, which has been in existence since 1971, requires written contingent fee agreements with clients in negligence matters and almost all other matters based on the tortious conduct of another. These contingent fees are subject to specific maximum limits, as follows:

- ▶ 33.3% on the first \$500,000 recovered;
- ▶ 30% on the next \$500,000 recovered;
- ▶ 25% on the next \$500,000 recovered;
- ▶ 20% on the next \$500,000 recovered; and
- ▶ on all amounts recovered in excess of the above, by application for reasonable fees.

Tort fees recovered for the benefit of a child or an incompetent are also subject to the limits above, if the fee is contingent. However, where the amount so recovered is by settlement without trial the fee may not exceed 25%.

As a result of the adoption of the Rules of Professional Conduct, all contingent fee agreements, regardless of type, must be in writing and must state the method by which the fee is to be determined. *RPC 1.5(c)*. Such agreements must specify the percentage accruing to the lawyer in the event of settlement, trial or appeal, whether litigation and other expenses are to be deducted from the recovery and whether such expenses

Office of Attorney Ethics

are to be deducted before or after the contingent fee is calculated. At the conclusion of the case, the lawyer is required to provide the client with a written statement setting forth the outcome of the matter and, in cases

where there is a recovery, the statement must show the remittance to the client and how that amount was determined.

## Conclusion

Attorney Fee Arbitration is a process that is being used effectively by lawyers and clients who have disagreements over the reasonableness of legal fees. In 2002, 1,246 new fee disputes were filed against New Jersey attorneys. This number represents 2.1% of the active New Jersey lawyer New Jersey lawyer population (57,484). Given the hundreds of thousands of civil, criminal, equity, small claims and municipal court

matters that are filed with the courts, and the hundreds of thousands of non-litigated matters (real estate transactions, wills, corporate, partnership and small business transactions, government agency matters, etc.) handled annually by New Jersey lawyers, it is clear that the number of fee arbitration matters filed is a very small percentage of the total number of attorney client transactions.



## DISTRICT FEE COMMITTEES

The New Jersey fee arbitration system depends on attorney and public members serving on 17 regionalized district fee arbitration committees. As of September 1, 2002 there were 290 members of district committees serving pro bono across the state.

Following is a list of members who served on the Supreme Court's district fee arbitration committees for the 2002-2003.

	<b>Term Expires</b>
<b>DISTRICT I</b>	
(Atlantic, Cape May, Cumberland and Salem Counties)	
<b>Secretary:</b> Michael A. Pirolli of Bridgeton	
Sophia M. Canosa, Chair of Absecon	2003
Gina Merritt-Epps, Vice Chair of Atlantic City	2004
Lois Hughes Finifter of Atlantic City	2003
John D. Jordan of Pennsville	2003
Michael A. Gill of Northfield	2004
Paul T. Chan of Atlantic City	2004
Dianna R. Williams-Faunterloy of Pleasantville	2004
Stephen Barry of Wildwood	2004
Charles J. Girard of Vineland	2004
Susan M. Korngut of Northfield	2005
H. Parker Smith of Cape May Courthouse	2005
Karen Williams of Atlantic City	2006
Robert C. Litwack of Bridgeton	2006
Michael W. Kern of Egg Harbor Township	2003
Edward J. Geletka of Bridgeton	2003
Mark Borowsky of Pleasantville	2004
Paul Kahane of Cold Spring	2004
Eileen Ballinghoff of Cape May Courthouse	2005
Al Gutierrez of Somers Point	2006
Kathy Arrington of Atlantic City	2006
Joan L. Clarke of Tuckerton	2006
John M. Bettis of Pleasantville	2006

	<b>Term Expires</b>
<b>DISTRICT IIA</b>	
(North Bergen County)	
<b>Secretary:</b> Terrence J. Corriston of Hackensack	
George T. Orthmann, Chair of Ridgewood	2003
Jonathan Remshak, Vice Chair of Hackensack	2004
James Cedarstrand of Ridgewood	2003
John T. Herbert, Jr. of Englewood Cliffs	2003
Jeffrey B. Steinfeld of Hackensack	2005
Charles J. Lange, Jr. of Palisades Park	2005
Joel J. Reinfeld of Ridgewood	2005
Julia Barash of Hillsdale	2005
Dennis W. Blake of Montvale	2006
Robert E. Landel of Franklin Lakes	2006
Colin M. Quinn of Westwood	2006
Russel B. Teschon of Midland Park	2006
Lawrence A. Joel of Ordell	2006
Mary E. Eisenberg of Woodcliff Lake	2004
Marlene B. Tarlowe of Montvale	2004
Anthony Sabino, Jr. of Paramus	2004
Beth Politi of Montvale	2005
Joseph Tedeschi of Fair Lawn	2006
Grace Stocker of Ramsey	2006

<b>DISTRICT IIB</b>	
(South Bergen County)	
<b>Secretary:</b> Michael J. Sprague of Hackensack	
Kevin Patrick Kelly, Chair of Hackensack	2003
Paul C. Lomberg, Vice Chair of Hackensack	2004
Edward G. Johnson of Hackensack	2003
Stuart Komrower of Hackensack	2003
Barry L. Kauffman of Hackensack	2004
John Whipple of Hackensack	2004
William J. Heimbuch of Hackensack	2005
Wendy F. Klein of Hackensack	2005
Ellen W. Smith of Hackensack	2005



	<b>Term Expires</b>
Menelaos W. Toskos of Hackensack	2006
Ira C. Kaplan of Hackensack	2006
Peter V. Moore of Wood Ridge	2006
David M. Kohane of Hackensack	2006
Irwin S. Markowitz of Englewood Cliff	2006
Lee Porter of Hackensack	2003
Henry B. Chernin of New Milford	2004
Evelyn M. Comer of Tenafly	2004
Frank A. Gargano of Rutherford	2004
Edward Garrett of Wood Ridge	2004
Anthony Scardino of Lyndhurst	2005
Peter A. Michelotti of Fair Lawn	2006

**DISTRICT IIIA**

(Ocean County)

**Secretary:** Lisa E. Halpern of Toms River

Stephanie M. Wauters, Chair of Toms River	2003
John M. Doran, Vice Chair of Toms River	2004
Ron A. Venturi of Pt. Pleasant	2003
Brian E. Rumpf of Little Egg Harbor	2003
Joan L. Murphy of Toms River	2005
Terry F. Brady of Toms River	2006
Philip G. Pagano of Red Bank	2006
Michael T. Wolf of Toms River	2006
George D. Elliot of Lakewood	2004
Terry Moncrief of Toms River	2004
Ann Koukos of Forked River	2005
Charles W. Bowden of Smithville	2006

**DISTRICT IIIB**

(Burlington County)

**Secretary:** Christopher R. Musulin of Mt. Holly

Michael A. Bonamassa, Chair of Marlton	2003
Alan Ettenson, Vice Chair of Moorestown	2004
Marcia Allen-Phillips of Moorestown	2003
Kevin E. Aberant of Moorestown	2005
Marybeth F. Baron of Mt. Holly	2005
Carolyn V. Chang of Mount Holly	2006
Donald N. Elsas of Willingboro	2006
Alfred T. Giuliano of Marlton	2003
Celise Lundy of Willingboro	2005
Louis Cardis, Jr. of Florence	2006
Jennifer Miles of Burlington	2006
Sallie Holzbaur of Allentown	2006

**DISTRICT IV**

(Camden County)

**Secretary:** Joel Schneider of Haddonfield

Timothy Scaffidi, Chair of Woodbury	2003
Timothy Chell, Vice Chair of Woodbury	2004
Winston C. Extavour of Haddonfield	2003
Joseph A. McCormick, Jr. of Haddonfield	2003
Thomas M. Murtha of Woodbury	2003
Katina Pappas Velahos of Woodbury	2003
Peter A. Garcia of Mt. Ephraim	2004
Rita S. Polonsky of Audubon	2005
Michael D. Fioretti of Cherry Hill	2005
Bruce P. Matez of Haddonfield	2005
Antoinette Falciani of Woodbury	2005
Scott H. Marcus of Turnersville	2005
Thomas G. Heim of Woodbury Heights	2005
Maury K. Cutler of Blackwood	2006
Daniel McCormack of Audubon	2006
Andrew B. Kushner of Cherry Hill	2006
D. Kenneth Tulloch of Turnersville	2003
Steven Applebaum of Marlton	2004

	<b>Term Expires</b>
Joseph J. Grassi of Somerdale	2004
Morton Batt of Cherry Hill	2005
Altheia Leduc of Voorhees	2006
Marie D. Fairchild of Haddonfield	2006
Frederick R. Linden of Mount Laurel	2006

**DISTRICT VA**

(Essex County - Newark)

**Secretary:** Robert A. Berns of Newark

Margaret Dee Hellring, Chair of Newark	2003
Michael Edelson, Vice Chair of Newark	2004
John V. Jacobi of Newark	2003
Steven A. Beckelman of Newark	2003
Ingrid A. Enriquez of Newark	2004
Sharon K. McGahee of Newark	2004
Eileen A. Lindsay of Roseland	2006
Gustavo J. Perez of Newark	2006
Pamela M. Cerruti of Montclair	2006
Rosalyn Cary Charles of South Orange	2006
Jose A. Fernandez of Newark	2003
Thomas Lupo of Newark	2003
Joan Wigler of Newark	2004
Valarie Davia of Maplewood	2005
Robert S. Perelman of W. Caldwell	2006

**DISTRICT VB**

(Essex County - Suburban Essex)

**Secretary:** David Schechner of West Orange

Janet L. Pennisi, Chair of Millburn	2003
Carlia M. Brady, Vice Chair of West Orange	2004
Robert M. Rich of Verona	2003
Laurence H. Olive of Montclair	2003
Rose Marie Sardo of Newark	2005
Jeffrey George Paster of West Orange	2005
Stuart I. Gold of West Orange	2005
Sherri Davis Fowler of West Orange	2005
Bruce Levitt of South Orange	2006
Pamela C. Mandel of Millburn	2006
S. George Reed of Orange	2003
David L. Goldsmith of Livingston	2003
George Watson, Jr. of Maplewood	2004
Louis Wiener of Short Hills	2005
Walter Pagano of Warren	2005

**DISTRICT VC**

(Essex County - West Essex)

**Secretary:** Anne K. Franges of Newark

Glenn R. Turteltaub, Chair of Florham Park	2003
Regina Waynes Joseph, Vice Chair of East Orange	2004
Cathleen G. McDonough of Roseland	2003
Corliss R. Franklin of Newark	2003
Michael R. Pallarino of Short Hills	2003
H. Jonathan Rubinstein of Millburn	2004
Edward R. McMahon of Roseland	2004
Harry Frieland of Livingston	2004
Raymond Kramkowski of Fairfield	2005
Floyd Shapiro of Roseland	2005
Barbara S. Fox of Cranford	2006
Daniel J. Jurkovic of Verona	2006
Eleonore K. Cohen of Springfield	2006
Raymond W. Burke of Livingston	2003
Philip Salzman of Livingston	2003
Thomas Tipaldi, Jr. of Cedar Grove	2004
Katherine Slattery of Caldwell	2004
Robert Fischbein of Short Hills	2006

	Term Expires
<b>DISTRICT VI</b> (Hudson County)	
<b>Secretary:</b> Marvin R. Walden, Jr. of West New York	
Otto J. Scerbo, Chair of Jersey City	2003
Manuel Garcia, Vice Chair of Guttenberg	2004
Oswin E. Hadley of Jersey City	2003
Eloisa V. Castillo of Union City	2004
Bart G. Mongelli of Teaneck	2004
Marlene Caride of Union City	2005
Lisette Castelo of Fort Lee	2006
James C. Dowden of Secaucus	2006
Lynn Arricale of Weehawken	2005
Rocco Crincoli of Jersey City	2006
Wanda Moreno of Union City	2006
Neifa Hadley of Jersey City	2006

	Term Expires
<b>DISTRICT VII</b> (Mercer County)	
<b>Secretary:</b> David A. Saltman of East Windsor	
Ronald J. Levine, Chair of Princeton	2003
Dale E. Console, Vice Chair of Kingston	2004
Barbara Strapp-Nelson of Princeton	2003
Suzanne M. McSorley of Princeton	2003
Vincent E. Gentile of Princeton	2004
Sahbra Smook Jacobs of East Windsor	2005
Kevin M. Shanahan of Pennington	2005
Jose Miguel Ortiz of Trenton	2005
Katerine Benesch of Princeton	2006
Dr. Crosby Copeland, Jr. of Trenton	2003
Ian A. Kops of Lawrenceville	2003
Kathy Dillione of W. Trenton	2005
Stephen K. Shueh of Princeton	2006

	Term Expires
<b>DISTRICT VIII</b> (Middlesex County)	
<b>Secretary:</b> William P. Isele of Milltown	
Eileen M. Foley, Chair of New Brunswick	2003
Robert D. Campbell, Vice Chair of Colonia	2004
Patricia Bombelyn of New Brunswick	2003
Ida Cambria of New Brunswick	2003
Steven M. Kropf of Old Bridge	2003
Alexandra Larson of New Brunswick	2003
Rhinold L. Ponder of New Brunswick	2004
James Dudley of Metuchen	2004
James P. Fitzgerald of Dunellen	2005
Barry E. Rosenberg of Bound Brook	2005
James B. Smith of Metuchen	2005
Eric Schwab of Woodbridge	2006
Mary Suarez of North Plainfield	2003
William S. Mundy, Jr. of Dunellen	2003
Jonathan P. Cowles of New Brunswick	2003
Nancy Muniz of Edison	2004
Juan J. Tenreiro of Edison	2005
Kerny Kuhltau of Piscataway	2006
Mary Martin of Middlesex	2006

	Term Expires
<b>DISTRICT IX</b> (Monmouth County)	
<b>Secretary:</b> Robert J. Saxton of Wall Township	
Michael Rubino, Jr., Chair of Spring Lake	2003
James N. Butler, Jr., Vice Chair of Asbury Park	2004
Charles R. Parker of Freehold	2003
C. Keith Henderson of Manasquan	2003
Melanie S. Wang of Hazlet	2003
Christine Giordano Hanlon of Edison	2005

Office of Attorney Ethics

	Term Expires
Van Lane of Freehold	2005
Gregory S. Baxter of Shrewsbury	2006
Michele C. Bowden of Red Bank	2006
Dawn DuVerney-Wilkins of Howell	2006
C. Martin Goodall of Little Silver	2006
Michael I. Halfacre of Little Silver	2006
Stafford W. Thompson of Red Bank	2006
Kevin Wigenton of Red Bank	2006
Louis Marie Cole of Manasquan	2003
Rev. David J. Parreott, Jr. of Asbury Park	2004
Charles Abate of Imlaystown	2004
Elaine Wilcher of Asbury Park	2005
Denise A. Cleriouzio of Holmdel	2006
Joseph E. Bennett of Neptune	2006
Linda O. Hochman of Shrewsbury	2006
Diane Traverso of West Allenhurst	2006
Michelle Ragula of Manalapan	2006
Michael A. Tartz of Wall	2006

	Term Expires
<b>DISTRICT X</b> (Morris & Sussex Counties)	
<b>Secretary:</b> Melinda D. Middlebrooks of Parsippany	
Robert E. Bartkus, Chair of Morristown	2003
Karin Haber, Vice Chair of Florham Park	2003
Carl W. Nelson of Franklin	2003
Jacquelin M. O'Donnell of Sparta	2003
Mark Bongiovanni of Cedar Knolls	2003
Thomas C. Pluciennik of Morris Plains	2004
Michael Wright of Morristown	2005
Bonny Rafel of Florham Park	2005
Ann M. Edens of Chester	2005
Fred Semrau of Boonton	2006
Jane E. Moore of Randolph	2003
Samuel E. Bleecker of Millington	2004
John Paoloni of Denville	2004
Peter J. Tol of Far Hills	2006
Bernard B. Verosub of Rockaway	2006

	Term Expires
<b>DISTRICT XI</b> (Passaic County)	
<b>Secretary:</b> Anthony Benevento of Totowa Boro	
Timothy P. Kane, Chair of Totowa	2003
Kevin P. Harrington, Vice Chair of North Haledon	2004
Edward C. Fabiano of Clifton	2003
Joaquin Calcines, Jr. of Paterson	2004
Norberto H. Yacono of Paterson	2004
Lucinda A. Long of Wayne	2004
Jane E. Salomon of Paterson	2005
Richard A. Shackil of Paterson	2005
andall Chiocca of Parsippany	2005
Linda Couso Puccio of Wayne	2005
Irene Mecky of Totowa	2006
Amato A. Galasso of Ridgewood	2006
S. Roy Lombardo of Wayne	2003
John Koontz of Totowa	2003
Sam Jarquesy of Wayne	2004
Brenda Adams of Wayne	2004

	Term Expires
<b>DISTRICT XII</b> (Union County)	
<b>Secretary:</b> Nicholas D. Caruso of Berkeley Heights	
Frederic H. Pearson, Chair of Union	2003
Gianfranco A. Pietrafesa, Vice Chair of Summit	2005
Barbara Koonz of Springfield	2003
Martha D. Lynes of Westfield	2003
Elizabeth A. Weiler of Cranford	2004

	<b>Term Expires</b>
Alberto Ulloa of Elizabeth	2004
Robert L. Munoz of Clark	2005
Amirali Y. Haidri of Union	2005
Ronald A. Cohen of Roselle Park	2006
Manuel P. Sanchez of Elizabeth	2006
Ronald R. Silber of Cranford	2006
Barbara S. Worth of Union	2006
Mitchell H. Portnoi of Clark	2006
Rose M. Brinker of Clark	2003
Laurence B. Chase of Summit	2003
Lois R. Goering of Elizabeth	2004
James C. Bishop, Jr. of Scotch Plains	2004
Ralph Spurduto of Union	2004
Marc Kelley of Cranford	2005
Sonya Pearson of Elizabeth	2006

	<b>Term Expires</b>
<b>DISTRICT XIII</b>	
(HUNTERDON, SOMERSET & WARREN COUNTIES)	
<b>Secretary:</b> Stuart C. Ours of Washington	
Joe E. Strauss, Chair of Flemington	2003
Brian M. Cige, Vice Chair of Somerville	2004
Stephen Tsai of Edison	2003
Roy Stevens of Bridgewater	2004
Charles Z. Schalk of Somerville	2005
James Scott DeMasi of Phillipsburg	2005
Kurt G. Ligos of Hackettstown	2005
Thomas S. Ferguson of Phillipsburg	2006
Kim Vernon of North Plainfield	2003
Gale S. Wachs of Bridgewater	2005
Dorothy J. Pesaniello of Washington	2006
Marjorie L. Rand of Martinsville	2006

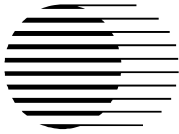
**CHARACTERISTICS  
of the  
NEW JERSEY BAR  
FOR YEAR 2001**

**Chapter Five**



“When this court admits a person as an attorney, he is thereby held out to the public as worthy of confidence in all his professional duties and relations. In so presenting him, the court assumes a duty to guard the endorsement against misuse to the detriment of the public. If thereafter unworthiness to possess it appears, it must be withdrawn to protect the public and the administration of justice.”

Associate Justice John J. Francis  
*In re Pennica*, 36 N.J. 401, 434 (1962)



# ATTORNEY REGISTRATION

An Annual Attorney Registration Statement (Figure 30) is sent to attorneys, together with the annual billing supporting attorney discipline and the Lawyers' Fund for Client Protection. The 2001 registration statement, authorized by *Rule 1:20-1(c)*, was mailed in 2001 and responses were tabulated on October 12, 2002.

The annual registration statistics in this chapter cover responses as of October 12, 2002. These totals,

therefore, do not agree with the number of admitted or active attorneys used in the first four chapters, which are provided by the Fund, come from a separate database and report statistics as of December 31, 2002. Also note that in 2002, the registration database was updated as the result of the Judiciary's Central Attorney Management System. As a result, this year's data is more complete than in previous years.

**SECTION A: GENERAL INFORMATION FOR ALL ATTORNEYS**

1. SOCIAL SECURITY NO.\*  
\*Disclosure is voluntary [R.1:20-1(c)] for identification purposes.

2. DATE OF BIRTH

3. HOME ADDRESS:

CITY STATE Zip

COUNTRY FOREIGN POSTAL CODE

4. HOME TELEPHONE (U.S.A. ONLY):

5. List of all United States jurisdictions (excluding New Jersey and federal courts) where EVER LICENSED as a lawyer:

Year	State	Year	State	Year	State

6. Engages in the private practice of law in New Jersey:  Yes  No

**SECTION B: INFORMATION ONLY IF ENGAGED IN PRIVATE PRACTICE IN NEW JERSEY**  
(NOTE: If employed by a law firm, respondent is for your present legal employment.)

1. Engaged in the PRIVATE PRACTICE of law IN NEW JERSEY:

2. NATURE of private practice in New Jersey can best be described as:

3. TOTAL NUMBER of attorneys employed by firm in New Jersey:

4. MAIN BONA FIDE LAW OFFICE PHONE (not a fax line) in New Jersey:

5. PRIMARY BONA FIDE LAW OFFICE [R.1:20-1(e)] in New Jersey:

Firm Name  
Address  
City County State NJ Zip

6. I have read R.1:21-6 and R.1:28A. My law firm's trust and business accounts comply with these Rules. I understand that these accounts must be located ONLY IN APPROVED NEW JERSEY INSTITUTIONS.

PRIMARY N.J. TRUST ACCOUNT      PRIMARY N.J. BUSINESS ACCOUNT

Account No.      Account No.  
Bank      Bank

**SECTION C: CERTIFICATION OF NO CHANGE**

I certify the information provided above has not changed. I certify this information is true and accurate. If any statements are false, I realize I am subject to discipline by the Supreme Court.

Date      Attorney's Signature

(OAE 2/01)

**INFORMATION IS CONFIDENTIAL UNDER R.1:20-1(c). FOR USE ONLY AS DIRECTED BY SUPREME COURT.**

Figure 30

## Year Admitted To The Bar

As of October 12, 2002, the attorney registration database counted a total of 76,486 attorneys. Information on year of admission was available for all 76,479 (99.9%) practitioners. Over sixty-five percent of all New Jersey attorneys (65.2%) were admitted to practice since 1986, while over seventy-seven percent (77.2%) were admitted since 1981. Eighty-five percent of all (85.0%) attorneys were admitted since 1976. These figures are graphically shown below and are statistically compiled to the right.

### YEAR ADMITTED

<u>Year</u>	<u>Number</u>	<u>Percent</u>
<1940	558	0.73%
1941-1945	129	0.17%
1946-1950	439	0.57%
1951-1955	657	0.86%
1956-1960	859	1.12%
1961-1965	1,269	1.66%
1966-1970	2,480	3.24%
1971-1975	5,054	6.61%
1976-1980	5,920	7.74%
1981-1985	9,196	12.02%
1986-1990	14,611	19.10%
1991-1995	16,878	22.07%
1996-2000	14,811	19.37%
2001-2005	3,618	4.73%
<b>TOTALS</b>	<b>76,479</b>	<b>100.00%</b>

### YEAR ADMITTED

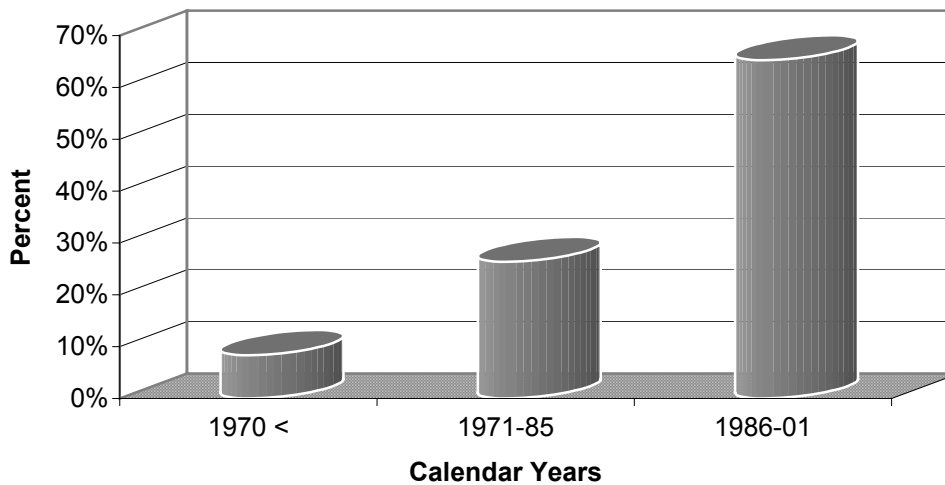


Figure 31

# Attorney Age

Of the 76,486 attorneys for whom some registration information was available, 70,106 (91.6%) provided their date of birth. No response to this question was made by 6,380 attorneys. The resultant age distribution of New Jersey attorneys is graphically shown below. The statistical results are set to the right.

## AGE GROUPS

<u>Age</u>	<u>Number</u>	<u>Percent</u>
< 25	54	0.08%
25-29	2,980	4.25%
30-34	11,245	16.04%
35-39	12,850	18.33%
40-44	11,813	16.85%
45-49	9,795	13.97%
50-54	7,872	11.23%
55-59	5,816	8.30%
60-64	2,981	4.25%
65-69	1,558	2.22%
70-74	1,242	1.77%
75-80	724	1.03%
> 80	1,176	1.68%
<b>TOTALS</b>	<b>70,106</b>	<b>100.00%</b>

## AGE DISTRIBUTION

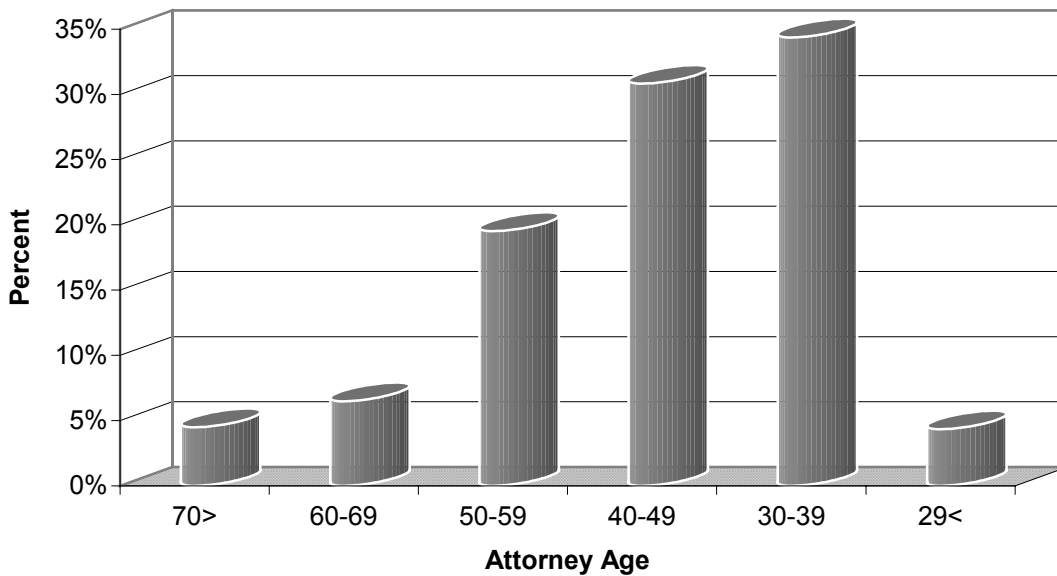


Figure 32



# Admissions In Other Jurisdictions

The 76,486 attorneys for whom some registration information was available were admitted to many other jurisdictions. In fact, almost two-thirds (64.7%) of all attorneys were admitted to the bars of other jurisdictions, while just over one-third (35.3%) were admitted only in New Jersey. These results are graphically set forth below, while the underlying statistics are compiled to the right. A list of the admissions to other jurisdictions with corresponding numbers and percentages is provided following this graphic.

## OTHER ADMISSIONS

<u>Admissions</u>	<u>Attorneys</u>	<u>Percent</u>
Only In NJ	26,989	35.29%
Add'l Jurisd.	49,497	64.71%
<b>TOTALS</b>	<b>76,486</b>	<b>100.00%</b>

## ADMISSIONS IN OTHER JURISDICTIONS

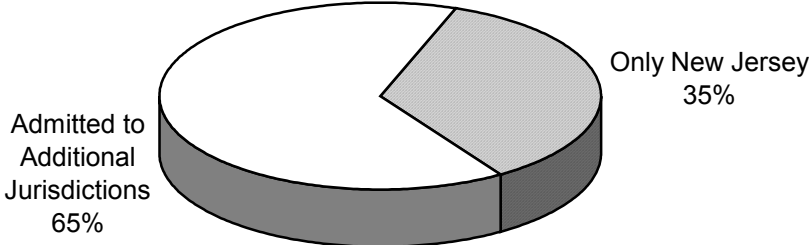


Figure 33

## Listing Of Other Jurisdictions

<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>	<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>
New York	27,000	44.37%	Indiana	80	0.13%
Pennsylvania	17,444	28.67%	South Carolina	66	0.11%
District of Col.	4,843	7.96%	West Virginia	66	0.11%
Florida	2,411	3.96%	Nevada	64	0.11%
California	1,290	2.12%	Hawaii	56	0.09%
Massachusetts	1,019	1.67%	Kentucky	53	0.09%
Connecticut	957	1.57%	Rhode Island	53	0.09%
Maryland	789	1.30%	Oregon	52	0.09%
Virginia	500	0.82%	New Mexico	45	0.07%
Illinois	493	0.81%	Oklahoma	39	0.06%
Texas	405	0.67%	Nebraska	38	0.06%
Georgia	351	0.58%	Kansas	37	0.06%
Ohio	347	0.57%	Virgin Islands	37	0.06%
Colorado	327	0.54%	Alabama	36	0.06%
Delaware	245	0.40%	Iowa	33	0.05%
Michigan	216	0.35%	Puerto Rico	29	0.05%
North Carolina	201	0.33%	Arkansas	20	0.03%
Arizona	185	0.30%	Utah	20	0.03%
Minnesota	124	0.20%	Idaho	16	0.03%
Washington	114	0.19%	Alaska	16	0.03%
Missouri	111	0.18%	Mississippi	13	0.02%
Maine	110	0.18%	Montana	13	0.02%
Louisiana	97	0.16%	South Dakota	8	0.01%
Wisconsin	96	0.16%	Wyoming	8	0.01%
Vermont	94	0.15%	North Dakota	4	0.01%
Tennessee	88	0.14%	Guam	3	0.00%
New Hampshire	84	0.14%	<b>Total Admissions</b>	<b>60,846</b>	<b>100.00%</b>

**Figure 34**

# Private Practice In New Jersey

Of the 76,486 attorneys on whom some registration information was tabulated, 30,802 indicated they were in private practice here. Some 396 (less than ½%) failed to respond to this question. Just over four in ten attorneys engaged in the private practice of law in New Jersey, while six in ten did not practice in the private sector in New Jersey. The figure below graphically shows these results, while the statistical results are shown to the right.

## NEW JERSEY PRIVATE PRACTICE

<u>Response</u>	<u>Number</u>	<u>Percent</u>
<b>NO</b>	45,684	59.73%
<b>YES</b>	30,802	40.27%
Full-time	20,728	
Part-time	5,905	
Other	3,773	
Unspecified	396	
<b>TOTAL</b>	<b>76,486</b>	<b>100%</b>

## ATTORNEYS IN PRIVATE PRACTICE IN NEW JERSEY

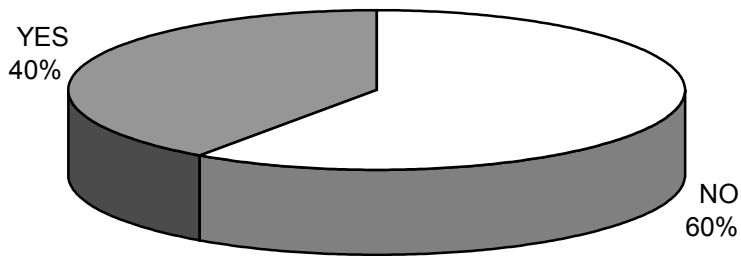


Figure 35

# Structure Of Law Firms

Of the 30,802 attorneys who indicated they were engaged in the private practice of law in New Jersey, 99% (30,611) responded to this question. The responses reflect that over one-third (34.4%) practiced in sole proprietorships [sole practitioners plus sole stockholders]. The next largest group was associates (29.8%), followed by partners (25.2%), other than sole stockholders (5.7%), and attorneys who were of counsel (4.8%). Set forth to the right are the supporting statistics, which are graphically shown below.

## PRIVATE PRACTICE STRUCTURE

<u>Structure</u>	<u>Number</u>	<u>Percent</u>
Sole Practitioner	9,763	31.89%
Sole Stockholder	775	2.53%
Other Stockholders	1,755	5.73%
Associate	9,133	29.84%
Partner	7,708	25.18%
Of Counsel	1,477	4.83%
<b>TOTALS</b>	<b>30,611</b>	<b>100%</b>

## PRIVATE PRACTICE STRUCTURE IN NEW JERSEY

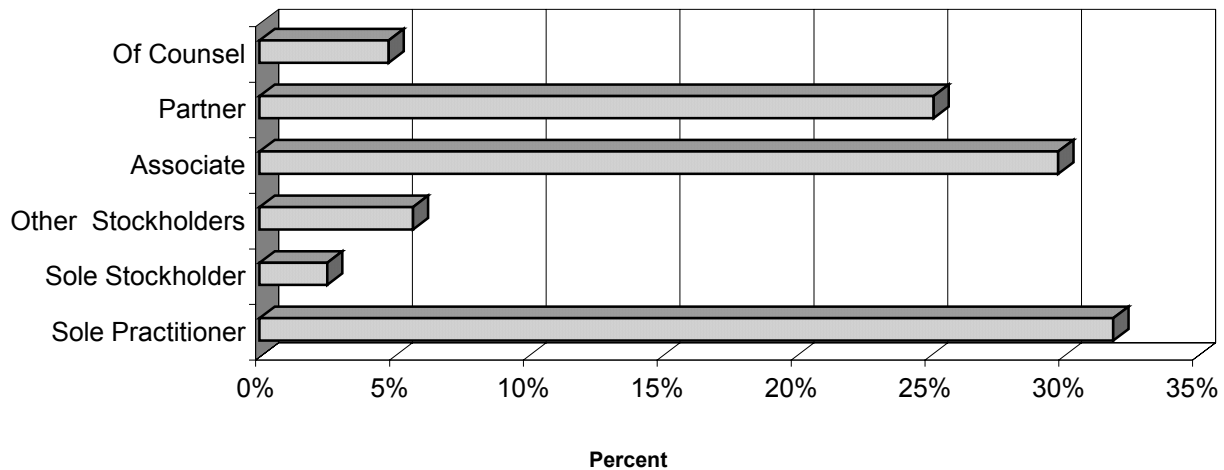


Figure 36

## Size of Law Firms

Of the 30,802 attorneys who indicated that they were engaged in the private practice of law in New Jersey, 99% responded by indicating the size of the law firm of which they were a part. Responses indicated that one-third (33.6%) practiced alone; 10.6% worked in two-person law firms; 15.5% worked in law firms of 3-5 attorneys; 28.6% worked in law firms with 6-49 attorneys and 11.6% worked in firms with 50 or more attorneys. These figures are graphically shown below and are statistically set forth to the right.

### SIZE OF LAW FIRMS

<u>Firm Size</u>	<u>Number</u>	<u>Percent</u>
One	10,350	33.64%
Two	3,276	10.65%
3 to 5	4,768	15.50%
6 to 10	3,555	11.55%
11 to 19	2,491	8.10%
20 to 49	2,756	8.96%
50 >	3,575	11.62%
<b>TOTALS</b>	<b>30,771</b>	<b>100.00%</b>

### LAW FIRM SIZE

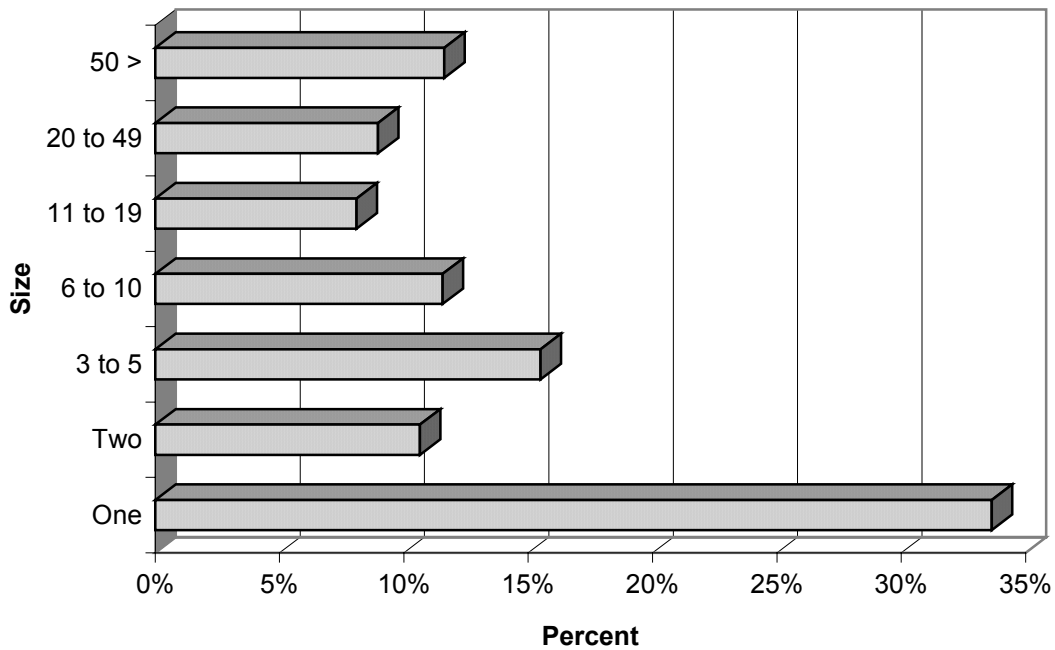
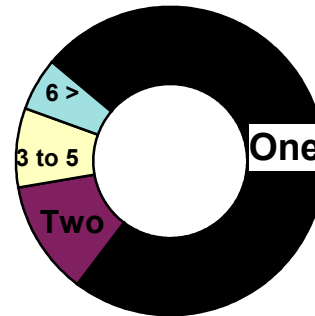


Figure 37

## Number of Law Firms

No exact figures on the number of private practice law firms in New Jersey exists. Nevertheless, a reasonably accurate estimate can be made based on the 30,802 attorneys who indicated they were in private practice. A total of 30,771 responded to indicate the size of their law firm. In each firm size category that was non-exclusive (i.e. other than 1 or 2), the total number of attorneys responding was divided by the number representing the mid-point in that category. For firms in excess of 50 attorneys, the total number of attorneys responding were divided by 50. Almost three-quarters of all law firms (74.2%) were single practice firms. Two person firms represented 11.7% of all private practice firms, while firms of between 3 to 5 comprised 8.5%. Only 5.2% of all of the law firms in New Jersey had 6 or more attorneys. These figures are graphically shown to the right and are statistically set forth below.

### NUMBER OF LAW FIRMS BY SIZE OF FIRMS



### NUMBER OF LAW FIRMS

<u>Size of Law Firm</u>	<u>Number Of Attorneys</u>	<u>Firm Size Midpoint</u>	<u>Number Of Firms</u>	<u>Individual Category %</u>
One	10,350	1	10,350	74.24%
Two	3,276	2	1,638	11.75%
3 to 5	4,768	4	1,192	8.55%
6 to 10	3,555	8	444	3.19%
11 to 19	2,491	15	166	1.19%
20 to 49	2,756	35	79	0.56%
50 >	3,575	50	72	0.51%
<b>TOTALS</b>	<b>30,771</b>		<b>13,941</b>	<b>100.00%</b>

Figure 38

# Bona Fide Law Offices

Of the 30,802 attorneys who indicated they were engaged in the private practice of law in New Jersey, 99% indicated where their primary bona fide office was located. In the northern part of the state, Essex County housed the largest number of private

practitioners with 17.5%. The next largest county was Camden County in South Jersey with 14%. Bergen County was third with 12.3%. Morris County came in fourth with 8.8%. The supporting statistics and charts are shown on this and the following page.

## NUMBER OF ATTORNEYS BY COUNTY OF LAW OFFICE

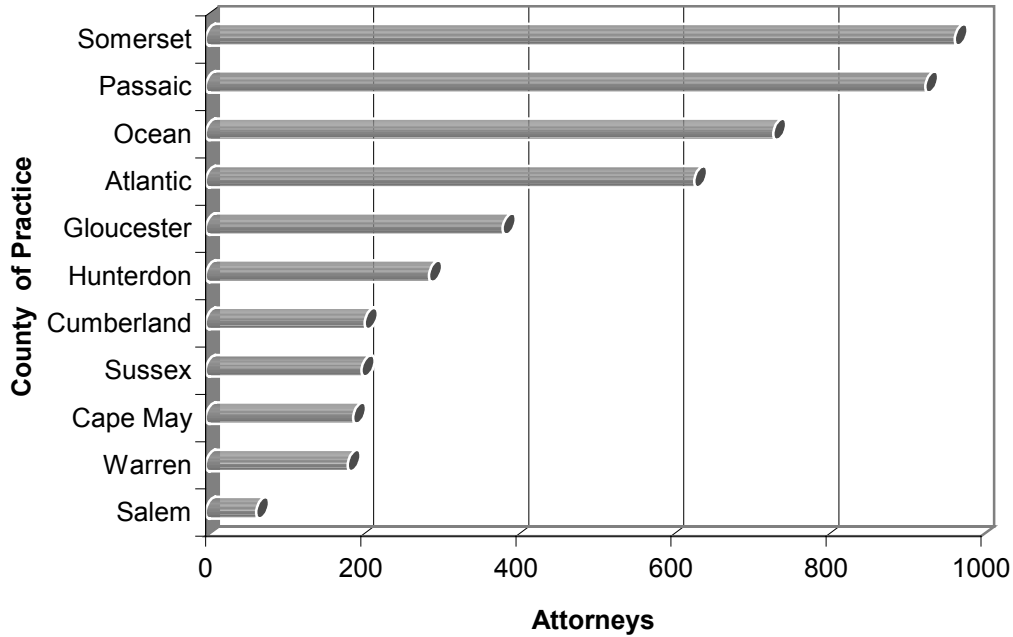


Figure 39

## Attorneys With Bona Fide Offices

<u>County</u>	<u>Number</u>	<u>Percent</u>	<u>County</u>	<u>Number</u>	<u>Percent</u>
Atlantic	630	2.05%	Middlesex	2,029	6.61%
Bergen	3,789	12.34%	Monmouth	1,777	5.79%
Burlington	1,237	4.03%	Morris	2,700	8.79%
Camden	4,313	14.04%	Ocean	732	2.38%
Cape May	190	0.62%	Passaic	928	3.02%
Cumberland	205	0.67%	Salem	65	0.21%
Essex	5,398	17.58%	Somerset	966	3.15%
Gloucester	383	1.25%	Sussex	201	0.65%
Hudson	1,216	3.96%	Union	1,576	5.13%
Hunterdon	288	0.94%	Warren	183	0.60%
Mercer	1,903	6.20%	<b>TOTALS</b>	<b>30,709</b>	<b>100.00%</b>

### NUMBER OF ATTORNEYS BY COUNTY OF BONA FIDE OFFICE

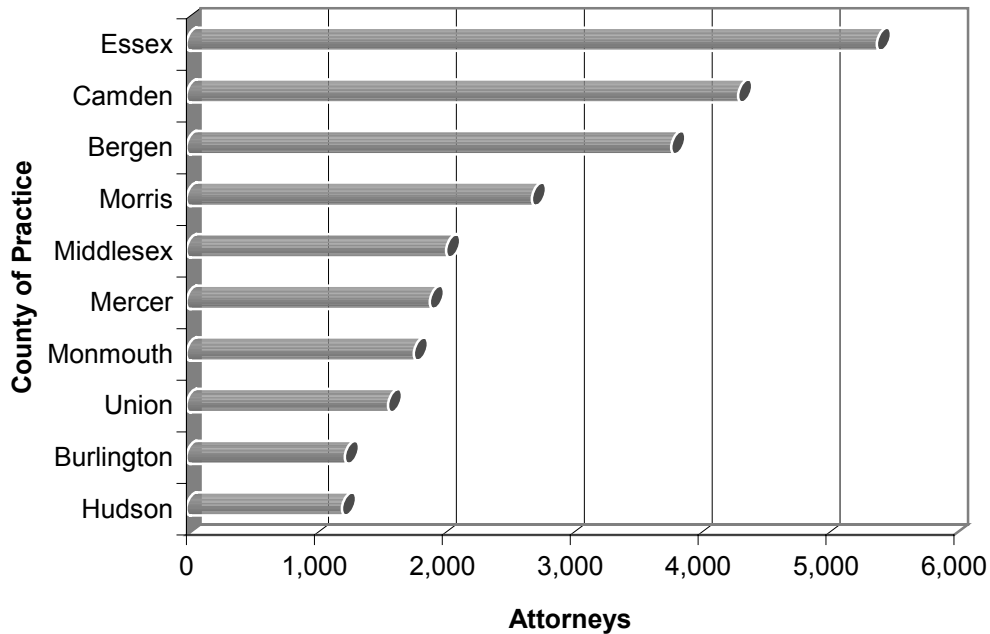


Figure 40





# **GLOSSARY**



# GLOSSARY

## OF

### ATTORNEY DISCIPLINE TERMS

**Admonition** a letter or order that admonishes an attorney for unethical conduct. It is the least serious disciplinary sanction that may be imposed.

**Agreement in Lieu of Discipline** the vehicle used to accomplish diversion of "disciplinary" matters where an attorney who qualifies for diversionary treatment admits "minor" misconduct has been committed. *R.1:20-3(i)(2)(B)*.

**Appeal** the right of a grievant, a respondent or the Office of Attorney Ethics to seek review of a decision to dismiss after investigation or hearing.

**Complaint** the written document formally charging the respondent with specific violations of ethical misconduct. A complaint is issued after completion of an investigation that meets the standard of *R.1:20-4(a)*.

**Consent Process** the appellate process before the Disciplinary Review Board and the Supreme Court by which the extent of discipline to be imposed as the result of discipline by consent is reviewed, without oral argument. *R.1:20-15(g) and R.1:20-16(e)*.

**Disability Inactive Status** a sanction that is based on an attorney's mental or physical disability which determines that the attorney does not have the ability to engage in the practice of law. *R.1:20-12*.

**Disbarment** an order and injunction by the Supreme Court of New Jersey prohibiting an attorney from practicing law in this state. All disbarments in New Jersey are permanent.

**Disciplinary Review Board** the statewide board (composed of both attorneys and public members) that reviews all recommendations from a trier of fact for discipline of a respondent. The Board's decision is reviewed by the Supreme Court of New Jersey, which actually imposes discipline.

<b>Discipline By Consent</b>	a procedure whereby a respondent may agree with an investigator, presenter or ethics counsel to admit facts constituting misconduct in exchange for a recommendation for specific discipline or a range of specific discipline, subject to review by the Disciplinary Review Board. <i>R.1:20-10(b)</i> .
<b>Dismissal</b>	a finding, either after an investigation or hearing, that a respondent did not commit unethical conduct.
<b>District Ethics Committee</b>	a group of volunteer attorneys and public members appointed by the Supreme Court of New Jersey whose members serve to investigate, prosecute and adjudicate grievances which are docketed by the Committee Secretary. There are 17 District Ethics Committees in the state.
<b>District Fee Arbitration Committee</b>	a group of volunteer attorneys and public members appointed by the Supreme Court of New Jersey whose members serve on hearing panels to decide disputes between attorneys and clients over legal fees. There are 17 District Fee Arbitration Committees in the state.
<b>Diversion</b>	a non-disciplinary treatment by consent by attorneys who admit they have committed "minor" misconduct and who otherwise qualify for diversionary treatment. Diversion is accomplished through an "Agreement In Lieu of Discipline." <i>R.1:20-3(i)(2)(A) and (B)</i> .
<b>Ethics Counsel</b>	an attorney of the Office of Attorney Ethics. <i>R.1:20-4(g)(1)</i> .
<b>Fee Arbitration</b>	a statewide system that requires attorneys to submit client disputes of legal bills to mandatory arbitration by District Fee Arbitration Committees appointed by the Supreme Court of New Jersey.
<b>Grievance</b>	any allegation of ethical misconduct made against an attorney. A grievance, if docketed, is assigned for investigation.
<b>Grievant</b>	the person who files an initial grievance against an attorney.
<b>Hearing Panel</b>	three members of a district ethics committee consisting of two attorneys and a public member who preside over a hearing based on charges in a formal complaint that are usually deemed standard in nature.

<b>Inquiry</b>	any written communication to a District Ethics or Fee Committee or the Office of Attorney Ethics. Inquiries may become grievances.
<b>Investigation</b>	a factual review and legal analysis of evidence that is conducted by an attorney member of a District Ethics Committee or a member of the Office of Attorney Ethics.
<b>Minor Misconduct</b>	refers to those minor types of misconduct which, if proved, would not warrant discipline greater than an admonition. Minor misconduct matters are eligible for diversionary treatment. <i>R.1:20-3(i)(2)</i> .
<b>Misconduct</b>	all ethical violations that would subject an attorney to discipline are referred to as misconduct. <i>R.1:20-3(i)(1)</i> .
<b>Office of Attorney Ethics</b>	the professional, full-time component of the attorney discipline system consisting of attorneys, investigators and auditors. The OAE investigates serious, complex and emergent grievances. It is also responsible for administering the attorney discipline system statewide.
<b>Panel Chair</b>	an attorney-member of a district ethics committee who presides over a hearing based on charges in a formal complaint that are generally deemed standard in nature.
<b>Presenter</b>	the volunteer attorney member of a District Ethics Committee who is appointed to prosecute a formal complaint. <i>R.1:20-4(g)(1)</i> .
<b>Random Audit Program</b>	a program that randomly selects private practice law firms for audit of their attorney trust and business accounts to insure that mandatory record keeping rules and practices are adhered to.
<b>Reinstatement</b>	an order of the Supreme Court of New Jersey that reinstates a formerly suspended attorney from practicing law. Since disbarment is permanent in New Jersey, there is no procedure for disbarred attorneys to seek reinstatement. <i>R.1:20-21</i> .
<b>Reprimand</b>	an order or opinion of the Supreme court of New Jersey that reprimands an attorney for unethical conduct. A reprimand is a more serious sanction than an admonition.

**Respondent** the attorney charged in a grievance or formal complaint with allegations of unethical conduct.

**Rules of Professional Conduct** rules adopted by the Supreme Court of New Jersey that set forth detailed ethical standards by which the actions of New Jersey attorneys are judged.

**Sanction** the form of discipline imposed on attorneys who have committed unethical conduct. Sanctions include disbarment, disbarment by consent, suspension, reprimand, admonition and disability-inactive status.

**Special Ethics Master** an attorney (either a former chair, vice chair or secretary of a district ethics committee or a present or former judge) who presides over a hearing based on charges in a formal complaint that are deemed complex in nature.

**Suspension** an order and injunction by the Supreme Court of New Jersey prohibiting an attorney from practicing law in this state for a period of time. Suspensions are usually for a definite term of between 3 months to 3 years, but may be imposed for indefinite periods.

**Trier of Fact** an ethics committee hearing panel, single member adjudicator or special ethics master who presides at an ethics hearing and decides whether or not unethical conduct has been proved.