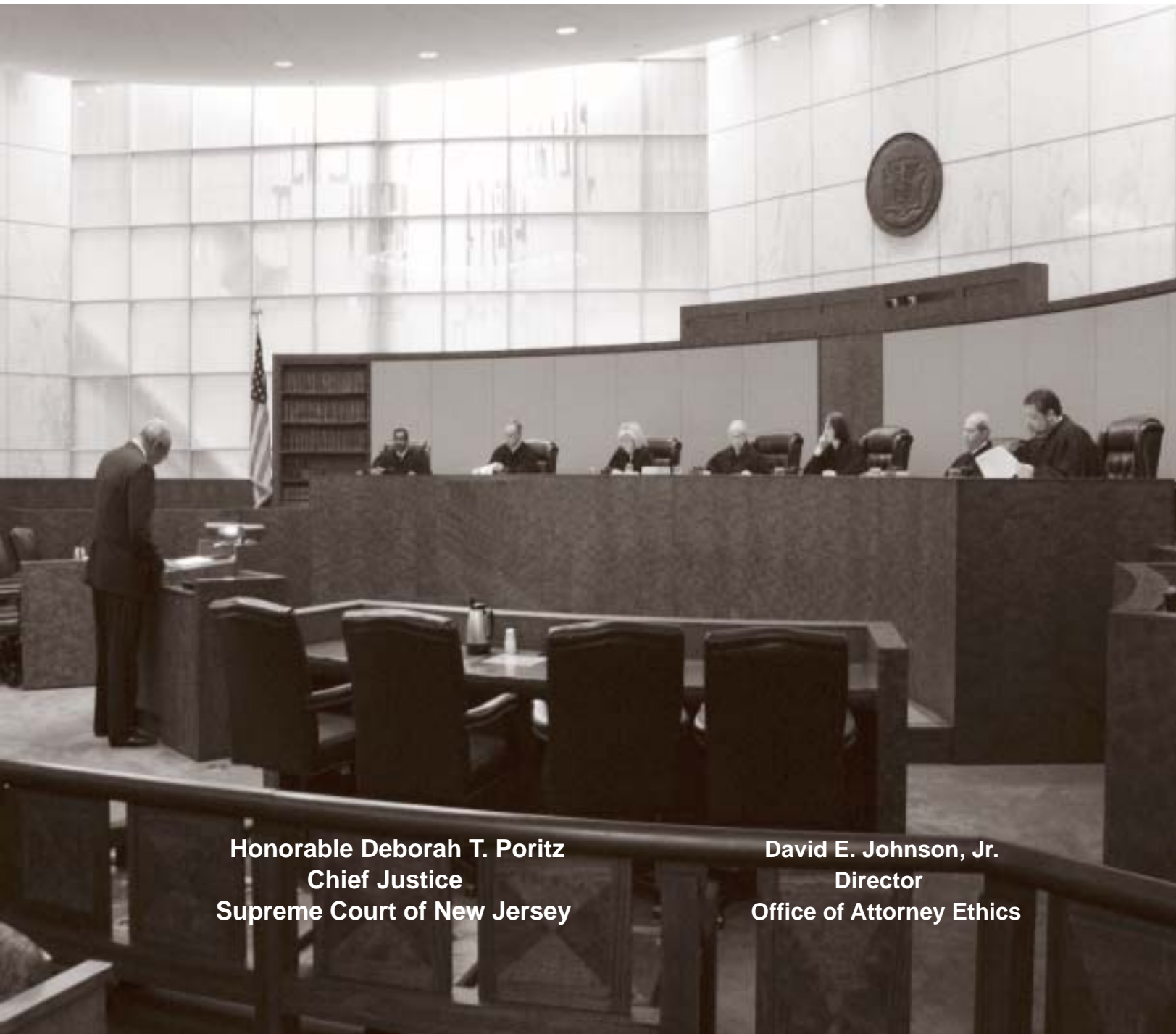


STATE OF THE ATTORNEY DISCIPLINARY SYSTEM REPORT

2004



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

David E. Johnson, Jr.
Director
Office of Attorney Ethics

September 26, 2005

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

This is the 21st issue of the State of the Attorney Discipline System Report to the Court. The highlights of this report during 2004 include:

- The number of new investigations docketed decreased for the first time in five years, by 11% to 1,514. CY 2003 filings reached an all-time high of 1,703.
- The number of formal complaints filed after completion of investigations reached an all-time high of 283, an increase of 44% from 2003.
- Half of the OAE's complex caseload met time goals at the end of the year.
- During 2003 – 2004 the Court bolstered OAE resources by 10 (7 transferred investigators and 3 new auditors) to deal with a four-year backlog build-up.
- District ethics committees' primarily standard caseloads were 71% within goal.
- The attorney population stands at 81,617 at the end of December 2004 — one lawyer for every 107 citizens in the Garden State.
- New Jersey ranks 7th in the country in total lawyers admitted to practice.
- The Garden State ranks 40th in the nation (at \$190) in annual attorney fees paid.
- Three-quarters of all private law firms in the state were single practice firms.
- The Supreme Court sanctioned 176 lawyers this year, a decrease of 9% from 2003. The breakout of this year's sanctions was:

Disbarments By Court	20
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Suspensions	57
Reprimands	43
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- Seven attorneys were disciplined this year (five of whom were disbarred) solely as a result of detection through the OAE's Trust Overdraft Notification Program.
- The Random Audit Program conducted 365 full field audits of law firms; 78 additional mail audit reviews were held for part-time practitioners.
- District fee arbitration committees handled over \$16,092,611 in legal bills.

We will continue to administer the disciplinary system to meet the Court's goals.

Respectfully submitted,

David E. Johnson, Jr., Director
Office of Attorney Ethics

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DISCIPLINARY ACTIONS

Chapter One



“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)

DISCIPLINARY SANCTIONS 2004

The Supreme Court sanctioned nine percent fewer New Jersey lawyers (177) this year, than last year (194). **(Figure 1)**. The totals in both years were significantly less than the record-high sum of 269 sanctions meted out to New Jersey practitioners in 2002. Rounding out the most recent five-year history, 204 disciplines were imposed in 2001 and 198 in calendar year 2000. The five-year average number of sanctions was 208. However, leaving out the record high numbers from 2002, the remaining four-year average was 193.

In New Jersey, disciplinary sanctions are divided into two main categories. The largest category is final discipline, which is imposed by the Supreme Court after the respondent-lawyer has the opportunity for a hearing and appellate review by the Disciplinary Review Board (Review Board). Final disciplinary sanctions are explained further in this chapter under the heading “Final Discipline Cases.” In 2004, 154 final sanctions were meted out, while in 2003, the number was 163. There were 228 final discipline sanctions in 2002 and 180 in 2001. During 2000, 162 lawyers received final disciplinary decisions.

The second category is emergent actions. These sanctions are imposed on an urgent 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, where the lawyer, for health reasons, does not have the present capacity to practice law. The Office of Attorney Ethics (OAE) initiates all emergent actions before the Supreme Court. Emergent actions are explained further in this chapter under the heading “Emergent Discipline Cases.” Twenty-three emergent actions were taken against New Jersey practitioners this year. Last year, 31 lawyers were the subject of temporary, emergent disciplinary sanctions. During 2002, a total of 41 actions were taken, while in 2001 there were 24. Calendar year 2000 resulted in 36 such sanctions.

Sanction Trends

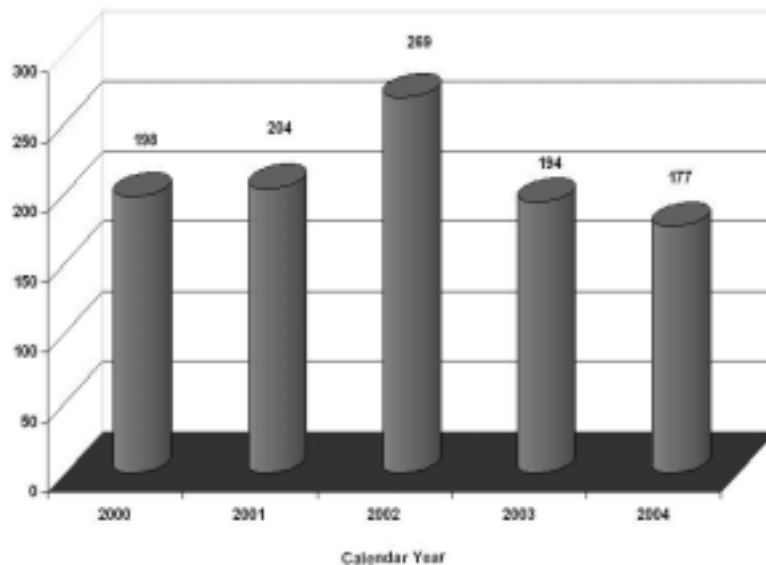


Figure 1

Several factors contribute to the number of disciplinary sanctions imposed in a given year. Consequently, no definitive conclusions can be drawn from reviewing the data for a single year. A primary factor is timing - the fact that time goals that apply to disciplinary cases span more than one year from the docketing of a grievance to the imposition of discipline by the Supreme Court. There are four main stages that the majority of disciplinary cases must follow before discipline can be imposed: the investigation stage, the hearing process, intermediate appellate review by the Review Board and final Supreme Court evaluation and action. Furthermore, there are different investigative time goals, depending on whether the case is classified as standard (six months) or complex (nine months). The hearing time goal is six months.

Except for disbarments by consent, all cases are reviewed by the Review Board, and this too, impacts on sanction time. The time it takes the Supreme Court to act is also a factor, with disbarment and other complex cases where oral argument is held often taking the full six-month time goal allowed, while other less complex cases, where there is no oral argument, usually takes only about two months. Therefore to traverse the disciplinary process from investigation to imposition of discipline normally takes between 20 to 27 months. The result of an investigation is not likely to result in discipline in the same year that it was docketed. Consequently, the number of attorneys disciplined from year to year often varies.

The number of docketed grievances filed each year is another factor in the amount of yearly discipline imposed. Grievance filings increased by 14.7% during the five-year period 2000-2004. In 2003, an all-time high of 1,703 grievances were filed. Calendar year 2004 saw a decrease of 11.1% to 1,514 new grievance filings. Another important sanction dynamic is that each disciplinary case is fact sensitive. Thus, the difficulty of the matter and the cooperation of the attorney during the investigation, are always major considerations. The system does have a number of procedures to expedite some types of cases (disbarment by consent, the attorney's consent to a specific form of discipline, accelerated procedures for waiving a hearing if an attorney defaults by failing to answer a formal complaint and criminal convictions and reciprocal discipline from other states where proceedings are initiated at the Review Board level). However, the majority of disciplinary cases are contested at all stages, since the result may deprive the lawyer of the right to practice, either for a period of time, if the attorney is suspended, or permanently, if the attorney is disbarred. Finally, we must remember that disciplinary sanctions are imposed for aberrant conduct. The vast majority of the lawyers admitted in New Jersey are ethical practitioners. It is difficult to predict the amount of annual atypical conduct involving a small number of unethical attorneys.

FINAL DISCIPLINE CASES

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. The Court imposes final discipline after the attorney is first afforded an opportunity for a disciplinary hearing either at the trial level and/or after the Review Board concludes appellate review. In 2004, the Supreme Court imposed discipline with finality on 154 Garden State attorneys. 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. The 153 final sanctions imposed in 2004 include 20 disbarments by order of the Court, 11 disbarments by consent of the respondent, no revocations, 57 term suspensions, no indeterminate suspensions, no final transfers to disability inactive status, no censures, 43 reprimands and 23 admonitions.

Overall, there was a six percent decrease in the area of final sanctions in 2004 (154) versus 2003 (163). However, disbarment by order of the Court rose by 85% (20 vs. 11). Disbarments by consent of the respondent attorney decreased by only one sanction (11 vs. 12). No attorneys licenses were revoked in 2004 or in 2003. Term suspensions were down seven percent, 57 compared to 61 in 2003. There were no censures imposed in 2004; in 2003 there were two. No attorneys were finally transferred to disability-inactive status either this year or last year. Reprimands were identical at 43. The largest decline occurred in the category of

admonitions, the least serious discipline in our system. Only 23 were meted out this year as opposed to 34 in 2003, a difference of 32%.

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 where 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. Reinstatement from a suspension is not automatic, but requires an application and an order of the Court. 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 may be imposed for a minimum of five years, unless the Court's order provides otherwise. R. 1:20-15A(a)(3). During the period of suspension or following disbarment, another licensed attorney may not employ the disciplined attorney in any capacity, nor may the disciplined attorney share offices with a licensed attorney, even in a non-legal capacity. R. 1:20-20(a).

Final disability-inactive status is imposed where an attorney lacks 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 that attorney or the public.

Censure is a condemnation imposed by order or opinion of the Supreme Court. R. 1:20-15A(a)(4). It is a harsher sanction than a reprimand and reflects the more egregious character of the underlying unethical conduct. A reprimand is a rebuke for unethical conduct imposed by order or opinion of the Supreme Court. R. 1:15A(a)(5). Admonition is the least serious form of attorney discipline. R. 1:20-15A(a)(6). It is a written admonishment and is imposed either by letter of the Review Board or by order of the Supreme Court.

As noted earlier, some sanctions may be expedited. One such procedure is default. Where an attorney-respondent fails to file an answer to a complaint after being properly served, the attorney is defaulted. The record of the proceeding is "certified" directly to the Review Board for sanction recommendation. The Review Board then evaluates the matter and sends its recommendation directly to the Supreme Court for imposition of discipline. The default process continues to show concrete results by reducing the time within which final discipline is imposed. During 2004, 18% of all disciplinary sanctions imposed (excluding 11 disbarments by consent, which, of course, always require a respondent's active cooperation), or 25 of 142 cases, were based on the attorney's default. Thirty percent of all disbarments by order of the Supreme Court (6 of 20) were accomplished via the certification process this year. A total of 25% of all suspensions imposed (14 of 57) resulted from a certification of the record. Twelve percent (5 of 43) of the reprimands were certified. No censures or admonitions resulted from default. By comparison, during 2003, a total of 15% of all disciplinary sanctions resulted from the defaults. In 2002, 17% were defaults, in 2001 the number was 18%, and in 2000 it was 27%.

HIGHLIGHTED CASES

The Court issued two full opinions this year in connection with final disciplinary matters. Most decisions by the Court in disciplinary cases are in the form of streamlined orders and reference the full factual decision of the Review Board. Thus, opinions by the Court are of special importance.

In the case of *In re Kantor* (180 N.J. 226), the Court considered an attorney who had been previously disciplined in three other occasions; a reprimand in 2000, a temporary suspension in early 2003 for failure to cooperate with a disciplinary investigation and a three-month suspension in 2003. As a result of Kantor's abandonment and non-cooperation, a pro bono attorney-trustee had to be appointed to wind up his law practice. Additionally, Kantor had been ineligible to practice law since September 2002, due to his failure to pay the annual attorney registration fee.



From left to right: Justice John E. Wallace, Jr.; Justice James R. Zazzali; Justice Barry T. Albin; Justice Roberto A. Rivera-Soto; Justice Virginia A. Long; Chief Justice Deborah T. Poritz; Justice Jaynee LaVecchia

In the present matter, Kantor was before the Court on a case where the Review Board found him guilty of a number of charges, including abandonment of ten clients, gross neglect and failure to cooperate with ethics authorities. Kantor did not answer the formal complaint, did not respond to the Review Board and failed to appear before the Court on the return date of an order to show cause why he should not be disbarred.

The Review Board, focusing primarily on the discipline historically imposed for the current offense, recommended a six-month suspension. The Court disagreed and imposed disbarment. It held that given the seriousness of the current offense (abandonment), Kantor's extensive disciplinary history and his failure to cooperate with disciplinary investigators, the Review Board and the Court, disbarment was appropriate. Writing for the Court, Justice Barry T. Albin explained:

The respondent, Philip L. Kantor, is an attorney with a past disciplinary record who abandoned his clients without so much as a warning, leaving their matters in jeopardy; who declined to answer the allegations in the resulting ethics complaint, which charged him with, among other things, gross neglect; who offered no explanation for his conduct or evidence in mitigation of discipline to the Disciplinary Review Board (DRB); and who defied this Court's order to appear and give cause why he should not be disbarred for his professional derelictions. We cannot conclude, as does

the DRB, that respondent's utter disregard for the welfare of our professional rules, and for the entire disciplinary process merits a six-month suspension. Respondent has left us a record of silence. He has provided no reason to believe that he is fit to practice law now or in the future. Accordingly, we are constrained to order respondent's disbarment. *Id.* At 227-228.

Since the *Kantor* doctrine was announced in June, the Court has utilized the same rationale to disbar four other silent recidivist attorneys in 2004. In early September it disbarred Elliott D. Moorman, 181 N.J. 314, (who was previously disciplined on six occasions - two reprimands, three three-month suspensions and a one-year suspension) and Paul J. Paskey, 181 N.J. 317, (who was a five-time recidivist - an admonition, temporary suspension, two three-month suspensions and a six-month suspension). Two weeks later, the Court disbarred Francis X. Gavin, 181 N.J. 342, (who had five prior sanctions - two reprimands, two three-month suspensions and a six month suspension) and Donald B. Devin, 181 N.J. 344, (who also had been previously disciplined on five occasions - two reprimands, a temporary suspension and two three-month suspension). In each case, the attorney also failed to cooperate with disciplinary authorities. As the Court continues to follow this new doctrine in 2005 and thin the ranks of repeat offenders earlier than had been done in the past, we can expect that the future number of final disciplinary sanctions will be reduced slightly as the disciplinary system will not need to spend so much of its resources on multiple offenders.

The other opinion by the Court this year was *In re Seelig*, 180 N.J. 234. Although no discipline was imposed, the Court took the occasion to emphasize a criminal defense attorney's duties to the Court under *RPC 3.3(a)(5)*. That rule provides that a lawyer "shall not knowingly fail to disclose to the tribunal a material fact with knowledge that the tribunal may tend to be misled by such failure." The context was that the attorney represented a criminal defendant in municipal court motor vehicle charges arising out of an automobile accident, which resulted in two deaths. The client was also the subject of a criminal indictment in Superior Court arising from the same accident. In response to questions by the municipal prosecutor, the attorney said his client intended to plead guilty to the municipal charges and, therefore, the prosecutor need not be present. He did not mention the pending indictable charge, nor the fact that deaths were involved.

In municipal court, the attorney answered the judge's question as to whether the accident resulted in "injuries or property damage" by simply replying "injuries." He did not mention that there were two deaths, nor that there was an indictable charge pending, knowing full well that if the municipal court accepted his client's guilty plea, principles of double jeopardy could bar prosecution on the indictable charges for aggravated manslaughter and death by auto.

While choosing not to impose discipline in this case of first impression, the Court held that neither the client's Sixth Amendment rights nor any other duty to the client can prevent an attorney in these circumstances from informing the municipal court about the indictable charges against the client and found that *RPC 3.3(a)(5)* required no less in this instance. The Court stated:

The United States Supreme Court discussed the interplay between the Sixth Amendment right to counsel and an attorney's ethical responsibilities in *Nix v. Whiteside*, 475 U.S. 157, 106 S.Ct. 988, 89 L.Ed.2d 123 (1986). Counsel's duty of loyalty to his or her client is, under *Nix*, "limited to legitimate, lawful conduct compatible with the very nature of a trial as a search for truth." *Id.* at 166, 106 S.Ct. at 994, 89 L.Ed.2d at 134. In that case, a state-appointed lawyer admonished a client facing murder charges to refrain from testifying falsely.

The Supreme Court held that a criminal defendant's right to assistance of counsel does not include the right to cooperation in the commission of perjury in violation of the ethical standards established by states to govern attorney conduct. *Id.* at 175-76, 106 S.Ct. at 998-99, 89 L.Ed.2d at 140-41. Because an attorney does not function merely as an advocate but also as an officer of the court, the "attorney's ethical duty to advance the interests of his [or her] client is limited by an equally solemn duty to comply with the law and the standards of professional conduct..." *Id.* at 168, 106 S.Ct. at 995, 89 L.Ed.2d at 133-34.

In this case, the issue is not whether respondent's client obtained a fair trial, but whether, because of double jeopardy considerations, a trial on the indictable offenses would have been possible at all after the municipal court acted. In that context, certainly, the Sixth Amendment right to effective assistance of counsel should not be invoked to thwart the administration of justice. (Citation omitted.) We conclude, therefore, that an attorney in the circumstances here presented is not prohibited by a client's Sixth Amendment rights, or any other duty owed the client, from informing the municipal court about pending indictable offenses, and should do so to prevent the court from being misled by the attorney's silence. *Id.* at 254-256.

The Court analogized *RPC 3.3(a)(5)* to the long-standing duty found in *RPC 3.3(a)(3)* to "disclose to the tribunal legal authority...known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel." The Court pointed out that "Both rules compel a lawyer to act affirmatively against his or her client's interests even when the primary responsibility for informing the court does not (or may not) lie with the lawyer. At their core, the rules impose a duty to disclose in order to prevent errors in decision making by a tribunal that is unaware of adverse legal authority or that has been misled because it lacks information about material facts." *Id.* at 253. As a result of *Seelig*, New Jersey lawyers know the bounds of zealous advocacy and when that ardor must yield to the proper administration of justice.

OVERVIEW OF DISCIPLINARY DECISIONS

A more general overview of disciplinary sanctions imposed in 2004 demonstrates a wide variety of public and private instances of unethical conduct by New Jersey lawyers. Burlington County house counsel John A. Evans was suspended for three months for knowingly withholding critical information from his adversary and his own company's special counsel with regard to his company's cover-up and fabrication of documents during litigation; Emanuel H. Needle of Essex County was disbarred when, for over a decade, he settled personal injury claims, took excessive fees and transferred the balance of monies being held to pay medical costs and welfare liens to a T. Rowe Price mutual fund account in his sole name that was located outside New Jersey in violation of trust accounting rules; Aaron S. Friedmann of Camden County was suspended for six months when he mishandled a medical malpractice case and then made misrepresentations to clients, adversaries and lied to a tribunal in an attempted cover-up; Robert J. Burns of Somerset County was suspended for three years for abandoning seven clients and failing to cooperate with disciplinary authorities; Camden County practitioner Samuel Fishman received an admonition for practicing law in New Jersey while ineligible; and Union County practitioner John N. Giorgi received a three-month suspension for charging an excessive contingent fee, making misrepresentations to his adversary and to the court and counseling his client to make misrepresentations.

John M. DeLaurentis of Camden County was suspended for one year for failing to properly notify and deliver funds to a third person and, also, for being convicted of 35 counts of animal cruelty; Brian C. Freeman from Essex County was admonished for failing to supervise an employee, who then negotiated and retained two checks; Michael A. McLaughlin, Sr. of Union County was reprimanded when he violated a Supreme Court order affecting his admission by filing a false quarterly report as to his sobriety; Atlantic County attorney Kathleen M. Vella received a three-month suspension for aiding her client's fraudulent attempt to gain title to his father's house by negotiating with the other party while hiding the fact that the father had already died; Cape May County lawyer Vincent J. Milita II was suspended for three months for contacting his client's co-defendant in a criminal matter, although he knew that the co-defendant was represented by another attorney; Larry J. McClure of Bergen County was suspended for six months for grossly neglecting a client custody case after receiving a substantial retainer and for obtaining the client's signature on a blank certification form; and Christian A. Pemberton of Camden County was reprimanded for failing to pay quarterly federal withholding taxes.

Criminal convictions always represent a significant portion of the serious cases resulting in discipline. For 2004, these attorneys and their criminal conduct include the following: New York attorney Russell J. Carbone was disbarred after conviction for conspiracy to obstruct justice and commit perjury; James W. Treffinger of Essex County was disbarred based on his plea to conspiracy to obstruct justice; Marc D. Arienzo of Union County was found responsible for possessing less than 50 grams of marijuana and possession of drug paraphernalia; Monmouth County attorney Nicole Devaney was reprimanded after her conviction for theft of movable property (prescription pads) and obtaining a controlled dangerous substance by fraud; Delaware lawyer Kenneth E. Fink was found guilty of 15 counts of possession of child pornography and received a three-year suspension; Scott F. Saidel of Florida was suspended for six months after being convicted of two counts of endangerment; Bergen County private practitioner Stephen A. Gallo was disbarred by consent after he pled guilty to three counts of fourth degree criminal sexual contact with divorce clients; Matthew J. Kirnan from Essex County pled guilty to filing a false income tax return and was suspended for 18 months; Mark E. Magee of Monmouth County was reprimanded following a guilty plea to eluding a police officer, driving while intoxicated and resisting arrest; Essex County lawyer Steven F. Miller was disbarred on consent based on an accusation charging him with securities fraud; Philip S. Noce from Bergen County received a three-year suspension when he pled guilty to a mail fraud conspiracy; Scott L. Wiss of New York was suspended for six months for insurance fraud; William E. McManus II was suspended for two years for pleading guilty to income tax evasion; Hunterdon County lawyer William S. Wolfson was suspended for six months for committing fourth degree criminal sexual contact on his private doctor's nurse; and George Guyer Young III was disbarred by consent when he pled guilty to nine counts of mail fraud, false statements and theft of government funds in Pennsylvania.

Of special note, too, is the fact that the Supreme Court imposed final discipline on six New Jersey practitioners on two or more occasions within calendar year 2004. Theodore F. Kozlowski of Morris County was disciplined three times, Carolyn E. Arch from Essex County, Terry J. Finkelstein from Middlesex County, Richard B. Girdler from Morris County and Howard A. Gross from Camden County were all disciplined twice this year. **Figure 5**, located at the end of this chapter, contains a summary listing of all final and emergent discipline, and all reinstatement to practice cases decided in 2004. 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.

CAUSES OF FINAL DISCIPLINE

The percentages and types of misconduct for which attorneys were disciplined in 2004 are shown in **Figure 2**. There were no changes among the top five reasons for discipline. Gross and patterned neglect, 24.3% (37 of 154 cases) continues as the number one reason why attorneys are disciplined. This is true nationally, as well as 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 that will constitute unethical conduct. Last year, the category accounted for 20.5% of all sanctions.

Knowing misappropriation of trust funds at 11.0% (17 of 154 cases) constitutes the second most frequent cause for discipline in the state this year. In 2003, the category was also second at 10.4%. Knowing misappropriation cases take on a special importance in this state. New Jersey maintains a uniform and unchanging definition of the offense of misappropriation as set forth in the landmark decision in *In re Wilson*, 81 N.J. 451 (1979). It is simply taking and using a client's money knowing that it is the client's funds and that the client has not authorized their use. 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. It requires that all financial institutions report to the OAE whenever an attorney trust account check is presented against insufficient funds. During the 19 years of its existence, the Trust Overdraft Program has exclusively resulted in the discipline of 96 New Jersey lawyers. Almost six out of every ten attorneys (57%) disciplined as a result of the Overdraft Program were disbarred. In 2004, six attorneys were detected and disciplined through this program: Rupert A. Hall, Jr. of Burlington County was disbarred; Frank Martino III of Camden County was disbarred; Bergen County lawyer Barry F. Zotkow was disbarred by consent; Barry J. Beran of Camden County was reprimanded; L. Gilbert Farr of Ocean County was disbarred; and Patterson County practitioner Antonio De La Carrera received a three-month suspension.

Disciplinary Offenses

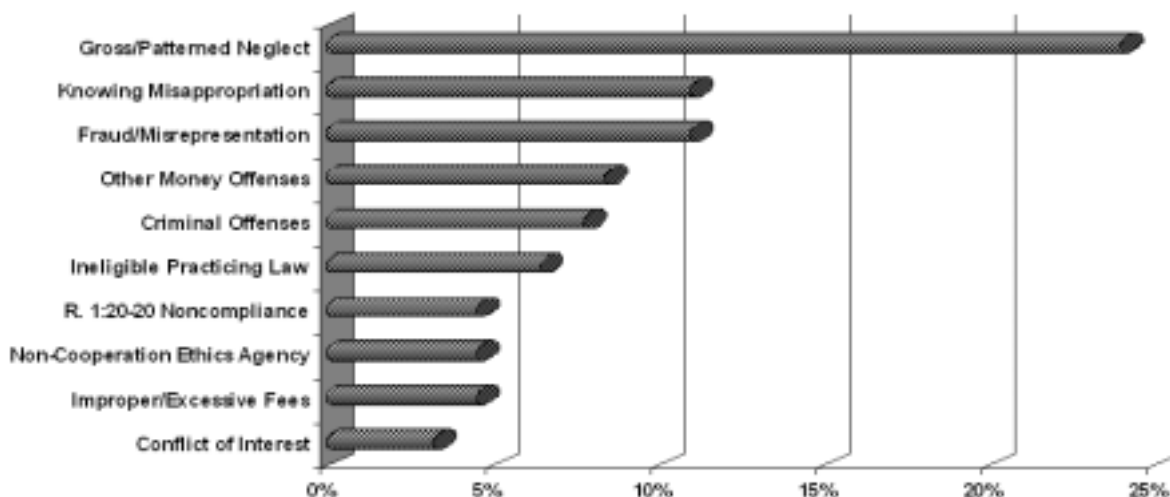


Figure 2

The Random Audit Program began conducting audits in 1981. While not designed primarily to detect misappropriation, audits conducted through the Random Audit Program (**Chapter 4**) have also resulted in the detection of a number of serious financial violations. Over the 23 years since it began, a total of 106 attorneys, detected solely by this program, have been disciplined for serious ethical violations. Over two-thirds (69%) of those attorneys were disbarred or suspended. This year, two attorneys were disciplined for committing serious financial violations: Cape May County attorney Paul W. Dare was disbarred by consent and Essex County practitioner Emanuel H. Needle was disbarred by order of the Court.

As was true last year, the category of fraud and misrepresentations (whether resulting from criminal or disciplinary findings) was tied for second with 11.0% (17 of 154 cases). This category includes fraud (including such criminal convictions), deceit and misrepresentations. In 2003, this category comprised 10.4% of all sanctions.

In fourth place was the other money offenses group (including negligent or reckless misappropriation, record keeping failure to safeguard funds and escrow violations), at 8.4% (13 of 154 cases). Last year this group ranked fifth at 7.3%.

Criminal offenses (excluding misappropriation, fraud and drug convictions) came in fifth place in 2004 at 7.8% (12 of 154 cases). Last year that class of offenses was in fourth place at 9.2%.

The following offenses rounded out the top ten this year:

6. Ineligible practicing law, at 6.5% (10 of 154). This violation 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. Last year, it was also sixth on the list at 6.1%.

7. This year an entirely new category, suspended and disbarred attorneys failing to comply with *R. 1:20-20*, was tied for seventh place with 4.5% of the cases (7 of 154). This is a result of an initiative by the OAE begun several years ago to follow-up more closely to insure that suspended and disbarred attorneys properly close their offices, notify clients, courts and adversaries and file the affidavit required of them to memorialize these facts. Last year, the violation of lack of communication with clients was in seventh place at 5.5%.

7. Tied for seventh place this year was the violation of non-cooperation with ethics authorities at 4.5% (7 of 154 cases). While this category was not in the top ten last year, it ranked number six in 2002 at 5.1%. Attorneys have an ethical obligation under *RPC 8.1(b)* and *R. 1:20-3(g)(3)* to cooperate during the investigation, hearing and processing of disciplinary matters. Increasingly they are being sanctioned for this failure. A few lawyers were disciplined for non-cooperation even though the grievance originally filed against them was ultimately dismissed because there was no proof of unethical conduct. The disciplinary system could not properly function and endeavor to meet its goals for timely disposition of cases without attorney's cooperation. Additionally, it is more difficult, sometimes impossible, to ascertain the true facts without the attorney's help.

9. Improper and excessive fees rose to the top ten this year at 4.5% (6 of 154 cases). These cases ran the gamut from failure to have a written fee agreement, to charging excessive fees to clients, to bringing frivolous litigation against a client to attempt to collect a fee. While this category was not in the top ten last year, it was ranked sixth in 2002 at 5.3%. In 2003, the administration of justice category was rated ninth at 3.6%.

10. Conflict of interest violations came in at tenth place at 3.2% (5 of 154 cases). The last time conflict violations made the top ten was 2001 when it ranked eighth at 5.0%. In 2003, the category of improper business transactions with clients under *RPC 1.8(a)* ranked tenth at 3.0%.

EMERGENT DISCIPLINE CASES

Interim action taken to protect the public interest is referred to as emergent discipline. 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, due to health reasons, an attorney lacks the capacity to practice. 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.

Emergent Actions

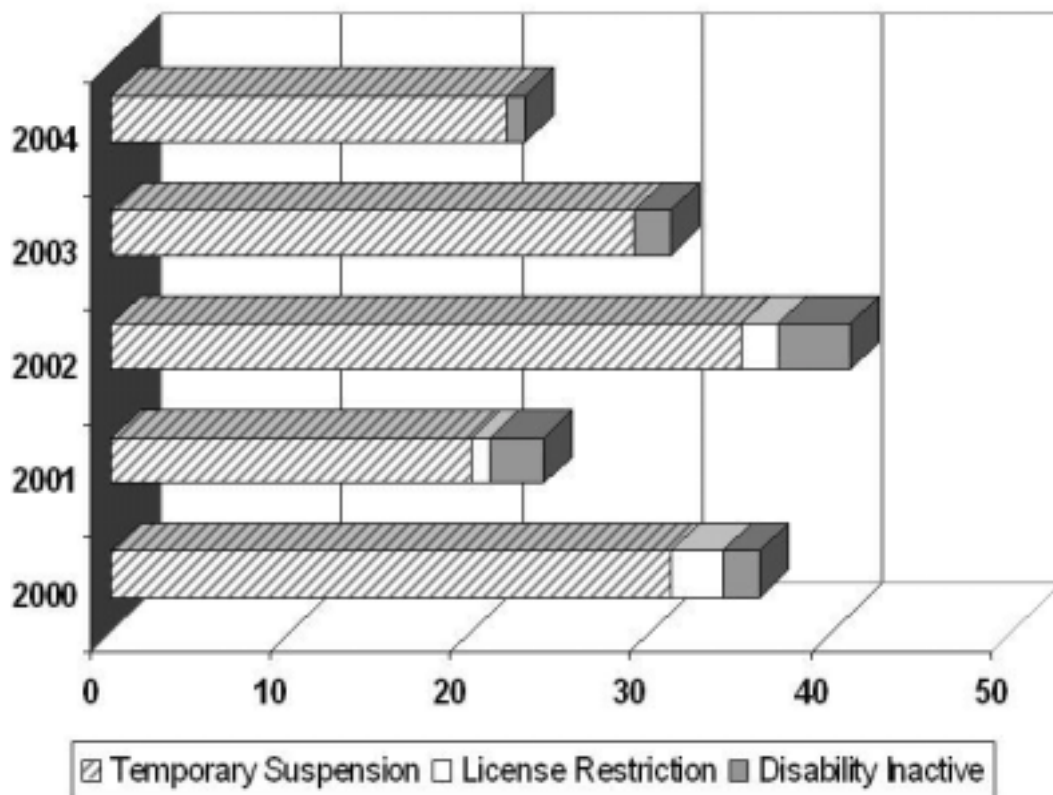


Figure 3

During 2004, the number of emergent actions decreased by 26% over the number secured last year. This year 23 attorneys were sanctioned on an emergent basis (22 temporary suspensions, no license restrictions and one temporary disability-inactive transfers). **Figure 3**. In 2003, a total of 31 attorneys were so disciplined,

consisting of 29 temporary suspensions, no license restrictions and two temporary transfers to disability-inactive status.

On average, thirty-one lawyers each year were the subjects of emergent actions over the course of the past five years. A five-year high of 41 emergent actions were taken in 2002. This group comprised 35 temporary suspensions, two license restrictions and four temporary transfers to disability-inactive status. Twenty-four lawyers were so disciplined in 2001 (20 were temporarily suspended, one license was restricted and three were transferred to disability-inactive status). For 2000, a total of 36 attorneys were subject to emergent discipline (31 were temporarily suspended, three received license restrictions and two were transferred to disability-inactive status). The names of attorneys who received interim emergent discipline for 2004 are listed in **Figure 5** at the end of this chapter.

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. The most frequent reason for emergent action in 2004 involved misappropriation of clients' trust funds, which accounted for 10 cases, or 43% of all emergent actions. Last year this offense accounted for 45% (14 cases). In 2002, 45% (14 cases) were emergent, 29% (17 cases) in 2001 and 53% (19 cases) in 2000.

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 2004 at 26% (6 cases). Last year, it comprised 23% (7 cases). In prior years convictions comprised 27% (11 cases) in 2002, 42% (10 cases) in 2001 and 31% (11 cases) in 2000. 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.

The third most frequent reason for emergent suspensions this year was the non-payment of fee arbitration awards, 5 cases and 16%. Where a lawyer fails to refund legal fees ordered by a district fee arbitration committee, the OAE, after advance notice to the attorney, may seek to enforce the arbitration award by a motion for temporary suspension from practice. Fee arbitration cases were also the third most frequent reason for emergent suspensions in 2000, with 6% (2 cases). During 2002 and 2001, third place was accounted for by transfers to disability-inactive status at 10% (4 cases) and 12% (3 cases) respectively.

RELATED DISCIPLINARY 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 2004, the disciplinary system handled a total of 105 such actions. Related disciplinary actions include: contested Character Committee cases, Bar Admission cases where allegations of cheating are made, diversionary actions by which attorneys who commit "minor misconduct" may avoid discipline if they complete specific conditions, prosecutions for contempt of a Supreme Court order to cease practicing law by suspended or disbarred lawyers, reinstatement proceedings involving suspended attorneys seeking to again practice law and cases where disciplined lawyers are monitored for a period of time after discipline is imposed. These related actions are explained further hereafter.

CHARACTER, BAR ADMISSION AND CONTEMPT CASES

Where there is a substantial question as to whether or not an applicant has demonstrated the moral fitness requisite to be admitted to practice law in this state, the matter is brought on for oral argument before the Supreme Court of New Jersey. The Court assigns the OAE to represent the Character Committee at all oral arguments.

All applications for admission to the bar are reviewed by the Supreme Court's Committee on Character through investigations and, where appropriate, hearings. Character Committee proceedings are conducted in accordance with *R. 1:25* 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. The 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 two character cases in 2004. Last year, the OAE also completed two cases before the Court. All Character Committee proceedings are confidential.

The Supreme Court also assigns to the OAE investigations and, if warranted, prosecutions of attorneys suspected of cheating on the state's bar examination test. There were no such cases this year. Likewise, it was not necessary for the OAE to prosecute any contempt proceedings this year.

DIVERSIONARY ACTIONS

New Jersey attorneys who are guilty of "minor" misconduct may be eligible for diversion from the disciplinary system where the attorney agrees and undertakes certain remedial measures. For the respondent to be accepted, both the district ethics committee chair and the OAE Director must approve diversion. 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. 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 and is non-disciplinary in nature.

"Minor" misconduct is behavior that will likely warrant no more than an admonition, the least serious of all disciplinary sanctions, even if the matter proceeded further through the disciplinary system. Treating appropriate cases by diversion early on in the disciplinary process, allows an attorney to (1) acknowledge a mistake, and (2) take some remedial steps (which sometimes are beneficial to the grievant). This process also allows the disciplinary system to focus resources on the more serious cases by early closing of diversionary cases. Diversions generally do not exceed a period of 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 2004, a total of 68 requests for diversion were received by the OAE. Of that number, all were accepted and none were rejected. By the end of the year, 45 cases were successfully completed, none failed and 23 were still pending. Last year, there were 55 requests for diversion and all but four were approved by the OAE.

The most common offenses giving rise to diversion in 2004 were: gross negligence/lack of diligence/competence (15); minor instances of practicing while ineligible (8); and minor conflicts of interest violations (8). Last year's most common offenses were: gross negligence/lack of diligence/competence (22); isolated instances of poor record keeping (8); and bona fide office violations (4).

The New Jersey State Bar Association's Ethics Diversionary Education Course was the most popular condition imposed in diversionary matters this year (49). Other required conditions included sending letters of apology (14) and taking a legal education course (13). Last year, attendance at the State Bar's Diversionary Course was also the primary remedial condition (39).

REINSTATEMENT PROCEEDINGS

When an attorney is suspended from the practice of law, reinstatement may be achieved only after the respondent files an application, which is reviewed by the OAE, the Review Board and the Supreme Court. 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).

Where the attorney is 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. Public comment is also encouraged. The suspended attorney 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. The Supreme Court takes final action on all reinstatement requests. The Court reinstated 15 attorneys in 2004. During 2003, 16 suspended attorneys were reinstated to the practice of law. In 2002, the Court reinstated 23 attorneys. Reinstatement was ordered for 13 lawyers in 2001 and 13 in 2000. **Figure 5**, located at the end of this chapter, contains a list of all attorneys who were reinstated this year.

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 report responsibilities on both the attorney as well as the proctor, including weekly conferences, the maintenance of time records and instructions regarding proper financial recordkeeping.

Another typical condition imposed by the Court in instances involving financial violations which do not result in disbarment, 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 recordkeeping rule (R. 1:21-6).

Other conditions, which have been utilized more sparingly, are community service and drug testing. Under community service, an attorney is required to perform legal services for a community service oriented agency. Those attorneys subject to drug testing are required to undergo random, periodic drug testing at the attorney's expense.

Finally, some attorneys, although not monitored on a regular basis, have been placed under some type of license restriction by the Court. Examples of this type 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 (20) attorneys were being monitored as of December 31, 2004. **Figure 4**.

During calendar year 2004, six (6) attorneys were added to the list of those being monitored by the OAE: RICHARD KRESS of Clark (Union County); JOSEPH A. MAFFONGELLI, JR. of Montclair (Essex County); VINCENT MILITA, II of Marmora (Cape May County); PHILIP J. MORAN of Skillman (Somerset County); JEFFRY F. NIELSEN of West Caldwell (Essex County) and RICHARD P. SCHUBACH of Raritan (Hunterdon County).

A total of fourteen (14) attorneys were removed from the OAE supervision list: OUSMANE D. AL-MISRI of Newark (Essex County); MICHAEL P. BALINT of Plainsboro (Middlesex County); VINCENT E. BEVACQUA of South Orange (Essex County); JOHN D. LYNCH of Union City (Hudson County); FRANCIS R. MONAHAN, JR. of Jersey City (Hudson County); THOMAS M. MURRAY, JR. of Hackensack (Bergen County); WALTER D. NEALY of Hackensack (Bergen County); ROGER C. PETERMAN of Englewood (Bergen County); ROBERT G. ROSENBERG of Paterson (Passaic County); RICHARD B. SCHUBACH of Raritan (Hunterdon County); JEFF E. THAKKER of Sea Girt (Monmouth County); JOHN A. TUNNEY of Woodbridge (Middlesex County); LUANN K. WONSKI of Sewaren (Middlesex County); and CASSELL WOOD, JR. of Plainsboro (Union County).

Monitored Attorneys

<u>Attorney</u>	<u>Admitted</u>	<u>Location</u>	<u>Effective</u>	<u>Condition</u>
Berton, Louis B.	1970	Passaic	10/31/2000	Quarterly Reconciliations
Cardullo, Susan E.	1996	Morris	01/14/2002	Alcohol Abstinence
Forkin, Thomas J.	1995	Atlantic	07/23/2002	Proctorship
Foushee, Jeffrey A.	1988	Essex	08/15/2003	Proctorship
Hallett, Steve	1991	Mercer	11/01/2002	Drug Testing
Jodha, Gary T. M.	1983	Mercer	11/01/2002	Quarterly Reconciliations
Kress, Richard H.	1979	Union	12/17/2004	Proctorship
Lisa, James R.	1984	Hudson	01/08/2002	Proctorship
Maffongelli, Joseph A. Jr.	1969	Essex	09/03/2004	Proctorship
Milita, Vincent J. II	1980	Cape May	01/08/2004	Professionalism Course
Militano, Thomas F.	1991	Sussex	05/20/2003	Proctorship
Moran, Philip J.	1975	Somerset	02/25/2004	Proctorship
Nielsen, Jeffry F.	1990	Essex	06/29/2004	Proctorship
Payton, Ben W.	1992	Middlesex	12/26/2002	Proctorship
Regojo, Fernando J.	1981	Hudson	11/14/2001	Quarterly Reconciliations
Schemanski, Glen L.	1979	Camden	01/14/2003	Quarterly Reconciliations
Shapiro, Daniel M.	1984	Bergen	10/15/2002	Proctorship
Torres, Raymond N. Jr.	1986	Essex	05/06/2003	Proctorship
Zeitler, Richard J.	1966	Middlesex	10/03/2000	Proctorship
Zonies, Daniel B.	1970	Camden	01/14/2003	Quarterly Reconciliations

Figure 4

OFFICE OF ATTORNEY ETHICS

YEARLY DISCIPLINE REPORT

(January 1, 2004 - December 31, 2004)

DISBARMENT (20)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Burrick, Robert S.	1993	Morris	10/06/2004	10/06/2004
Carbone, Russell J.	1980	New York	01/27/2004	01/27/2004
Devin, Donald B.	1969	Warren	09/28/2004	09/28/2004
Epstein, Charles S.	1985	Morris	09/13/2004	02/25/2004
Farr, Linus G. a/k/a Farr, L. Gilbert	1977	Ocean	02/25/2004	01/21/2004
Gavin, Francis X.	1981	Warren	09/28/2004	09/28/2004
Gross, John P.	1975	Somerset	01/21/2004	01/21/2004
Hall, Rupert A., Jr.	1983	Burlington	09/28/2004	09/28/2004
Higginson, Terence Paul	1987	Somerset	09/13/2004	09/13/2004
Kantor, Philip L.	1990	Camden	06/24/2004	06/24/2004
Kidan, Adam Ronald	1989	New York	06/02/2004	06/02/2004
Lawrence, Marc S.	1994	New York	06/02/2004	06/02/2004
Magnotti, Anthony M.	1991	New York	10/13/2004	10/13/2004
Martino, Frank III	1994	Camden	11/29/2004	11/29/2004
Moorman, Elliott D.	1977	Essex	09/14/2004	09/14/2004
Needle, Emanuel H.	1957	Essex	06/29/2004	06/29/2004
Paskey, Paul	1983	Hudson	09/14/2004	09/14/2004
Recchione, Louis J.	1980	Bergen	09/29/2004	09/29/2004
Richmond, Donald J.	1978	Gloucester	09/29/2004	09/29/2004
Treffinger, James W.	1976	Essex	10/13/2004	10/13/2004

Figure 5

DISBARMENT BY CONSENT (11)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Beninson, Gary S.	1975	Ocean	06/28/2004	06/28/2004
Caro, Michael S.	1987	Bergen	03/19/2004	03/19/2004
Dare, Paul W.	1975	Cape May	04/19/2004	04/19/2004
Gallo, Stephen A.	1993	Bergen	09/08/2004	09/08/2001
Itkin, Scott Elliott	1987	Florida	07/15/2004	07/15/2004
Katz, Peter L.	1990	Union	10/07/2004	10/07/2004
Miller, Steven F.	1983	Essex	02/13/2004	02/13/2004
Pizzi, Richard A.	1972	Union	06/23/2004	06/23/2004
Steiger, Jon J.	1975	Monmouth	12/06/2004	12/06/2004
Young, George Guyer III	1988	Pennsylvania	07/20/2004	07/20/2004
Zotkow, Barry F.	1971	Bergen	10/26/2004	10/26/2004

TERM SUSPENSION (57)

Adelle, Patricia N. - 3 mo.	1993	Passaic	10/13/2004	10/13/2004
Alexion, Arthur S. - 6 mo.	1985	Pennsylvania	09/21/2004	09/21/2004
Anastasio, John J. - 3 mo.	1981	Florida	01/27/2004	02/27//2004
Anton, David C. - 12 mo.	1981	California	11/30/2004	12/29/2004
Arch, Carolyn E. - 3 mo.	1965	Essex	01/05/2004	02/05/2004
Arch, Carolyn E. - 3 mo.	1965	Essex	09/21/2004	02/05/2004
Battaglia, Philip J. - 3 mo.	1981	Monmouth	04/22/2004	06/19/2002
Bevacqua, Vincent E. - 6 mo.	1990	Essex	05/19/2004	06/15/2004
Bolino, Susan Bell - 24 mo.	1988	Pennsylvania	03/09/2004	04/06/2003
Bowman, E. Edward a/k/a Bowman, Elmer Edward - 3 mo.	1984	Cumberland	04/22/2004	05/18/2004
Brecker, Mark L. - 3 mo.	1977	New York	06/29/2004	06/29/2004
Burns, Robert J. - 36 mo.	1990	Somerset	09/13/2004	09/18/2002
Cubberley, Mark D. - 6 mo.	1984	Mercer	04/22/2004	12/09/2003
David, Earl S. - 15 mo.	1988	Monmouth	09/21/2004	10/20/2004
DeLaCarrera, Antonio M. - 3 mo.	1974	Passaic	09/08/2004	09/08/2004

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
DeLaurentis, John M. - 12 mo.	1980	Camden	11/22/2004	11/22/2004
Dranov, Alexander B. - 6 mo.	1986	Bergen	04/22/2004	04/22/2004
Dupree, Barbara H. - 3 mo.	1980	Atlantic	04/22/2004	04/22/2004
Dykstra, Paul A. - 3 mo.	1974	Bergen	10/04/2004	11/01/2004
Evans, John A. - 3 mo.	1984	Burlington	10/04/2004	10/04/2004
Fink, Kenneth E. - 36 mo.	1986	Delaware	10/13/2004	06/03/2003
Fisher, Robert S. - 3 mo.	1988	Camden	07/08/2004	08/02/2004
Friedman, Aaron S. - 6 mo.	1983	Camden	09/21/2004	10/21/2004
Giorgi, John N. - 3 mo.	1988	Union	07/22/2004	08/18/2004
Girdler, Richard B. - 12 mo.	1972	Morris	11/22/2004	06/03/2004
Girdler, Richard B. - 3 mo.	1972	Morris	03/29/2004	03/29/2004
Glynn, Kenneth P. - 6 mo.	1977	Hunterdon	06/15/2004	07/12/2004
Gross, Howard A. - 3 mo.	1992	Camden	05/04/2004	06/01/2004
Henry, James P. - 3 mo.	1967	Monmouth	02/25/2004	03/22/2004
Horowitz, Barry W. - 3 mo.	1986	Middlesex	07/22/2004	07/22/2004
Jordan, Edgar E. III - 24 mo.	1990	New York	09/08/2004	09/08/2004
King, Sherry D. a/k/a S. Dorrell King - 12 mo.	1980	Essex	10/13/2004	03/21/2003
Kirman, Matthew J. - 18 mo.	1986	Essex	09/21/2004	06/03/2003
Koslowski, Theodore F. - 3 mo.	1978	Morris	09/13/2004	10/13/2004
Mandel, Samuel - 3 mo.	1968	Burlington	04/21/2004	05/24/2004
Mandel, George J., Jr. - 12 mo.	1970	Union	06/02/2004	06/02/2004
McClure, Larry J. - 6 mo.	1971	Bergen	06/02/2004	05/21/2003
McLoughlin, John J., Jr. - 3 mo.	1986	Ocean	03/23/2004	04/26/2004
McManus, William E. - 24 mo.	1982	Sussex	04/22/2004	12/10/2002
Milita, Vincent J. II - 3 mo.	1980	Cape May	05/19/2004	06/15/2004
Morell, Philip M. - 12 mo.	1988	New York	06/02/2004	08/08/2003
Murray, Thomas M., Jr. - 3 mo.	1971	Bergen	03/02/2004	03/02/2004
Nemschick, Robert - 3 mo.	1994	Middlesex	06/29/2004	06/29/2004
Noce, Philip S. - 36 mo.	1972	Bergen	05/04/2004	07/25/2002
Nwaka, Anthony C. - 3 mo.	1992	Essex	02/25/2004	02/25/2004

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Raines, Richard W. - 3 mo.	1977	Essex	10/19/2004	10/19/2004
Rambarran, Moses V. - 36 mo.	1992	New York	09/28/2004	09/28/2004
Rosenthal, Richard L. - 3 mo.	1965	Morris	09/28/2004	05/15/2004
Saidel, Scott F. - 6 mo.	1993	Florida	07/08/2004	03/01/2001
Schubach, Richard P. - 3 mo.	1983	Somerset	02/25/2004	03/22/2004
Simmonds, James V. - 12 mo.	1983	New York	06/29/2004	10/22/2003
Thomas, Richard R., II - 12 mo.	1996	Essex	09/28/2004	10/29/2004
Tunney, John A. - 6 mo.	1988	Middlesex	09/28/2004	10/29/2004
Vella, Kathleen M. - 3 mo.	1986	Atlantic	06/15/2004	07/16/2004
Wiss, Scott L. - 6 mo.	1991	New York	09/08/2004	03/01/2004
Wolfson, William S. - 6 mo.	1976	Hunterdon	02/19/2004	03/20/2004
Wood, Peter A. - 12 mo.	1993	Gloucester	11/16/2004	11/16/2004

REPRIMAND (43)

Barone, Nicholas	1984	Passaic	07/19/2004	07/19/2004
Barth, Robert E., Jr.	1995	Burlington	10/19/2004	10/19/2004
Becker, Richard B.	1992	Middlesex	09/08/2004	09/08/2004
Beran, Barry J.	1981	Camden	10/19/2004	10/19/2004
Block, Michael L.	1990	Burlington	09/08/2004	09/08/2004
Bluitt, Hollistyne C.	1984	Essex	09/08/2004	09/08/2004
Bolden and Coker, P.C., Law Firm		Pennsylvania	01/27/2004	01/27/2004
Daniel, Cornelius W., III	1969	Ocean	06/02/2004	06/02/2004
Delaney, Edward C.	1987	Middlesex	07/22/2004	07/22/2004
Devaney, Nicole	1997	Monmouth	09/08/2004	09/08/2004
Finkelstein, Terry J.	1985	Middlesex	07/22/2004	07/22/2004
Hediger, Daniel, D.	1995	Bergen	04/22/2004	04/22/2004
Kane, Harry J., Jr.	1989	Morris	01/13/2004	01/13/2004
Kearns, Steven T.	1982	Bergen	05/04/2004	05/04/2004
Kozlowski, Theodore F.	1978	Morris	01/27/2004	01/27/2004
Kozlowski, Theodore F.	1978	Morris	09/13/2004	09/13/2004
Leff, Kenneth M.	1981	New York	10/04/2004	10/04/2004

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Magee, Mark E.	1986	Monmouth	06/29/2004	06/29/2004
Mayzel, Isabella	1997	Essex	09/08/2004	09/08/2004
McBride, Bernard J., Jr.	1990	Essex	09/08/2004	09/08/2004
McLaughlin, Michael A., Sr.	1999	Union	03/09/2004	03/09/2004
McNamara, Elizabeth T.	1983	Hudson	04/08/2004	04/08/2004
Mele, Michael A.	1987	Bergen	02/10/2004	02/10/2004
Moore, Patrick J.	1989	Camden	10/04/2004	10/04/2004
Murphy, Philip F.	1971	Union	09/21/2004	09/21/2004
Nealy, Walter D.	1984	Bergen	07/22/2004	07/22/2004
Nelson, Ronald J.	1969	Somerset	09/21/2004	09/21/2004
Nielsen, Jeffrey F.	1990	Essex	06/29/2004	06/29/2004
Pemberton, Christian A.	1982	Camden	10/27/2004	10/27/2004
Perrella, Nicholas R.	1983	Mercer	05/04/2004	05/04/2004
Pierce, Deborah A.	1994	Union	09/08/2004	09/08/2004
Regojo, Fernando	1981	Hudson	07/22/2004	07/22/2004
Riedl, Jeffrey M.	1973	Bergen	05/04/2004	05/04/2004
Saint-Preux, Jonathan	1992	Essex	10/04/2004	10/04/2004
Schuetz, Rolf C., Jr.	1991	Passaic	07/14/2004	07/14/2004
Scinto, Michael R.	1992	Virginia	09/08/2004	09/08/2004
Silverman, Robert M.	1990	Camden	02/10/2004	02/10/2004
Solomon, Brian D.	1992	New York	03/23/2004	03/23/2004
Soriano, William J.	1975	Essex	01/13/2004	01/13/2004
Spector, Brian D.	1982	Morris	01/13/2004	01/13/2004
Van De Castle, Mary Lorene	1984	Somerset	05/19/2004	05/19/2004
Vasak, Stephen J.	1971	Bergen	09/21/2004	09/21/2004
Wiewiorka, Edward A.	1980	Essex	03/23/2004	03/23/2004
ADMONITION (23)				
Capron, Thomas S.	1981	Monmouth	10/25/2004	10/25/2004
Cohen, Richard J.	1989	Camden	07/16/2004	07/16/2004
D'Arienzo, Marc	1993	Union	02/06/2004	02/06/2004

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Finkelstein, Terry J.	1985	Middlesex	02/06/2004	02/06/2004
Fishman, Samuel	1996	Camden	06/22/2004	06/22/2004
Fleming-Sawyer, Carolyn J.	1989	Morris	03/23/2004	03/23/2004
Fletcher, Stephen K.	1980	Morris	04/16/2004	04/16/2004
Freeman, Brian Clifford	1983	Essex	09/24/2004	09/24/2004
Garbin, Gladys, J.M.	1989	Passaic	02/17/2004	02/17/2004
Gross, Howard	1992	Camden	05/05/2004	05/05/2004
Heit, Ellan A.	1989	Bergen	05/24/2004	05/24/2004
Kokes, A. Harold	1991	Cape May	04/16/2004	04/16/2004
Oliver, William H.	1972	Monmouth	07/16/2004	07/16/2004
Ortelere, Douglas F.	1983	Bergen	02/11/2004	02/11/2004
Pomper, Neal M.	1982	Middlesex	09/28/2004	09/28/2004
Robbins, Spencer B.	1981	Middlesex	11/19/2004	11/19/2004
Saint-Preux, Jonathan	1992	Essex	07/19/2004	07/19/2004
Santiago, Stuart K.	1987	Union	03/19/2004	03/19/2004
Shannon, Kevin R.	1994	Atlantic	06/22/2004	06/22/2004
Stahl, William N.	1983	Essex	06/22/2004	06/22/2004
Thakker, Jeff Edward	1995	Monmouth	09/24/2004	09/24/2004
Wulfman, Andrew S.	1987	Essex	02/17/2004	02/17/2004
Zander, Ben	1982	Burlington	05/24/2004	05/24/2004

TOTAL FINAL DISCIPLINE(154)

INTERIM SUSPENSIONS (22)

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Abraha, Ande R.	1993	Essex	05/07/2004	05/07/2004
Anderson, Rhonda M.	1998	Pennsylvania	09/08/2004	09/08/2004
Barry, Joseph M.	1965	Hudson	09/07/2004	09/07/2004
Block, Michael Lee	1990	Burlington	04/19/2004	04/19/2004
D'Andrea, Joseph R.	1987	Pennsylvania	05/07/2004	05/07/2004
Grossman, David B.	1987	New York	04/08/2004	04/08/2004

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Jimenez, Fernando J.	1999	Hudson	09/07/2004	09/07/2004
Johnson, Patricia	1990	New York	04/26/2004	04/26/2004
Kushner, Charles B.	1980	Essex	09/15/2004	09/15/2004
Landfield, Steven	1984	Morris	11/01/2004	11/01/2004
Lichtenstein, Jeffrey P.	1980	Middlesex	03/02/2004	03/02/2004
Martino, Frank, III	1994	Camden	02/25/2004	02/25/2004
McKenna, Edward J.	1990	Monmouth	04/22/2004	04/22/2004
Monahan, Francis R., Jr.	1990	Hudson	03/02/2004	03/02/2004
Musto, Victor M.	1983	Monmouth	06/29/2004	06/29/2004
Richmond, Donald J.	1978	Pennsylvania	04/26/2004	04/26/2004
Scoon, Michael C.	1996	Essex	04/22/2004	04/22/2004
Singer, Mitchell L.	1990	Morris	07/22/2004	07/22/2004
Smith, Stanley G.	1970	Union	08/04/2004	08/04/2004
Weiner, A. Kenneth	1970	Middlesex	07/22/2004	07/22/2004
Wonski, Louann K.	1992	Middlesex	01/13/2004	01/13/2004
Wyskowski, Barbara J.	1993	Union	07/20/2004	08/23/2004

TEMPORARY DISABILITY INACTIVE (1)

Rifkin, Ruth A.	1990	Pennsylvania	12/22/2004	12/22/2004
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TOTAL TEMPORARY DISCIPLINE(23)

REINSTATEMENTS (15)

ATTORNEY	SUSPENDED	LOCATION	DECIDED	EFFECTIVE
Block, Michael Lee	05/22/2004	Burlington	08/16/2004	08/16/2004
Cheek, Russell G.	12/29/2003	Ocean	04/21/2004	04/21/2004
Fishman, Yale M.	08/30/2002	Union	09/02/2004	09/02/2004
Giorgi, John N.	08/18/2004	Union	11/30/2004	11/30/2004
Kennedy, James W.	10/13/2003	Ocean	05/04/2004	05/04/2004
Kress, Richard H.	08/11/2003	Union	12/17/2004	12/17/2004

<u>ATTORNEY</u>	<u>SUSPENDED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Maffongelli, Joseph A.	08/01/2003	Essex	09/03/2004	09/03/2004
Mandel, Samuel	05/24/2004	Burlington	09/29/2004	09/29/2004
Milita, Vincent J., II	05/20/2004	Cape May	11/08/2004	11/08/2004
Rosanelli, Donald S.	06/22/2003	Essex	03/26/2004	03/26/2004
Schubach, Richard P.	03/23/2004	Somerset	06/23/2004	06/23/2004
Smith, Stanley G.	08/04/2004	Union	09/02/2004	09/02/2004
Vella, Kathleen M.	07/16/2004	Atlantic	10/28/2004	10/28/2004
Wiss, Scott L.	03/01/2004	New York	11/29/2004	11/29/2004
Wolfson, William S.	03/20/2004	Hunterdon	09/29/2004	09/29/2004

TOTAL REINSTATEMENTS(15)

STATISTICAL SUMMARY OF DISCIPLINE IMPOSED

ALL FINAL DISCIPLINE154

ALL TEMPORARY DISCIPLINE 23

ALL REINSTATEMENTS 15

Patricia N. Adelle - Suspended for three months on October 13, 2004 (*181 N.J. 322*) for improperly representing clients in the purchase of real estate, failing to communicate with them, failing to turn over money allegedly due them as a refund and failing to cooperate with disciplinary authorities. Richard J. Engelhardt appeared before the DRB for the OAE and respondent appeared *pro se*. The respondent was previously disciplined: Suspended for three months in 2001; reprimanded in 2002.

Arthur S. Alexion - Suspended for six months on September 21, 2004 (*181 N.J. 322*). Respondent was disbarred by consent in the Commonwealth of Pennsylvania acknowledging his inability to defend against allegations of gross neglect, lack of diligence, failure to communicate with a client, failure to account for a retainer or to return an unearned portion of a retainer, failure to set aside a fee for an expert witness from settlement proceeds, failure to promptly deliver funds to a third party, misrepresentation, trust account overdrafts and practicing law while ineligible to do so in Pennsylvania. The Supreme Court further ruled that respondent not be reinstated in New Jersey unless and until he is reinstated to the practice of law in Pennsylvania. Richard J. Engelhardt appeared before the Supreme Court for the OAE and respondent appeared *pro se*.

John J. Anastasio - Suspended for three months effective February 27, 2004 (*178 N.J. 325*). Respondent was suspended in the State of Florida for misconduct, including gross neglect, recordkeeping violations and conduct prejudicial to the administration of justice. Richard J. Engelhardt appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Two public reprimands and an admonition in Florida, and two reprimands in New Jersey, in 1988 and 1990.

David C. Anton - Suspended for one year effective December 29, 2004 (*182 N.J. 62*). Respondent was suspended by the Supreme Court of California for fabricating evidence and submitting it to a court in opposition to a motion for summary judgment. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Carolyn E. Arch - Suspended for three months effective February 5, 2004 (*178 N.J. 263*) for exhibiting a lack of diligence in failing to properly complete a real estate closing, failing to maintain attorney trust account records as required by *R. 1:21-6*, negligently misappropriating clients' trust funds and making multiple representations to investigators from the OAE. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Privately reprimanded in 1991; admonished twice in 2002.

Carolyn E. Arch - Suspended for three months effective February 5, 2004 (*181 N.J. 325*) for negligently misappropriating clients' trust funds, failing to communicate with a client, and failing to comply with recordkeeping rules concerning the maintenance of attorney trust and business account funds. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent appeared *pro se*. The respondent was previously disciplined: Privately reprimanded in 1991; admonished twice in 2002; suspended three months in 2004.

Nicholas Barone - Reprimanded on July 19, 2004 (*180 N.J. 518*) for engaging in conflicts of interest on two occasions by simultaneously representing the driver and passenger in automobile negligence matters. Moreover, after filing the complaints, the respondent allowed them to be dismissed and took no further steps to have them reinstated, thereby engaging in gross neglect, lack of diligence and failure to communicate with clients. Kenneth F. D'Amato appeared before the DRB for District XI and David B. Rubin appeared for respondent.

Robert E. Barth, Jr. - Reprimanded on October 19, 2004 (*181 N.J. 536*) for grossly neglecting a bankruptcy matter, failing to communicate with the client and misrepresenting the status of the matter to his client. John P. Jehl appeared before the DRB for District IV and Mark J. Molz appeared for respondent.

Philip J. Battaglia - Suspended for three months effective June 19, 2002 on a certified record (179 N.J. 419) for representing the buyers in a real estate transaction and, although receiving sufficient monies to pay off the sellers' two mortgages, failing to do so promptly. The delay caused the sellers to incur additional interest charges of over \$1,600. When contacted by the sellers' attorney, the respondent misrepresented that the payoff checks had been transmitted the day after the closing. Finally, the respondent failed to cooperate with the OAE. Nitza I. Blasini appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Temporarily suspended in 2002.

Richard B. Becker - Reprimanded on September 8, 2004 (181 N.J. 297). Respondent owned rental property in the City of Hoboken with another attorney, Michael R. Scinto. These respondents engaged in an ongoing pattern of deceit to circumvent rent control procedures on an apartment in their property by attempting to collect a rental payment higher than that to which they were legally entitled, and failing to file the required documentation to secure approval by the Hoboken Rent Control Office for an increase in rents. John McGill III appeared before the DRB for the OAE and Michael B. Himmel appeared for the respondent.

Gary S. Beninson - Disbarred by Consent on June 28, 2004 (180 N.J. 283). Respondent could not successfully defend pending disciplinary charges alleging the knowing misappropriation of clients' trust funds. The respondent had been indicted and pled guilty to second degree theft by failing to make required disposition of property received, in violation of *N.J.S.A. 2C:20-9*. John J. Janasie represented the OAE and Christopher S. Porrino appeared for respondent. The respondent was previously disciplined: Temporarily suspended since May 14, 2003.

Barry J. Beran - Reprimanded on October 19, 2004 (181 N.J. 535) for negligently misappropriating client trust funds, failing to maintain records as required by *R.1:21-6*, and improperly advancing loans to clients while representing them in personal injury matters. This case was discovered solely by the Trust Overdraft Notification Program. Michael J. Sweeney appeared before the DRB for the OAE and respondent waived appearance.

Vincent E. Bevacqua - Suspended for six months effective June 15, 2004 (180 N.J. 21) for invading client funds as a result of recklessness arising out of his "atrocious accounting procedures." Respondent also made false statements of material fact to the OAE. In a separate matter, the respondent improperly filed a complaint on behalf of the driver of a car and then sued his client, the driver, on behalf of the passenger, thus violating conflict of interest rules. Walton W. Kingsbery, III appeared before the DRB for the OAE and Thomas R. Ashley appeared for respondent. The respondent was previously disciplined: Reprimanded in 2002.

Michael R. Block - Reprimanded on September 8, 2004 on a certified record (181 N.J. 297) for grossly neglecting an immigration matter and failing to communicate with his client. The respondent had been temporarily suspended from the practice of law since April 19, 2004 for failing to comply with the determination of the District IIIB Fee Arbitration Committee. Paul A. Snyder appeared before the DRB for District IIIB and respondent failed to appear.

Hollistyne C. Bluitt - Reprimanded on September 8, 2004 (181 N.J. 302) for, in an estate matter, engaging in gross neglect, lack of diligence, failing to keep her client reasonably informed about the status, conflict of interest, failing to safeguard funds, recordkeeping violations and failing to cooperate with disciplinary authorities. Lee A. Gronikowski appeared before the DRB for the OAE and Lorry B. Bonds appeared for respondent. The respondent was previously disciplined: Privately reprimanded in 1992.

Bolden & Coker Law Firm - Reprimanded on January 27, 2004 (178 N.J. 324). Respondent, a Pennsylvania law firm, opened a New Jersey satellite office, which in fact was nothing more than a mail drop. Consequently, the law firm violated *R.1:21-1(a)* requiring the maintenance of a bona fide office. James R. Thompson appeared before the DRB for District IV and respondent failed to appear.

Susan Bell Bolno - Suspended for two years effective April 6, 2003 (*179 N.J. 315*), the date she was suspended in the Commonwealth of Pennsylvania for, in four separate matters, engaging in gross neglect, lack of diligence, failing to communicate with clients, failing to properly deliver funds to a client or third persons, making misrepresentations of the status of cases to her clients and creating documents to perpetuate the misrepresentation. Richard J. Engelhardt appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Temporarily suspended since April 12, 1999.

E. Edward Bowman - Suspended for three months effective May 18, 2004 (*179 N.J. 367*) for, in six separate matters, engaging in gross neglect, misrepresentation to clients, settling one matter without a client's authorization and forging a client's signature. The Court also took into consideration that, during the applicable time, respondent was an alcoholic and was materially impaired in his ability to represent clients. Robert A. Porter appeared before the DRB for District IV and Carl D. Poplar appeared for respondent.

Mark L. Brecker - Suspended for three months on June 29, 2004 (*180 N.J. 298*). Respondent was suspended for a period of two years in New York for conduct based upon a finding of contempt in one matter for not permitting a deposition to be recorded by a court stenographer and, in another matter, for making harassing telephone calls to a client's employer. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Robert J. Burns - Suspended for three years effective September 18, 2002 on a certified record (*181 N.J. 315*) for, in a series of seven client matters, engaging in gross neglect and a pattern of neglect, abandoning his clients, and failing to cooperate with disciplinary authorities. Janice L. Richter appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Temporarily suspended since September 18, 2002.

Robert S. Burrick - Disbarred on October 6, 2004 (*181 N.J. 347*). Respondent, while acting as treasurer of the Millburn Soccer Club, embezzled almost \$23,000 of that non-profit organization's funds and then tried to cover it up. The respondent was also found guilty of misappropriating approximately \$2,250 in legal fees due to the law firm of Pitney, Hardin, Kipp and Szuch when, as an associate of the law firm, he received checks from two clients for legal fees and deposited them in his personal account, rather than remitting them to the law firm. In addition, the respondent pled guilty in the United States District Court for the District of New Jersey to one count of mail fraud, in violation of *18 U.S.C.A. §1341* and 2, and one count of interstate transportation of stolen securities and money obtained by fraud, in violation of *18 U.S.C.A. § 2314* and 2. John McGill, III appeared before the Supreme Court for the OAE and Allison M. Berger appeared for respondent. The respondent was previously disciplined: Temporarily suspended since January 14, 2003, the date of his guilty plea.

Thomas S. Capron - Admonished on October 25, 2004 (*Unreported*) for grossly neglecting a mortgage refinancing by taking no action to have a prior mortgage cancelled of record so that the refinancing could be accomplished. David M. Epstein appeared before the DRB for District IX and Dennis J. Barrett appeared for respondent.

Russell J. Carbone - Disbarred on January 24, 2004 (*178 N.J. 322*). Respondent was convicted in the United States District Court for the Southern District of Florida of conspiracy to obstruct justice and commit perjury, in violation of *18 U.S.C.A. § 371*, subordination of perjury, in violation of *18 U.S.C.A. § 1622*, obstruction of justice, in violation of *18 U.S.C.A. §1503*, and perjury, in violation of *18 U.S.C.A. § 1623*. More specifically, while representing a client in a criminal matter, the respondent fabricated a defense, coached a witness to testify falsely at his client's trial, and elicited the testimony from the witness at trial. Then, after his client admitted to a probation officer that the witness's testimony had been untrue, respondent offered her a bribe to recant her admission and to testify falsely to the district court, which she did. Richard J. Engelhardt appeared before the Supreme Court for the OAE and James E. Hely appeared for

respondent. The respondent was previously disciplined: Temporarily suspended since 1999 pending the final resolution of this matter.

Michael S. Caro - Disbarred by Consent on March 19, 2004 (*179 N.J. 317*). Respondent admitted that he could not successfully defend pending disciplinary charges alleging the misappropriation of over \$186,000 of client trust funds. John J. Janasie represented the OAE and Kim D. Ringler represented the respondent.

Richard J. Cohen - Admonished on July 16, 2004 (*Unreported*) for practicing law in the State of New Jersey for a period of nineteen months after being declared ineligible to practice law by the Supreme Court, by reason of non-payment of the annual attorney registration fee. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent appeared *pro se*.

Mark D. Cubberley - Suspended for six months effective December 9, 2003 (*178 N.J. 413*) for failing to act diligently in representing the purchaser in a real estate transaction, failing to communicate with the client, and then failing to cooperate with disciplinary authorities. Catherine Fitzpatrick appeared before the DRB for District VII and Robert Ramsey appeared for respondent. The respondent was previously discipline: Admonished; reprimanded twice; suspended four times; temporarily suspended. Respondent is currently suspended for a period of three years beginning December 9, 2003.

Cornelius W. Daniel, III - Reprimanded on June 2, 2004 (*180 N.J. 156*) for grossly neglecting a litigated matter, failing to act diligently, failing to communicate with the client and making representations during the course of the litigation. Frank Gaudio appeared before the DRB for District IX and Michael D. Schottland appeared for respondent. The respondent was previously disciplined: Privately reprimanded twice in 1988; reprimanded in 1996; admonished in 1997.

Paul W. Dare - Disbarred by Consent on April 19, 2004 (*180 N.J. 114*). Respondent admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of over \$75,000 in trust money from an estate. This case was discovered solely by the Random Audit Program. Michael J. Sweeney represented the OAE and David H. Dugan, III appeared for respondent.

Marc D'Arienzo - Admonished on December 10, 2004 (*Unreported*) for criminal possession of marijuana, less than 50 grams (*N.J.S.A. 2C:35-10(a)(4)*), and possession of drug paraphernalia, a water bong (*N.J.S.A. 2C:36-2*), for which he was granted a conditional discharge with a one-year term. Brian D. Gillet appeared before the DRB for the OAE and respondent appeared *pro se*.

Earl S. David - Suspended for fifteen months effective October 20, 2004 (*181 N.J. 326*). Respondent was suspended for the same period in a disciplinary proceeding in the State of New York, arising out of the respondent's testimony as a prosecution witness in a racketeering and securities fraud trial. After receiving immunity from prosecution, the respondent admitted his involvement in acts of security fraud and money laundering. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Antonio M. De La Carrera - Suspended for three months on September 8, 2004 (*181 N.J. 296*). Respondent, in two real estate matters, disbursed funds prior to receiving wire transfers, resulting in the negligent invasions of other clients' trust funds and, in another real estate matter, failed to disclose to the lender or on the RESPA statement, that the sellers in the transaction took back a secondary mortgage from the buyers, a practice prohibited by the lender. This case was discovered solely by the Trust Overdraft Notification Program. Nitza I. Blasini appeared before the DRB for the OAE and respondent failed to appear.

Edward C. Delaney - Reprimanded on July 22, 2004 (*180 N.J. 524*) for engaging in a conflict of interest and failing to withdraw from the representation after a problem arose regarding the party's respective inter-

ests in the real estate. Respondent also unethically notarized a deed signed by the sellers, not by his clients, after the deed had been returned by the County Clerk due to a lack of acknowledgment of the sellers' signatures. Timothy J. Little appeared before the DRB for District VIII and Pamela L. Brause appeared for respondent.

John M. DeLaurentis - Suspended for one year on November 22, 2004 (*182 N.J. 39*) for conviction of 35 counts of animal cruelty, in violation of *N.J.S.A. 4:22-17(c)*, as well as accumulating garbage and failing to license a dog, in violation of municipal ordinances for the City of Cherry Hill, and, engaging in a number of other improprieties, including lack of diligence, failing to communicate with a client, failing to notify a third person of the receipt of funds, failing to properly deliver funds to a third person, failing to supervise an employee and conflict of interest. Walton W. Kingsbery, III appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Reprimanded and suspended for one year in 2002.

Nicole Devaney - Reprimanded on September 8, 2004 (*181 N.J. 296*) for pleading guilty to two counts of an Accusation filed in the Superior Court of New Jersey, Law Division, Monmouth County, charging respondent with the third degree crime of theft of movable property, a violation of *N.J.S.A. 2C:20-3(a)*, and the third degree crime of obtaining a controlled dangerous substance by fraud, a violation of *N.J.S.A. 2C:35-13*. Respondent admitted taking prescription pads from two doctors, without their authorization, and using them to lawfully obtain prescription pain medication, to wit, Percocet. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Donald B. Devin - Disbarred on September 28, 2004 (*181 N.J. 344*) in accordance with the Court's recent opinion in the matter of *In re Kantor*, *180 N.J. 226*. Respondent had an extensive disciplinary record and also failed to cooperate with disciplinary authorities. John McGill, III appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Suspended for three months in 1994; reprimanded twice, in 1996 and 2002; temporarily suspended in 2002; suspended for three months in 2003.

Alexander B. Dranov - Suspended for six months effective May 22, 2004 (*179 N.J. 420*) for overreaching his client in charging a legal fee, failing to segregate settlement funds in his trust account pending a resolution of the fee dispute, improperly depositing the check without obtaining the client's endorsement and not promptly remitting the settlement funds to the client. The respondent also engaged in an impermissible conflict of interest by representing one client against a former client without consent. Janice L. Richter appeared before the DRB for the OAE and Robert E. Margulies appeared for respondent.

Paul A. Dykstra - Suspended for three months effective November 1, 2004 (*181 N.J. 345*) for engaging in a pattern of misrepresentations in a real estate transaction including altering a check to avoid a malpractice lawsuit against him. Glenn R. Reiser appeared before the DRB for District IIB and respondent waived appearance. The respondent was previously disciplined: Suspended for three months in 1999; admonished in 2000.

Barbara H. Dupre - Suspended for three months on April 22, 2004 on a certified record (*179 N.J. 424*). Respondent was hired to file a petition for expungement for her client and was paid a legal fee, but did nothing, failed to reply to the client's inquiries and misrepresented that she had filed the expungement petition. Additionally, respondent failed to cooperate with disciplinary authorities. Jonathan Scott Fabricant appeared before the DRB District IIIA and respondent failed to appear. The respondent was previously disciplined: Temporarily suspended.

Charles S. Epstein - Disbarred on September 13, 2004 (*181 N.J. 305*). Respondent, while employed as an associate in a law firm, knowingly misappropriated \$6,800 in checks that respondent had received from six

clients of the law firm. Nitza I. Blasini appeared before the Supreme Court for the OAE and Dominic J. Aprile appeared for respondent.

John A. Evans - Suspended for three months on October 4, 2004 (*181 N.J. 334*). Respondent, while general counsel for Holt Cargo Systems, a defendant in a lawsuit about spoilage brought by Ocean Spray Cranberries, knowingly withheld critical information from Ocean Spray and from Holt Cargo's outside counsel with regard to a prior cover-up and fabrication of records by Holt in order to avoid liability in the lawsuit. Nitza I. Blasini appeared before the DRB for the OAE and Richard S. Hyland appeared for respondent.

L. Gilbert Farr - Disbarred on February 25, 2004 on a certified record (*178 N.J. 458*) for engaging in serious misconduct in nine separate matters, including gross neglect, failing to communicate, charging an unreasonable fee, negligent misappropriation of clients' trust funds, failing to maintain required attorney trust and business account records, pleading guilty to a charge of possession of a controlled dangerous substance (cocaine) in a motor vehicle, contrary to *N.J.S.A. 2C:39-4-49.1*, abandoning a client and making misrepresentations. This case was discovered solely by the Trust Overdraft Notification Program. Lee A. Gronikowski appeared before the DRB for the OAE and Francis J. Hartman waived his appearance for respondent. The respondent was previously disciplined: Suspended for six months in 1989.

Kenneth E. Fink - Suspension for three years effective June 3, 2003 (*181 N.J. 350*). Respondent had been disbarred in the State of Delaware based upon his criminal conviction of 15 counts of felony possession of child pornography, in violation of *11 Del. C. § 1111* and 15 counts of unlawful dealing in material depicting a child engaging in a prohibited sexual act, in violation of *11 Del. C. § 1109(4)*. Richard J. Engelhardt appeared before the DRB for the OAE and Teri S. Lodge appeared for respondent. The respondent was previously disciplined: Temporarily suspended since July 18, 2002. The Supreme Court also conditioned eligibility for eventual reinstatement in New Jersey on reinstatement in Delaware.

Terry J. Finkelstein - Admonished on February 6, 2004 (*Unreported*) for grossly neglecting a personal injury matter and improperly paying an amount in settlement to the client. Patrick William Foley appeared before the DRB for District VIII and respondent appeared *pro se*.

Terry J. Finkelstein - Reprimanded on July 22, 2004 (*180 N.J. 526*) for engaging in a conflict of interest by representing first the sellers and then, after representing them in litigation regarding problems with the house, subsequently representing prospective purchasers. The respondent also grossly neglected the litigation and failed to communicate with his clients. Patrick W. Foley appeared before the DRB for District VIII and respondent appeared *pro se*.

Robert S. Fisher - Suspended for three months effective August 2, 2004 on a certified record (*180 N.J. 333*) for exhibiting a lack of diligence, failing to communicate with a client and engaging in conflicts of interest, including representing both the driver and passenger. Respondent also failed to maintain a bona fide law office and failed to cooperate with disciplinary authorities. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent failed to appear.

Samuel Fishman - Admonished on June 22, 2004 (*Unreported*) for practicing law in New Jersey while on the Supreme Court's Ineligible List by reason of his failure to pay the annual attorney assessment. Additionally, respondent failed to maintain an attorney trust and business account in the State of New Jersey as required by *R. 1:21-6*. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent appeared *pro se*.

Carolyn J. Fleming-Sawyer - Admonished on March 23, 2004 (*Unreported*) for grossly neglecting one matter by not recording the deed to real estate until one year after the closing, and in another matter, failing to maintain trust and business account records for a period of seven years and engaging in a conflict of

interest by collecting a real estate commission when she sold the client's house. Walton W. Kingsbery, III appeared before the DRB for the OAE and Edward F. Broderick, Jr. appeared for respondent.

Stephen K. Fletcher - Admonished on April 16, 2004 (*Unreported*) for failing to adequately communicate with his client and grossly neglecting her real estate matter. Janet L. Pisansky appeared before the DRB for District X and Peter N. Gilbreth appeared for respondent.

Brian C. Freeman - Admonished on September 24, 2004 (*Unreported*) for failing to supervise an employee, as a result of which the employee negotiated a \$1,000 settlement check in one matter and a \$2,700 settlement check in another and retained the proceeds for herself. James A. Mella appeared before the DRB for District VB and Thomas R. Ashley appeared for respondent.

Aaron S. Friedmann - Suspended for six months effective October 21, 2004 (*181 N.J. 320*) for mishandling a medical malpractice litigation and then making misrepresentations to clients, his adversaries and the courts in an effort to cover up the misdeeds. In particular, the respondent lied to a tribunal, failed to inform a tribunal of the relevant facts and made false statements to third parties. Walton W. Kingsbery, III appeared before the Supreme Court for the OAE and Carl D. Poplar appeared for respondent.

Stephen A. Gallo - Disbarred by Consent on September 8, 2004 (*181 N.J. 304*). While this matter was pending before the Supreme Court for oral argument, the respondent tendered his disbarment by consent. The basis for this action was the respondent's guilty plea in the Superior Court of New Jersey, Bergen County, Law Division, to a one-count Accusation and three counts of indictment number S-0089-01, charging four separate acts of the fourth degree crime of criminal sexual contact, in violation of *N.J.S.A. 2C:14-3(b)*. Richard J. Engelhardt represented the OAE and Justin P. Walder appeared for respondent.

Gladys J.M. Garbin - Admonished on February 17, 2004 (*Unreported*) for failing to properly supervise an employee in one real estate matter and, then in another real estate matter, failing to memorialize her client's consent to the release of escrow funds. The respondent had agreed to diversion, but then failed to fulfill the agreed conditions. Jo-Ann Geremia Durr appeared before the DRB for District XI and Adolf J. Galluccio appeared for respondent.

Francis X. Gavin - Disbarred on September 28, 2004 (*181 N.J. 342*) in accordance with the Court's recent opinion in the matter of *In re Kantor*, *180 N.J. 226*. Respondent has an extensive disciplinary record and failed to turn over funds entrusted to his care to clients in an estate matter. Respondent also failed to cooperate with disciplinary authorities. Janice L. Richter appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Reprimanded in 1998 and 2001; suspended in 2002, six months and three months consecutive; suspended three months retroactive in 2003.

John N. Giorgi - Suspended for three months effective August 18, 2004 (*180 N.J. 525*) for charging an excessive contingent fee, making misrepresentations to his adversary and to the court, counseling his client to make misrepresentations to the court, making loans to his client without complying with the required safeguards of *RPC 1.8(a)*, engaging in a conflict of interest by arranging for one client to lend money to another client, making misrepresentations to the OAE and violating recordkeeping rules required of all attorneys under *R. 1:21-6*. Michael J. Sweeney appeared before the DRB for the OAE and Laurie Esteves appeared for respondent.

Richard B. Girdler - Suspended for three months on March 29, 2004 on a certified record (*179 N.J. 227*). Respondent, after being suspended from the practice of law for a period of three months, failed to abide the Supreme Court's order directing him to comply with *R.1:20-20*, which required, among other things, that he notify all clients, courts and adversaries that he had been suspended and take appropriate action to protect

his clients' interests. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Privately reprimanded in 1991; reprimanded in 1994; suspended for three months in 2002 and 2003.

Richard B. Girdler - Suspended for one year effective June 3, 2004 on a certified record (182 N.J. 40) for representing a real estate purchaser, failing to act diligently, failing to communicate with the client and failing to cooperate with disciplinary authorities. John McGill, III appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Privately reprimanded in 1991; reprimanded in 1994; suspended for three months in 2002, 2003 and 2004.

Kenneth P. Glynn - Suspended for six months effective July 12, 2004 (180 N.J. 169) for recklessly disbursing client trust funds, thus resulting in a negligent misappropriation of client funds, failing to maintain trust and business account records as required by R.I:21-6 and engaging in a conflict of interest by borrowing monies from clients without complying with RPC 1.8(a). Nitza I. Blasini appeared before the DRB for the OAE and respondent appeared *pro se*.

Howard A. Gross - Admonished on May 5, 2004 (Unreported) for practicing law during 2002 while the Supreme Court declared him ineligible to do so for failure to pay the annual attorney assessment, and engaging in gross neglect, lack of diligence and failing to communicate in one client matter and lack of diligence in a second matter. Michael P. Madden appeared before the DRB for District IV and Joel B. Korin appeared for respondent.

Howard A. Gross - Suspended for three months effective June 1, 2004 (179 N.J. 510). Respondent pled guilty in the Superior Court of New Jersey, Burlington County, Law Division, to a charge of conspiracy to possess cocaine, in violation of N.J.S.A. 2C:5-2, a crime of the third degree. Richard J. Engelhardt appeared before the DRB for the OAE and Joel B. Korin appeared for respondent. The respondent was previously disciplined: Admonished in 2004.

John P. Gross - Disbarred on January 21, 2004 (178 N.J. 377). Respondent pled guilty in the Superior Court of New Jersey, Law Division, Somerset County, to seven of eight counts of an indictment charging him with one count of second degree theft of movable property, in violation of N.J.S.A. 2C:20-3(b); one count of third degree tampering with public records, in violation of N.J.S.A. 2C:28-7(a)(1); two counts of second degree theft by failure to make required disposition of property received, in violation of N.J.S.A. 2C:20-9; and three counts of third degree theft by failure to make required disposition of property received, in violation of N.J.S.A. 2C:20-9. More specifically, while acting as the trustee of a testamentary trust, the respondent filed a deed transferring ownership of a house from him as trustee to him personally. He then obtained two loans for \$46,000 and \$92,000, secured by mortgages on the house and then used the loan proceeds for personal expenses. Richard J. Engelhardt appeared before the DRB for the OAE and respondent failed to appear.

Rupert A. Hall - Disbarred on September 28, 2004 (181 N.J. 339) for knowingly misappropriating clients' trust funds. This case was discovered solely by the Trust Overdraft Notification Program. John McGill, III appeared before the Supreme Court for the OAE and respondent appeared *pro se*.

Daniel D. Hediger - Reprimanded on April 22, 2004 on a certified record (179 N.J. 365). Respondent was hired in connection with a complaint filed against the client by a past employer. The respondent represented to the client that the matter had been settled, only to find out three months later that a \$1,200 judgment had been entered against her, representing the full amount of the employer's claim. Anna B. Navatta appeared before the DRB for the OAE and respondent failed to appear.

Ellan A. Heit - Admonished on May 24, 2004 (Unreported) for accepting a case that was referred by an out-of-state attorney without notifying the client that he was, in fact, the attorney who would be handling the

case. Furthermore, the respondent violated *RPC 1.5(e)* when he shared the fee with the out-of-state attorney, who performed no work on the matter and did not assume joint responsibility for the representation. Rustine Tilton appeared before the DRB for District IIB and Robert L. Ritter appeared for respondent.

James P. Henry - Suspended for three months effective March 22, 2004 on a motion for discipline by consent (*178 N.J. 481*). Respondent, as administrator of an estate, failed to handle the administration of the estate diligently, failed to comply with recordkeeping rules governing the handling of trust funds, failed to comply with court orders to conclude the estate, failed to cooperate with the Office of Attorney Ethics and made misrepresentations to that office. Janice L. Richter appeared before the DRB for the OAE and John P. Dell'Italia appeared for respondent. The respondent was previously discipline: Privately reprimanded in 1971.

Terence P. Higginson - Disbarred on September 13, 2004 (*181 N.J. 306*). Respondent was disbarred by consent in the State of New York for converting and misappropriating over \$19,000 in escrow funds held in two real estate transactions. Richard J. Engelhardt appeared before the Supreme Court for the OAE and respondent failed to appear.

Barry W. Horowitz - Suspended for three months on July 22, 2004 (*180 N.J. 520*) for unethically practicing law while declared ineligible by the Supreme Court for failing to pay the annual attorney registration assessment, and failing to act diligently by allowing summary judgment to be entered in a client's civil rights/employment matter and, thereafter, failing to notify the client of the dismissal. The respondent also failed to cooperate with the disciplinary system. Steven M. Tanenbaum appeared before the DRB for District VIII and respondent failed to appear.

Scott E. Itkin - Disbarred by Consent on July 15, 2004 (*180 N.J. 476*). Respondent could not successfully defend pending disciplinary charges alleging that he was convicted in the State of Florida of third degree felony grand theft, in violation of Fla. Stat. Section 812.014 involving funds stolen from law clients. Richard J. Engelhardt represented the OAE and Sean L. Wilson of Coral Springs, Florida represented the respondent.

Edgar E. Jordan, III - Suspended for two years on September 8, 2004 (*181 N.J. 300*). Respondent was disbarred in New York for engaging in a pattern of conflict of interest and acting as a witness to a document falsely stating that there was no other financing involved in a real estate transaction when he knew that his clients had signed a statement omitting secondary financing. Richard J. Engelhardt appeared before the DRB for the OAE and respondent appeared *pro se*.

Harry J. Kane, Jr. - Reprimanded on July 13, 2004 (*178 N.J. 258*) for grossly neglecting five client matters and lying to his attorney-supervisor about the problems when his failings in the first case were discovered. Jane L. McDonald appeared before the DRB for District IV and respondent appeared *pro se*. The respondent was previously disciplined: Reprimanded in 2002.

Philip L. Kantor - Disbarred on June 24, 2004 (*175 N.J. 555*) for abandoning his clients without warning. The Court noted that the respondent demonstrated a complete disregard for the attorney disciplinary process by reason of his extensive past disciplinary record, his abandonment of clients, his failure to cooperate with disciplinary authorities, his failure to appear before the Disciplinary Review Board, as well as his non-appearance before the Supreme Court on an order to show cause why he should not be disbarred. Walton W. Kingsbery, III appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Reprimanded in 2000; suspended for three months in 2003.

Peter L. Katz - Disbarred by Consent on October 7, 2004 (*181 N.J. 346*). Respondent could not successfully defend pending reciprocal disciplinary charges based upon his consensual disbarment in the State of

New York in which he acknowledged that, in multiple cases, he engaged in conduct involving misrepresentation, non-cooperation with disciplinary authorities and a pattern of neglect. Richard J. Engelhardt represented the OAE and Kim D. Ringler consulted with respondent solely to ensure his consent was voluntary.

Steven T. Kearns - Reprimanded on May 4, 2004 on a certified record (*179 N.J. 507*) for failing to represent real estate clients diligently, failing to reasonably communicate with them and failing to promptly pay off existing mortgages. The respondent also failed to maintain appropriate trust and business accounting records as required by *R.1:21-6* and failed to cooperate with disciplinary authorities. Lee A. Gronikowski appeared before the DRB for the OAE and respondent failed to appear.

Adam Ronald Kidan - Disbarred on June 2, 2004 (*180 N.J. 155*). The respondent was disbarred in the State of New York for misappropriating client trust funds in the amount of approximately \$100,000. Richard J. Engelhardt appeared before the Supreme Court for the OAE and respondent failed to appear.

Sherry D. King - Suspended for one year effective March 21, 2003 (*181 N.J. 349*). The respondent who, while previously under an order of suspension, failed to notify clients, courts and adversaries of her suspension, and to file an affidavit of compliance with the OAE as required by *R.1:20-20*. John McGill, III appeared before the Supreme Court for the OAE and respondent appeared *pro se*. The respondent was previously disciplined: Reprimanded in 1998; suspended for three months in 1999 and suspended for one year in 2002. Respondent remains under a temporary suspension order entered in 1998 for failure to return a \$7,500 unused retainer to her client, as directed by the Court.

Matthew J. Kirnan - Suspended for eighteen months effective June 3, 2003 (*181 N.J. 337*) for pleading guilty in the United States District Court for the District of New Jersey to an Information charging him with filing a false federal tax return, in violation of *26 U.S.C.A. § 7206(1)*. Richard J. Engelhardt appeared before the DRB for the OAE and Paul B. Brickfield appeared for respondent.

A. Harold Kokes - Admonished on April 16, 2004 (*Unreported*). While representing a criminal defendant, respondent failed to disclose to the court a material fact with knowledge that the court may tend to be misled by such failure. George J. Singley appeared before the DRB for District IIIB and respondent appeared *pro se*.

Theodore F. Kozlowski - Reprimanded on January 27, 2004 (*178 N.J. 326*) for failing to cooperate with disciplinary authorities. William Sandelands appeared before the DRB for District X and respondent appeared *pro se*. The respondent was previously disciplined: Privately reprimanded in 1992; admonished in 1998; reprimanded in 2003.

Theodore F. Kozlowski - Reprimanded on September 13, 2004 (*181 N.J. 309*) for failing to represent a client diligently in a bankruptcy matter. Margaret A. Kerr appeared before the Supreme Court for District X and respondent failed to appear. The respondent was previously disciplined: Privately reprimanded in 1992; admonished in 1998; reprimanded in 2003 and 2004.

Theodore F. Kozlowski - Suspended for three months on a certified record effective October 13, 2004 (*181 N.J. 307*) in three matters for engaging in lack of diligence, failure to communicate, recordkeeping violations, failing to cooperate with disciplinary authorities and, in one matter, forging his clients' signatures on two bankruptcy petitions, in order to conceal his own failure to prosecute the matter. John McGill, III appeared for the OAE and respondent appeared *pro se*. Privately reprimanded in 1992; admonished in 1998; reprimanded in 2003, twice in 2004.

Marc S. Lawrence - Disbarred on June 2, 2004 (*180 N.J. 157*). Respondent was disbarred in the State of New York for, among other things, knowing misappropriation of escrow funds. Richard J. Engelhardt appeared before the Supreme Court for the OAE and respondent failed to appear.

Kenneth M. Leff - Reprimanded on October 4, 2004 (*181 N.J. 333*) for failing to act diligently and failing to properly deliver funds to clients or third persons in connection with four separate real estate matters. Respondent also admitted that he exhibited a pattern of neglect and that he failed to properly maintain his trust and business account records, in violation of *R.1:21-6*. Brian D. Gillet appeared before the DRB for the OAE and Kim D. Ringler appeared for respondent.

Mark E. Magee - Reprimanded on June 29, 2004 (*180 N.J. 302*) for pleading guilty in Superior Court of New Jersey, Law Division, Monmouth County to eluding a police officer, in violation of *N.J.S.A. 2C:29-2(b)*, driving while intoxicated, in violation of *N.J.S.A. 39:4-50*, and one count of third-degree resisting arrest, in violation of *N.J.S.A. 2C:29-2(a)*. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Anthony M. Magnotti - Disbarred on October 13, 2004 (*181 N.J. 389*) for pleading guilty to grand larceny in the second degree, in violation of New York Penal Law § 155.40-1, one count of practice of law by a disbarred or suspended attorney, in violation of New York Judiciary Law §486, and one count of first degree scheme to defraud, in violation of New York Penal Law § 190.65-1(a). Richard J. Engelhardt appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Temporarily suspended since February 19, 2003.

Samuel Mandel - Suspended for three months effective May 24, 2004 on a certified record (*179 N.J. 422*). Respondent was retained to represent a client in an insurance claim for a fire loss and then, during a period of four years, failed to take any action to protect the client's claim. Janice H. Rourke appeared before the DRB for District IIIB and respondent failed to appear. The respondent was previously disciplined: Reprimanded twice in 1999.

George J. Mandle, Jr. - Suspended for one year on June 2, 2004 on a certified record (*180 N.J. 158*). While under suspension, respondent failed to comply with the requirements of *R.1:20-20*, which mandated that he notify clients, courts, and adversaries of his suspension and file an affidavit with the Office of Attorney Ethics demonstrating compliance. Brian D. Gillet appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Reprimanded in 1996, 1999 and 2001; temporarily suspended in 2000; suspended for three months in 2001 and 2002.

Frank Martino, III - Disbarred on November 29, 2004 (*182 NJ 61*) for knowingly misappropriating at least \$9,500 from a personal injury settlement. This case was discovered solely by the Trust Overdraft Notification Program. The respondent had been temporarily suspended from the practice of law since February 24, 2004 due to his non-cooperation with the OAE. Walton W. Kingsbery, III appeared before the Supreme Court for the OAE and Philip J. Mammano, Jr. appeared for respondent.

Isabella Mayzel - Reprimanded on July 2, 2004 on a motion for discipline by consent (*180 N.J. 305*) for failing to represent a client diligently in an immigration matter and failing to explain that proceeding to the extent reasonably necessary to permit the client to make informed decisions about the representation. Jamie K. Von Ellen appeared before the DRB for District XII and respondent appeared *pro se*.

Bernard J. McBride, Jr. - Reprimanded on September 8, 2004 on a certified record (*181 N.J. 299*) for failing to adequately communicate with his client, failing to explain the matter to the extent necessary to permit the client to make an informed decision and failing to cooperate with disciplinary authorities. Hance C. Jaquett appeared before the DRB for District I and respondent failed to appear.

Larry J. McClure - Suspended for six months effective May 21, 2003 on a certified record (*180 N.J. 154*) for grossly neglecting a client custody case after receiving a substantial retainer to represent the client, and improperly obtaining the client's signature on a blank certification form, failing to communicate with his

clients, and failing to give the clients a written retainer agreement as required by Court Rules. Rustine Tilton appeared before the DRB for District IIB and respondent failed to appear. The respondent was previously disciplined: Admonished in 1999; suspended for six months effective May 21, 2003.

Michael A. McLaughlin, Sr. - Reprimanded on March 9, 2004 (*179 N.J. 314*) for violating a Supreme Court order imposed at the time respondent was admitted to practice that required that he file quarterly reports for two years confirming that he had refrained from the use of alcohol or other intoxicating substances and had continued to attend Alcoholics Anonymous and Lawyers Concerned for Lawyers meetings. In June 2002, respondent had a one-evening relapse and was charged with driving while intoxicated. While the DWI matter was pending, respondent filed a quarterly certification with the Supreme Court's Character Committee attesting to his continued sobriety. This was a misrepresentation. Respondent subsequently reported the DWI arrest to the Character Committee. Richard J. Engelhardt appeared before the DRB for the OAE and Albert B. Jeffers appeared for respondent.

John J. McLoughlin, Jr. - Suspended for three months effective April 26, 2004 (*179 N.J. 226*) for stipulating that he purchased .1 gram of cocaine, as a result of which he was criminally charged and admitted into the Union County Pretrial Intervention program for a period 12 months. Marina S. Peck appeared before the DRB for the OAE and Peter N. Gilbreth appeared for respondent.

William E. McManus, II - Suspended for two years effective December 10, 2002 (*179 N.J. 415*) for pleading guilty in the United States District Court for the District of Connecticut to a Superseding Information charging him with one count of income tax evasion (*26 U.S.C.A. § 7201*) and one count of willful failure to file an income tax return (*26 U.S.C.A. § 7203*). Respondent evaded reporting income received in 1998 in the total amount of \$510,000 and failed to file an income tax return for calendar year 1993 when he earned gross income in the amount of over \$313,000. Richard J. Engelhardt appeared before the DRB for the OAE and Thomas R. Curtin appeared for respondent. The respondent was previously disciplined: Temporarily suspended in 2002.

Elizabeth T. McNamara - Reprimanded on April 8, 2004 on a motion for discipline by consent (*179 N.J. 342*) for representing the Kearny Planning Board at a time when she was ineligible to practice. She grossly neglected the matter, made a misrepresentation about the status to the Planning Board and failed to withdraw from representation when she knew that her physical or medical condition impaired her ability to represent the Board. Walton W. Kingsbery, III appeared before the DRB for the OAE and Vito Sciancalepore appeared for respondent.

Michael A. Mele - Reprimanded on February 10, 2004 (*179 N.J. 364*) for neglecting two client matters, failing to act diligently in connection with those two and one other case, and failing to notify his client in one matter of his termination of the representation. Michael P. Kemezis appeared before the DRB for District IIB and Alan M. Liebowitz appeared for respondent. The respondent was previously disciplined: Temporarily suspended in 2002.

Vincent J. Milita, II - Suspended for three months effective June 15, 2004 (*180 N.J. 116*) for contacting his client's co-defendant in a criminal matter, although he knew that the co-defendant was represented by another attorney. Martin Pappaterra appeared before the DRB for District IIB and respondent appeared *pro se*. The respondent was previously disciplined: Suspended for six months in 1985; reprimanded in 2003.

Steven F. Miller - Disbarred by Consent on February 13, 2004 (*178 N.J. 456*). Respondent pled guilty in the Superior Court of New Jersey, Law Division, Essex County, to an accusation charging Securities Fraud (Third Degree), in violation of *N.J.S.A. 49:3-52(b)*, *N.J.S.A. 49:3-70*, and *N.J.S.A. 2C:2-6*. At the time of his consent, the respondent was also the subject of a decision by the Disciplinary Review Board recommending to the Supreme Court that the respondent be disbarred for the knowing misappropriation of trust funds.

Brian D. Gillet represented the OAE and Eugene M. Haring consulted with respondent solely to ensure consent was voluntary. The respondent was previously disciplined: Temporarily suspended in 1992; suspended for three months in 1994.

Patrick J. Moore - Reprimanded on October 4, 2004 on a certified record (*181 N.J. 335*) for willfully violating a prior Supreme Court order of suspension and failing to take steps required of all suspended attorneys to notify clients, courts and adversaries of the suspension and to file an affidavit of compliance therewith. As a result, an attorney-trustee was appointed under *R.1:20-19* to perform the functions that respondent should have performed. Walton W. Kingsbery, III appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Suspended for one year in 2003.

Elliott D. Moorman - Disbarred on September 14, 2004 (*181 N.J. 314*). Despite having been disciplined on six prior occasions beginning in 1990, respondent nevertheless continued to grossly neglect another client matter. John J. Janasie appeared before the Supreme Court for the OAE and respondent appeared *pro se*. The respondent was previously disciplined: Reprimanded in 1990 and 1999; suspended for three months in 1994 and twice in 2003; suspended for one year in 2003.

Philip M. Morell - Suspended for one year effective August 8, 2003 (effective date of respondent's suspension in the State of New York) (*180 N.J. 153*) for making repeated misrepresentations to two clients. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Philip E. Murphy - Reprimanded on September 21, 2004 (*181 N.J. 319*) for grossly neglecting his obligations in holding an escrow in a real estate matter, failing to insure that the purpose of the escrow had been satisfied and failing to promptly disburse the escrow funds to his clients. The respondent also practiced law after he had been declared ineligible to practice by reason of his failure to pay the annual attorney registration fee. He also failed to maintain proper trust and business accounting records as required by *R. 1:21-6* and failed to cooperate with the disciplinary authorities. Brian D. Gillet appeared before the DRB for the OAE and respondent appeared *pro se*.

Thomas M. Murray, Jr. - Suspended for three months on March 2, 2004 on a certified record (*178 N.J. 538*) for grossly neglecting two client matters, failing to communicate with the clients and, in one case, misrepresenting the status of the matter to a client. Lee A. Gronikowski appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Reprimanded in 2003.

Walter D. Nealy - Reprimanded on July 22, 2004 (*180 N.J. 527*) for grossly neglecting a negligence case, allowing the complaint to be dismissed with prejudice. He failed to file either a motion for reconsideration or an appeal. After the client filed a grievance, the respondent misrepresented to him that the case was still pending. Thomas J. Herten appeared before the DRB for District IIB and Bernard K. Freamon appeared for respondent.

Emanuel H. Needle - Disbarred on June 29, 2004 (*180 N.J. 300*). Over a period of more than a decade, respondent settled personal injury claims for clients, took excessive fees and transferred the balance of monies being held to pay medical costs and welfare liens to a T. Rowe Price mutual fund account in respondent's sole name outside the State of New Jersey. The respondent did virtually nothing to see that the medical charges and welfare clients were paid. He also engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in repeatedly lying to the Internal Revenue Service about the T. Rowe Price account, claiming that all the monies in the account were clients' trust funds, when, in fact, most of the monies belonged to respondent; thus, he failed to pay income tax on the substantial interest paid on this account. Furthermore, respondent engaged in dishonesty and deceit when he loaned his clients monies from a non-existent individual "Molly Glicker," when, in fact, the loans were from respondent. He failed to comply

with the notice and authorization requirements of *RPC 1.8(a)* in connection with those loans. Lee A. Gronikowski appeared before the Supreme Court for the OAE and Frederick J. Dennehy appeared for the respondent.

Ronald J. Nelson - Reprimanded on September 21, 2004 (*181 N.J. 323*) for using deceitful acts to obtain certain law firm funds. Janice L. Richter appeared before the DRB for the OAE and Justin P. Walder appeared for respondent.

Robert J. Nemshick - Suspended for three months on June 29, 2004 on a certified record (*180 N.J. 323*) for engaging in gross neglect, lack of diligence, failing to communicate with a client and misrepresenting the status of the cases to clients, in three client matters. Craig M. Terkowitz appeared before the DRB for District VIII and respondent failed to appear.

Jeffrey F. Nielsen - Reprimanded on June 29, 2004 (*180 N.J. 301*) Respondent, in a series of five client matters engaged in gross neglect (two cases), lack of diligence, failed to communicate with a client and failed to cooperate with disciplinary investigations in all matters. Eric Breslin appeared before the DRB for District VA and Michael Critchley appeared for respondent. The respondent was previously disciplined: Reprimanded in 2001.

Philip S. Noce - Suspended for three years effective July 25, 2002 (*179 N.J. 531*) for pleading guilty in the United States District Court for the District of New Jersey to a one-count information charging him with participation in a mail fraud conspiracy in violation of *18 U.S.C.A. § 371*. Richard J. Engelhardt appeared before the DRB for the OAE and Joseph T. Castiglia appeared for respondent. The respondent was previously disciplined: Temporarily suspended since July 24, 2002.

Anthony C. Nwaka - Suspended for three months on February 25, 2004 (*178 N.J. 483*). Respondent was disbarred in New York for abandoning a client in a personal injury matter, and failing to cooperate with disciplinary authorities. Richard J. Engelhardt appeared before the DRB for the OAE and respondent failed to appear. The respondent was previously disciplined: Suspended for three months in 2003.

William H. Oliver - Admonished on July 16, 2004 (*Unreported*) for failing to take reasonable action to communicate with a client in a foreclosure proceeding involving her house. David P. Levine appeared before the DRB for District IX and Paul E. Newell appeared for respondent.

Douglas F. Ortelere - Admonished on February 11, 2004 (*Unreported*) for settling a personal injury automobile accident case, withholding monies to pay outstanding medical liens and then failing to reasonably communicate with the client regarding the status of those monies and the outstanding liens, despite numerous requests by the client. The respondent was also ineligible to practice law during a period of time when he was representing the client. Marina S. Peck appeared before the DRB for the OAE and Donald C. Mantel appeared for respondent.

Paul J. Paskey - Disbarred on September 14, 2004 (*181 N.J. 317*). Respondent, in six cases, committed gross neglect, lack of diligence, failed to communicate with clients, and failed to file the affidavit required of all attorneys on their suspension. In light of the principles announced by the Court in *In re Kantor, 180 N.J. 226 (2004)* and his previous disciplinary history he was disbarred. Nitza I. Blasini appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Admonished in 1998; temporarily suspended in 2002; suspended for three months (twice) in 2002; suspended for six months in 2003.

Christian A. Pemberton - Reprimanded on October 27, 2004 (*181 N.J. 551*). Between 1995 and 2003, respondent failed to pay quarterly federal withholding taxes as required by law. Additionally, the respondent failed to segregate funds sufficient to pay employee withholding taxes during the period. Nevertheless,

he misrepresented on the W-2 forms that he issued to his employees that such taxes had been paid. His conduct was unethical in that it constituted misrepresentation and also represented a failure to promptly deliver funds to a party (the government) that it was entitled to receive. Walton W. Kingsbery, III appeared before the DRB for the OAE and Roland G. Hardy, Jr. appeared for respondent.

Nicholas R. Perrella - Reprimanded on May 4, 2004 (*179 N.J. 499*). Respondent was suspended for three months in the Commonwealth of Pennsylvania for practicing law while on the inactive list for failure to complete continuing legal education requirements. Richard J. Engelhardt appeared before the DRB for the OAE and respondent appeared *pro se*.

Deborah A. Pierce - Reprimanded on September 8, 2004 (*181 N.J. 294*) for failing to cooperate with a district ethics committee in the investigation and processing of an ethics grievance. Karen A. Gugliotta appeared before the DRB for District XIII and respondent waived appearance. The respondent was previously disciplined: Reprimanded in 2003.

Neal M. Pomper - Admonished on September 28, 2004 (Unreported) for failing to have a written fee agreement with a client and failing to inform the client that he would be sharing a fee with another attorney. Barry A. Weisberg appeared before the DRB for District VIII and David B. Rubin appeared for respondent.

Richard A. Pizzi - Disbarred by Consent on June 23, 2004 (*180 N.J. 260*). Respondent could not successfully defend pending disciplinary charges alleging the misappropriation of client funds in estate and real estate matters. Walton W. Kingsbery, III represented the OAE and Michael J. Mitzner represented the respondent.

Richard W. Raines - Suspended for three months on October 19, 2004 (*181 N.J. 537*). After being previously suspended from the practice of law, respondent failed to notify clients, courts and adversaries, and to file an affidavit of compliance with the Office of Attorney Ethics as required by *R. 1:20-20*. The respondent also failed to cooperate with disciplinary authorities. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance. The respondent was previously disciplined: Privately reprimanded in 1993; suspended for six months in 1995; temporarily suspended in 2002; suspended for three months in 2003.

Moses V. Rambarran - Suspended for three years on September 28, 2004 (*181 N.J. 329*). Respondent consented to disbarment in New York. While representing a client, respondent rendered financial assistance to the client for the purpose of violating her bail and fleeing to another jurisdiction. While a federal fugitive, the respondent made numerous telephone calls to his client, visited her in a Miami apartment and then, through his then-attorney, informed the United States Marshal's Service that he had no knowledge of her whereabouts. As a result, in 2002, respondent pleaded guilty in the United States District Court for the District of New York to the federal felony of harboring and concealing a federal fugitive, in violation of *18 U.S.C.A. § 1071*. Richard J. Engelhardt appeared before the DRB for the OAE and respondent appeared *pro se*.

Louis J. Recchione - Disbarred on September 29, 2004 on a certified record (*181 N.J. 341*) for knowingly misappropriating between \$30,000-\$40,000 in client trust funds. Lee A. Gronikowski appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent had been temporarily suspended from the practice of law since May 2003.

Fernando Regojo - Reprimanded on July 22, 2004 (*180 N.J. 523*). Respondent filed a personal injury lawsuit, but then failed to serve the defendants, resulting in dismissal of the matter. The respondent notified the client of the dismissal, but improperly negotiated a malpractice settlement with the client without notifying the client of the necessity for seeking independent counsel as required by the Rules of Professional

Conduct. James P. Flynn appeared before the DRB for District VI and Joseph P. Castiglia appeared for respondent.

Donald J. Richmond - Disbarred on September 29, 2004 (*181 N.J. 340*). Respondent was disbarred by consent in the Commonwealth of Pennsylvania in 2003. The respondent admitted the charges pending against him in Pennsylvania, which included the knowing misappropriation of over \$440,000 from clients. Richard J. Engelhardt appeared before the Supreme Court and respondent failed to appear. The respondent had been temporarily suspended in this State since April 26, 2004 for failure to comply with a fee arbitration determination.

Jeffrey M. Riedl - Reprimanded on May 4, 2004 (*179 N.J. 461*) for participating in a scheme to defraud through the use of false closing documents, which misrepresented the fact that a second mortgage was given, contrary to instructions from the lender. Jeffrey A. Lester appeared before the DRB for District IIA and respondent waived appearance. The respondent was previously disciplined: Reprimanded in 2002.

Spencer B. Robbins - Admonished on November 19, 2004 (*Unreported*) for failing to timely comply with a district ethics committee investigator's requests for information about a grievance, failing to timely return a signed Agreement in Lieu of Discipline, and failing to timely file a verified answer to a formal ethics complaint, in violation of *RPC 8.1(b)*. Julius L. Feinson appeared before the DRB for District VIII and respondent appeared *pro se*.

Richard L. Rosenthal - Suspended for three months effective May 15, 2004 (the expiration of a prior discipline) on discipline by consent (*181 N.J. 330*) for grossly neglecting a client's personal injury matter and also failing to communicate with the client. Vivian Demas appeared before the DRB for District X and Robert C. Cherry appeared for respondent. The respondent was previously disciplined: Reprimanded in 1982; suspended for one year in 1990; suspended for six months in 2003.

Scott F. Sidel - Suspended for six months effective March 1, 2001 (*180 N.J. 359*). Respondent was convicted in the State of Arizona of two counts of endangerment, a class 6 felony. Specifically, while under the influence of alcohol, respondent, who was traveling at least 30 miles an hour in excess of the speed limit, lost control of his vehicle, causing significant and serious injuries to both passengers in the respondent's car. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Jonathan Saint-Preux - Admonished on July 19, 2004 (*Unreported*). Respondent, in two immigration matters, engaged in unethical conduct including lack of diligence and failure to communicate with his client. Jill T. Sorger appeared before the DRB for District VC and respondent appeared *pro se*.

Jonathan Saint-Preux - Reprimanded on October 4, 2004 (*181 N.J. 332*). In an immigration matter, respondent failed to act diligently and failed to communicate with his client. As a result, the court ordered the client's deportation, his bond was vacated and he was sent to jail. Linda Ballan appeared before the DRB for District VC and respondent appeared *pro se*. The respondent was previously disciplined: Admonished in 2004.

Stuart K. Santiago - Admonished on March 19, 2004 (*Unreported*) for handling multiple matters for members of a single family without preparing a written fee agreement in connection with several of them. Respondent also failed to properly reconcile his trust account, resulting in disbursements of excess of funds on deposit for an individual client. Robert J. Logan appeared before the DRB for District XII and respondent appeared *pro se*.

Richard P. Schubach - Suspended for three months effective March 22, 2004 (*178 N.J. 485*) for grossly neglecting a client's matrimonial matter, including not filing an answer, and causing the entry of a

default against his client. He also failed to appear on the return date of a motion because his client had not provided him with the necessary information to prepare a response. In its unreported decision, the Disciplinary Review Board commented that respondent's attitude in the proceedings "was marked by a total lack of contrition and recognition of wrongdoing." They also noted that his gross neglect bordered on abandonment of his client's interests. John R. Lanza appeared before the DRB for District XIII and respondent appeared *pro se*. The respondent was previously disciplined: Suspended for three months in 1992; reprimanded in 1997.

Rolf C. Schuetz, Jr. - Reprimanded on July 14, 2004 (*180 N.J. 477*) for grossly neglecting several real estate matters, failing to communicate with his clients, failing to promptly pay monies due to third parties, and failing to maintain proper trust account records as required by *R.I:21-6*. Janice L. Richter appeared before the DRB for the OAE and Stephen D. Williams appeared for respondent.

Michael R. Scinto - Reprimanded on September 8, 1994 (*181 N.J. 295*). Respondent owned rental property in the city of Hoboken with another attorney, Richard B. Becker. These respondents engaged in an ongoing pattern of deceit to circumvent rent control procedures on an apartment in their property by attempting to collect a rental payment higher than that to which they were legally entitled, and failing to file the required documentation to secure approval by the Hoboken Rent Control Office for an increase in rents. John McGill III appeared before the DRB for the OAE and Joseph A. Hayden appeared for respondent.

Kevin R. Shannon - Admonished on June 22, 2004 (*Unreported*) for failing to cooperate with a district ethics committee during the investigation of a grievance that was ultimately dismissed. Richard A. Deutchman appeared before the DRB for District VIII and respondent appeared *pro se*.

Robert M. Silverman - Reprimanded on February 10, 2004 (*179 N.J. 364*). Respondent agreed to represent a client in a lemon law case without her paying his fee. When she later rejected settlement of the matter, which would have required her to pay a portion of the lawyer's fee, the lawyer sued her in the Commonwealth of Pennsylvania to collect his legal fees, alleging that she breached her contract with him when she initially accepted the settlement agreement and then repudiated it. The DRB and the Court found that respondent's action constituted frivolous litigation under *RPC 3.1*. Theresa C. Grabowski appeared before the DRB for District IV and David H. Dugan, III appeared for respondent.

James V. Simmonds - Suspended for one year effective October 22, 2003 (*180 N.J. 303*). Respondent was suspended in the State of New York for one year for fraudulent conduct in authorizing a client to sign a false letter to a lender saying that respondent was holding an escrow in a real estate matter. When the lender inquired of respondent to verify the deposit, respondent again allowed the client to draft a second letter again falsely representing that respondent was holding approximately \$67,000 when, in fact, he was not. That letter was then provided to the lender. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

Brian D. Solomon - Reprimanded on March 23, 2004 (*179 N.J. 224*) for failing to maintain a bona fide law office in New Jersey as required by *R.I:21-1(a)* during the time that he represented a client in a litigated matter in the New Jersey court system. James Herman appeared before the DRB for District IV and respondent appeared *pro se*.

William J. Soriano - Reprimanded on January 13, 2004 (*178 N.J. 260*) for totally abdicating his responsibilities as an escrow agent in the purchase of a business, permitting the buyers to steal the monies that he should have been safeguarding. The respondent's actions amounted to gross neglect and failure to safeguard funds. Janice L. Richter appeared before the DRB for the OAE and Stephen D. Williams appeared for respondent.

Brian D. Spector - Reprimanded on January 13, 2004 (*178 N.J. 261*) for resorting to “self-help” in a dispute with his partners over fees and improperly and secretly billing his time for a one month period through his newly-created firm without the prior firm’s knowledge or consent. He also requested that some of his clients at the former firm forward payments to him at the new firm because of disputes with his former partners. John McGill, III appeared before the DRB for the OAE and Richard F.X. Regan appeared for respondent.

William N. Stahl - Admonished on June 22, 2004 (*Unreported*) for entering a court appearance on behalf of clients during a period when he had been ineligible to practice law by reason of non-payment of the annual attorney assessment. Respondent also failed to maintain an attorney trust and business account in New Jersey as required by court rules. Karen Meislik represented District VC and respondent appeared *pro se*.

Jon J. Steiger - Disbarred by Consent on December 6, 2004 (*182 N.J. 79*). Respondent admitted that he could not successfully defend numerous pending charges alleging the knowing misappropriation of clients’ trust funds. Janice L. Richter represented the OAE and Charles J. Uliano represented the respondent.

Jeff E. Thakker - Admonished on September 24, 2004 (*Unreported*) for practicing law in New Jersey without maintaining a trust account as required by *R. 1:21-6(a)(1)*. J. Rebecca Goff represented District XIII and respondent appeared *pro se*.

Richard R. Thomas, II - Suspended for 12 months effective October 29, 2004 (*181 N.J. 327*) for being involved in a conspiracy to defraud a mortgage lender, preparing a HUD-1 real estate form that contained numerous misrepresentations, including the amount of the mortgage loan and the fact that he was to receive over \$16,000 from his client when, in fact, he did not. The respondent also knowingly made false statements of material fact in connection with the disciplinary matter, engaged in an improper conflict of interest and grossly neglected the case. Walton W. Kingsbery, III appeared before the DRB for the OAE and Thomas R. Ashley appeared for respondent.

James W. Treffinger - Disbarred on October 13, 2004 (*181 N.J. 390*) for pleading guilty to two counts of an indictment charging him with conspiracy to obstruct justice, in violation of *18 U.S.C.A. § 371*, and mail fraud, in violation of *18 U.S.C.A. § 1341, 1346* and 2. The factual basis for the indictments involved his action as County Executive of Essex County in placing two people on the Essex County payroll, even though they were not performing services for the county, but instead were working on the respondent’s Senate campaign. Additionally, the respondent engaged in a conspiracy to obstruct a federal probe into his dealings with UGC, a sewer-repair firm that was awarded no-bid Essex County contracts. The respondent also coached aides to lie to federal investigators and to create spurious documents to conceal thousands of dollars in campaign contributions from UGC. Richard J. Engelhardt appeared before the Supreme Court for the OAE and Robert J. DeGroot appeared for respondent. The respondent had been temporarily suspended from the practice of law since June 4, 2003.

John A. Tunney - Suspended for six months effective October 29, 2004 (*181 N.J. 386*). Respondent, in seven client matters, engaged in gross neglect, lack of diligence, failure to communicate, failure to promptly notify a client of receipt of funds and making numerous misrepresentations. Brian D. Gillet appeared before the Supreme Court for the OAE and Pamela L. Brause appeared for respondent.

Mary L. Van De Castle - Reprimanded on May 19, 2004 (*180 N.J. 117*) for grossly neglecting an estate matter by failing to take any action for a period of 2 1/2 years. She also failed to communicate with the client and failed to cooperate with disciplinary authorities during the investigation and processing of this matter. Nancy L. McDonald appeared before the DRB for District XIII and respondent failed to appear.

Stephen J. Vasak - Reprimanded on September 21, 2004 (*181 N.J. 320*) for grossly neglecting a loan transaction when he agreed to facilitate the transaction without first obtaining a title search, mortgage, deed,

or some other assurance that his client's loan was secured. Respondent also failed to maintain appropriate trust and business accounting records as required by *R. 1:21-6*. Jay Rubenstein appeared before the DRB for District IIB and respondent waived appearance.

Kathleen M. Vella - Suspended for three months effective July 16, 2004 (*180 N.J. 170*) for aiding her client's fraudulent attempt to gain title to his father's house through the father's divorce proceedings. During the divorce, the client maintained that the deceased father was alive when, in fact, he had died. The respondent failed to advise the opposing attorney of the death, even though a proposed Final Judgment of Divorce by consent, including a Property Settlement Agreement, had not yet been signed by the other party. The respondent continued the pattern of concealment by failing to reveal the death to the judge who ultimately conducted the divorce hearing. Patricia Davis appeared before the DRB for District IIIB and Michael A. Gill appeared for respondent.

Edward A. Wiewiorka - Reprimanded on March 23, 2004 (*179 N.J. 225*) for representing a client in a personal injury action and then grossly neglecting the matter, failing to keep the client reasonably informed of the status, and then misrepresenting that a complaint had been filed within the statute of limitations when, in fact, it had not. Bernard Schenkler appeared before the DRB for District VC and respondent failed to appear.

Scott L. Wiss - Suspended for six months effective March 1, 2004 (*181 N.J. 298*). Respondent was suspended in New York for six months as a result of a guilty plea in the Supreme Court of New York, Queens County, to a charge of insurance fraud in the fifth degree, a class A misdemeanor, in violation of New York Penal Law Section *176.10*. In his New York disciplinary hearing, the respondent admitted that he falsely notarized documents for the purpose of advancing his own interests in a personal injury matter, failed to supervise his staff in connection with settlement negotiations with an insurance carrier, resulting in untruthful statements designed to improperly secure insurance payments, and had his office file a retainer statement with the New York Office of Court Administration, which knowingly contained inaccurate information. Richard J. Engelhardt appeared before the DRB for the OAE and respondent waived appearance.

William S. Wolfson - Suspended for six months effective March 20, 2004 (*178 N.J. 457*) for pleading guilty in the Superior Court of New Jersey, Law Division, Hunterdon County, to a one-count accusation charging him with fourth degree criminal sexual contact in violation of *N.J.S.A. 2C:14-3(b)*. During the plea hearing, respondent admitted that, in August 2002, he touched the breast of a female employee at his doctor's office while receiving a medical test. Respondent further admitted in a statement to the prosecutor that, over a period of three to four years, he had touched six female employees at his doctor's office between 10 and 15 times. The respondent was admitted to the Pre-Trial Intervention Program. Richard J. Engelhardt appeared before the Supreme Court for the OAE and David H. Dugan, III appeared for respondent.

Peter A. Wood - Suspended for one year on November 16, 2004 (*182 N.J. 33*) for failing to timely file an affidavit of compliance as required by *R.1:20-20* following his two previous three-month suspensions. In addition, when respondent did file the affidavit, he misrepresented to the Office of Attorney Ethics that he had removed the sign identifying his law office. Furthermore, he failed to remove or cover the sign, after misrepresenting that he would do so. Walton W. Kingsbery, III appeared before the Supreme Court for the OAE and respondent failed to appear. The respondent was previously disciplined: Suspended for three months in 2002 and 2003.

Andrew S. Wulfman - Admonished on February 17, 2004 (*Unreported*) for practicing law while he was ineligible by reason of non-payment of the annual attorney registration assessment. Linda Ballan represented District VC and respondent appeared *pro se*.

George Guyer Young, III - Disbarred by Consent on July 20, 2004 (*180 N.J. 519*). Respondent admitted that he could not successfully defend pending disciplinary charges resulting from his guilty plea in the Office of Attorney Ethics

United States District Court for the Eastern District of Pennsylvania to nine counts of mail fraud (*18 U.S.C.A. §1341*), nine counts of false statements (*18 U.S.C.A. § 1001(a)(3)*), and three counts of theft of government funds (*18 U.S.C.A. § 641*). Richard J. Engelhardt represented the OAE and James M. Becker represented the respondent. The respondent had been temporarily suspended from the practice of law since November 23, 2003.

Ben Zander - Admonished on May 24, 2004 (*Unreported*) for grossly neglecting a business trademark case and then failing to communicate the status of the matter to his client. Pamela A. Moy represented District IIIB and respondent appeared *pro se*.

Barry F. Zotkow - Disbarred by Consent on October 26, 2004 (*181 N.J. 550*). Respondent admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of trust funds. This case was discovered solely by the Trust Overdraft Notification Program. Michael J. Sweeney represented the OAE and Robert E. Margulies consulted with respondent solely to ensure consent was voluntary. The respondent was previously disciplined: Privately reprimanded in 1992; suspended for three months in 1995 and 1996; publicly reprimanded in 2000.

DISCIPLINE SYSTEM

Chapter Two



“The public will soon lose confidence in our legal system if those who practice law in our courts are not honest and competent. The reputation of the entire bar requires that all ‘attorneys comply with the highest standards of professional conduct.’ (Quoting from *In re Gallo*, 178 N.J. 115, 117 (2003).) This Court has recognized that ‘[m]embership in the [legal] profession is a privilege burdened with conditions. Some of the basic conditions are good moral character, a capacity for fidelity to the interests of clients, and for fairness and candor in dealings with the courts. Those conditions are not only prerequisite for admission to the bar, they are equally essential afterward. Whenever they are broken, the privilege is lost.” (Quoting from *In re Pennica*, 36 N.J. 401 at 433-434 (1962)).

Associate Justice Barry T. Albin
In re E. Lorraine Harris, 182 N.J. 594, 609 (2005)

2004 HIGHLIGHTS

The number of new grievances filed resulting in investigations decreased during 2004, while the number of formal complaints filed across the state against New Jersey lawyers increased. (Figure 6).

After a record high of 1,703 grievances were opened in 2003, that number dropped by 11% to 1,513 in 2004. Grievances are filed with district secretaries or with the Office of Attorney Ethics (OAE), who then screen and docket appropriate grievances for investigation. 2004 grievance filings were still above the most recent 5-year average of 1,468 investigations. Since calendar year 2000 when 1,320 matters were filed, the number of new investigations added has increased by almost 15%.

At the same time, the number of formal complaints filed in 2004 after completion of investigations reached an all-time high of 281. This represents a 43% increase over the 196 complaints filed during 2003. The increase is in part attributable to increased investigative dispositions in 2004 and the numbers of multiple complaints filed against persistent violators. Formal complaints begin the hearing stage of the disciplinary process, during which a trial is held and a decision is made. Over the past five years, an average of 222 complaints was filed. In calendar year 2000, 255 new formal charges were made against New Jersey practitioners. Over the most recent 5-year period, the number of new complaints filed has increased by 10%.

Investigation – Complaint Trends

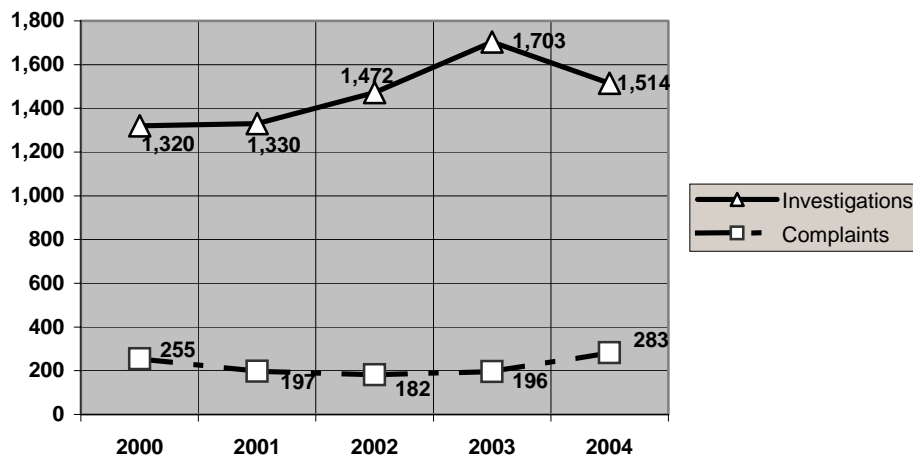


Figure 6

In 2004, the OAE completed a multi-year disciplinary computerization project. As a result, more complete information on the handling of formal complaints and hearings, in addition to investigations, is now available. A modern case-tracking system enables the disciplinary system to better analyze the progress of cases throughout both the investigation, hearing and appellate processes.

The OAE analyzed the composition of investigations filed during the year. (Figure 7). The primary reason grievances are filed and investigations are opened centers around concerns about the handling of money (35.4%). These grievances may include allegations ranging from misappropriation of trust funds, failure to account for monies, failure to pay monies promptly, to a failure to adequately explain disbursements.

In second place are grievances involving gross or patterned neglect of a client case (19.9%), which are proscribed by Rule of Professional Conduct (RPC) 1.1. Additionally, *RPC 1.3* exhorts lawyers to act “with reasonable diligence and promptness in representing a client.” When clients and others perceive that their matters are being given less than appropriate attention, they understandably complain. Allegations of misrepresentation and fraud (9.4%) are the third most frequent cause for grievances. These offenses are sanctionable under *RPC 8.4(c)*.

The fourth reason for opening investigations involves allegations of lack of communication. Clients need to know what is happening with their matters. Lawyers have an ethical duty under *RPC 1.4* to “keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information” and to “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.” These duties were enhanced on September 1, 2004 when the Supreme Court imposed a specific obligation on every attorney to “fully inform a prospective client of how, when, and where the client may communicate with the lawyer.”

Investigative Allegations

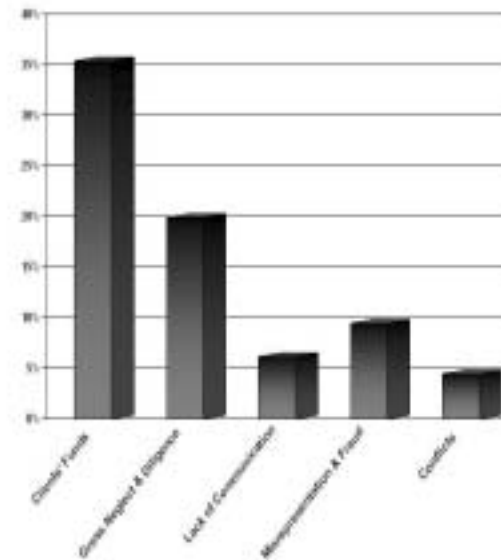


Figure 7

Formal Complaint Charges

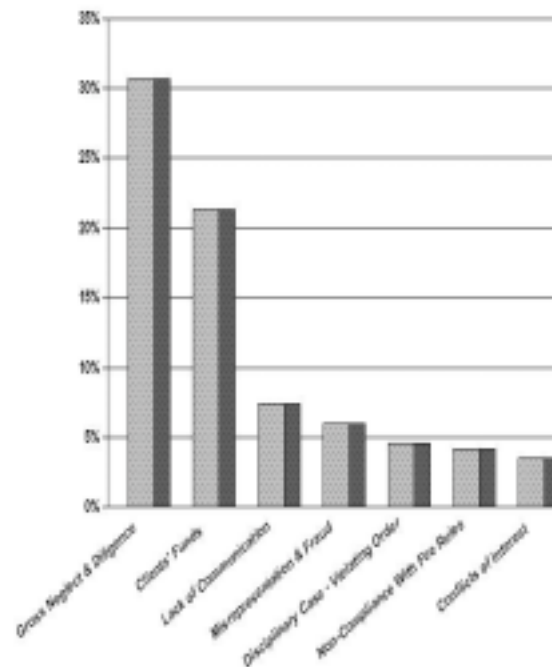


Figure 8

Rounding out the top five causes for grievances is the conflicts of interest category at 4.4%. *RPC's 1.6 through 1.10* govern these ethical requirements. Generally, lawyers are required to serve only one client at a time and may generally not take action against former clients without receiving informed consent.

There is significant degree of symmetry between the top causes for investigations and what offenses cause the filing of formal charges. (Figure 8). The primary charges filed against attorneys after investigation relate to neglect and lack of diligence (30.7%). A significant number of these charges are discovered during the investigation of cases which complain about other potential violations. Complaints about client funds represent the second most frequent reason that lawyers are charged with unethical conduct at 21.3%. New Jersey is particularly well focused on improper use of trust and other monies entrusted to the care of its lawyers. The state has a number of proactive resources, such as the Random Audit Program (Chapter 4) and Trust Overdraft Notification Program, which aid the effort.

Coming in third in the charging category is lack of communication (7.4%). This violation is often a result of neglect and failure to act with diligence. The category of fraud and misrepresentation is in fourth place at 6.0%. Such charges are serious and are detected during the investigative stage. Unethical acts of deception and outright misrepresentation of facts are the antithesis of an ethical lawyer.

Rounding out the top seven reasons for charging unethical conduct are offenses involving violating disciplinary orders (4.6%), non-compliance with rules governing legal fees (4.2%) and charges of conflicts of interest (3.5%).

Concerning the overall disciplinary caseload, the system continues to deal with a backlog of cases from prior years as noted in prior years' reports. Statewide, the age of all pending investigations increased from 212 days last year (7.0 months) for 933 cases to 272 days this year (9.06 months) for 938 cases. The inventory of 17 district ethics committees stood at 71% in-goal at the end of this year, compared to 72% last year. The number of backlogged cases at the districts increased slightly from 140 in 2003 to 147 at the end of 2004.

Half of the OAE's complex caseload met goals this year, compared to 61% at the end of 2003. To enable the OAE to meet the challenge of its growing caseload (from 1999 through 2003), coupled with the extended loss of experienced investigators during many of those years, the Supreme Court authorized the transfer and addition of necessary personnel. Beginning in 2003, the Court transferred two investigators from our District Group, which was dedicated to serving the District IV (Camden and Gloucester Counties) Ethics Committee and the District VA (Essex County Newark) Ethics Committee, to the OAE's Complex Group. Another three District Group investigators were transferred in 2004 and three new auditing positions were authorized. At the end of this year, a final transfer of the remaining two District Group investigators was authorized for use in 2005. While the number of backlogged cases increased from 188 in 2003 to 213 at the end of this year as the OAE had predicted, progress was made by reducing the overall investigative caseload handled from 488 active pending matters to 428. The OAE anticipates progress in actual backlog reduction in 2005 now that all investigative positions are fully staffed and training is on track. During 2005 we will be training and integrating the two most recently transferred investigators into the Complex Group.

ORGANIZATION

The attorney disciplinary system consists of three levels: Office of Attorney Ethics and District Ethics Committees; Disciplinary Review Board; and Supreme Court of New Jersey. (Figure 10).

The first level consists of 17 regionalized district ethics committees (referred to as "committees"), supervised and managed by the Office of Attorney Ethics. (Figure 9). District committees generally are

established along single or multiple 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 and who receives and screens all inquiries and grievances. Attorney members are and, if necessary, prosecute grievances committees. Public members serve attorneys on three-member hearing function to decide cases where formal been filed after investigations. The for overseeing the operations of all OAE also investigates and prosecutes and emergent matters statewide.

The second level of the involves the Disciplinary Review Board). That body is the intermediate in disciplinary matters. All for discipline from district hearing other matters come to the Review Subject to the Supreme Court’s the Review Board’s decisions to are final in all cases, except for disbarment. The Review Board from dismissals following hearing and recommends suspended attorneys to the Supreme Jersey (Court).

The Supreme Court is the level of the disciplinary system. It OAE for emergent temporary suspensions danger to the public or themselves. The 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 conformatory orders that actually impose all discipline.

To facilitate understanding of the disciplinary system, and to provide information to the public and the bar, the OAE maintains a comprehensive website. It is located at the Judiciary’s homepage at www.courtsonline.com. Once at the homepage, go to the directory on the left side under “Attorney Regulation” and then select “Office of Attorney Ethics.” The OAE site is divided into ten separate pages, covering the following topics:

State of the Attorney Discipline Report

Attorney Discipline
Arbitration
Ethics Help Desk

Public Charges
Random Audits
Frequently Asked Questions

Discipline Histories Fee
Approved Trust Banks
Useful Links

District Committees

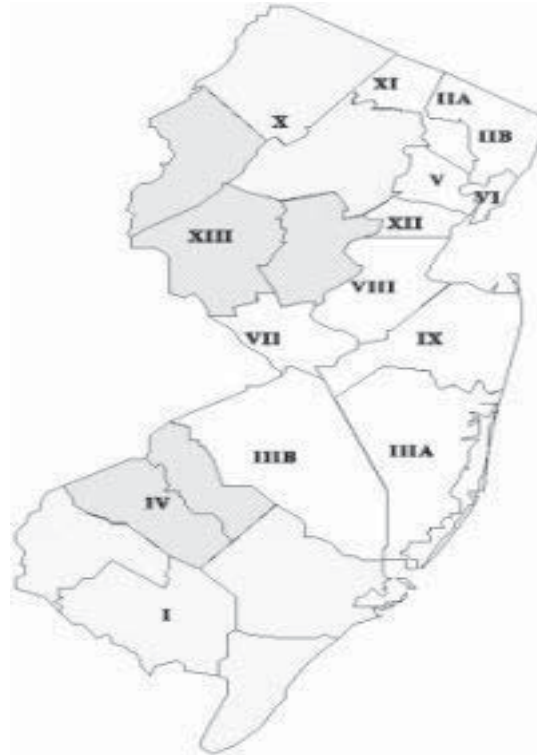


Figure 9

routes all docketed assigned to investigate docketed with the together with two panels who complaints have OAE is responsible committees. The serious, complex

disciplinary system Board (Review appellate tribunal recommendations panels and certain Board for review. confirmatory order, impose discipline recommendations also hears appeals investigation or reinstatement of Court of New

third and highest decides applications by the of attorneys who pose a Court hears and decides all

discipline. The Court reviews all decisions by the Review Board (other than admonitions) and enters conformatory orders that actually impose all discipline.

NEW JERSEY DISCIPLINARY SYSTEM



Figure 10

Grievance forms, as well as Fee Arbitration Request forms, can be downloaded and printed from the OAE site. The site of district the completed New Jersey receives thousands each year. During telephone line for Trenton received telephone calls. called were routed districts through a hotline (1-800-described on the



also contains a list secretaries to whom forms are sent. The disciplinary system of communications 2004, the main the OAE in West close to 11,000 Another 5,200 directly to the toll-free information 406-8594), which is OAE's website.

ATTORNEY POPULATION

The Garden State attorney population stands at 81,617 as of the end of December 2004. (Figure 11). This number is almost twice the total of 43,775 lawyers in the state just 14 years ago at the end of 1990. 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

New Jersey Lawyers Admitted

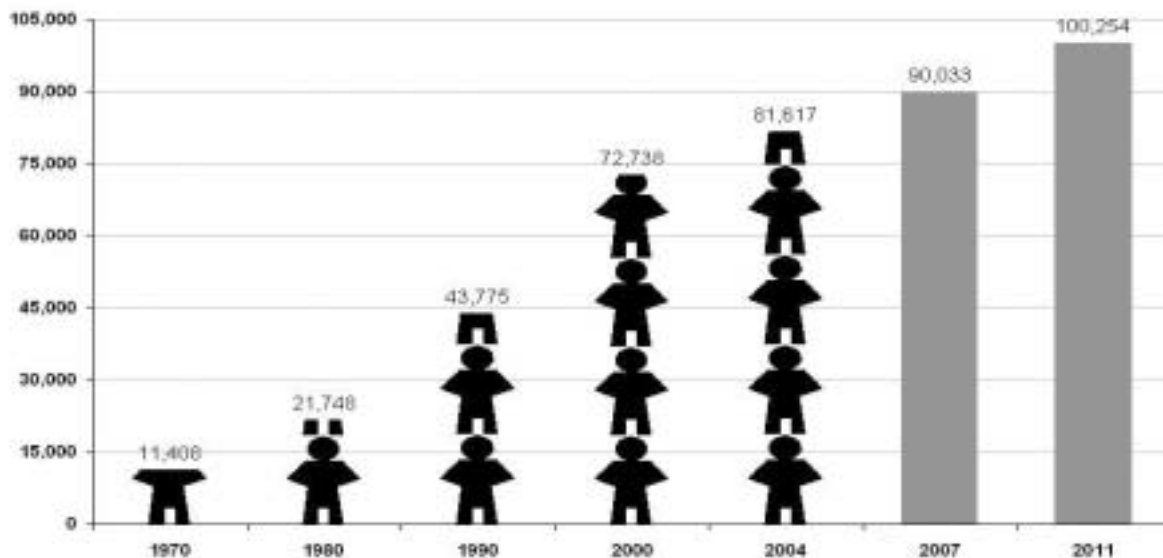


Figure 11

one factor attracting new lawyers to the bar. Currently, there is one lawyer for every 107 citizens in the Garden State. At the end of 2004, New Jersey had 81,617 lawyers out of a total population of 8,698,879.

On average, over each of the last three years 2,805 new lawyers were admitted to practice here. At current admissions rates, projections show that by the end of the year 2007, just three away, a total of almost 90,000 lawyers may be members of the New Jersey Bar. If current recent trends continue, the state may reach a total of 101,254 attorneys by the year 2011. (Figure 11). A new court rule adopted by the Supreme Court may slow this progression somewhat in the future. Beginning in September 2005, the licenses of attorneys who have been declared ineligible to practice for seven consecutive years for repeated non-payment of their annual registration fees will be administratively revoked and they will cease to be members of the bar. *R. 1:28-2(c)*. To again practice here, these former lawyers will have to complete the full admission process.

Lawyer Grievance Analysis			
Year	Filings	Lawyers*	%
2004	1,513	59,919	2.5%
2003	1,703	57,583	2.9%
2002	1,472	56,446	2.6%
2001	1,330	56,278	2.3%
2000	1,320	55,687	2.3%
*Active Lawyers' Fund for Client Protection			

Figure 12

Nationally, New Jersey ranks seventh out of 51 jurisdictions in the number of lawyers admitted to practice. According to a July 1, 2004 survey compiled for the National Organization of Bar Counsel, Inc., the six most populous states for lawyers are New York (207,413), California (192,656), Pennsylvania (89,960), Texas (83,911), Illinois (79,682) and the District of Columbia (78,879). New Jersey had 78,862 admitted attorneys at that time.

The number of new admissions each year is a factor in the number of disciplinary inquiries and grievances filed, as well as in the number of attorneys who are sanctioned annually for unethical conduct. Nevertheless, the number of attorneys against whom grievances are filed remains a small percentage of the total lawyer population. (Figure 12)

FUNDING DISCIPLINE

No taxpayers' monies are used to fund attorney disciplinary functions in New Jersey. Rather, support comes exclusively from the Court's annual registration assessment on lawyers. That annual fee constitutes dedicated funds earmarked exclusively for the attorney discipline and fee arbitration systems. *R. 1:20-2(b)*. The annual billing also funds the Lawyers' Fund for Client Protection, *R. 1:28-2* (which reimburses clients whose monies have been taken dishonestly by New Jersey lawyers), as well as the Lawyers Assistance Program (which helps lawyers with alcohol, substance abuse, gambling and other problems). For calendar year 2004, the annual fees assessed for most lawyers (those admitted to practice between five to forty-nine years) totaled \$190. Of this amount, \$134 is earmarked for attorney discipline, \$50 for the Lawyers' Fund and \$6 for Lawyers Assistance. This total fee is unchanged from 2003. (Figure 13).

New Jersey's \$134 disciplinary portion of the annual fee for 2004 has actually increased by a total of only \$9 since 1995. At that time, the Supreme Court reorganized the attorney discipline system and established the disciplinary portion of the annual fee at \$125 for most New Jersey lawyers (i.e., those admitted between 5 to 49 years). During the period from 1997 through 2002, New Jersey practitioners also enjoyed six straight years of rebates (some as high as \$30 per year) when the Court temporarily reduced the

Annual Registration Fee			
Year of Admission	5-49 Years	3-4 Years	2nd Year
Attorney Discipline	\$134	\$134	\$ 25
Lawyers' Fund	\$50	\$ 25	\$ 0
Lawyers' Fund	\$ 6	\$ 6	\$ 3
Total Fee	\$190	\$165	\$ 28

Figure 13

admitted attorneys) out of 51 United States jurisdictions in attorney size and ranked 40th (at \$190) in the amount of mandatory fees required in order to practice. Last year, New Jersey ranked 6th in size and 40th in the country in the amount of mandatory annual fees charged.

Nationwide, the average annual mandatory fee was \$332, which represents a \$7 increase from the \$325 average fee last year and a \$21 increase from the 2002 national average of \$304. The range of mandatory fees across the country in 2004 starts at \$105 in Indiana and is as high as \$3,032 in Oregon, where the annual fee includes a mandatory malpractice charge that averages \$2,600.

EVALUATING GRIEVANCES

Grievance forms are provided to all inquirers to complete relevant information necessary to evaluate the claims. District ethics secretaries review all written grievances that are filed with them to determine whether the facts alleged in the inquiry, if proven, would constitute unethical conduct.

Unlike most states, New Jersey does not docket every communication to the disciplinary system and then quickly dismiss a major portion of these matters. Rather, district ethics secretaries, who are practicing attorneys, evaluate grievances in accordance with court rules for screening cases. If the secretary determines that the grievance 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, providing the grievant with a copy of the Court's rule provision. If the facts alleged in the grievance would not constitute unethical conduct 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 this 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 grievance, if proven, would constitute unethical conduct and if the grievance is not otherwise declined for the reasons noted above, the grievance is docketed.

CONFIDENTIAL INVESTIGATIONS

All docketed grievances are assigned for investigation in order to determine whether unethical conduct may have occurred and, if so, whether there is sufficient evidence to prove the charges by clear and

discipline portion of the annual fee. As a result, lawyers received reductions totaling almost \$6 million. This extended string of rebates is unparalleled for annual attorney assessments in the country.

The annual budget approved by the Supreme Court for attorney disciplinary functions in calendar year 2004 is \$8,981,159. Sixty-one percent of the budget is allocated to the OAE and 19% to the Disciplinary Review Board. The balance is apportioned to the Random Audit Compliance Program (6%), District Ethics Committees (6%), District Fee Arbitration Committees (4%), Annual Attorney Registration (3%) and the Disciplinary Oversight Committee (1%).

New Jersey's lawyer registration fee is among the lowest in the country. A July 1, 2004 survey prepared by the OAE for the National Organization of Bar Counsel, Inc., showed that New Jersey ranked 7th (with 78,862

convincing evidence. Investigations include communicating with the respondent attorney, the grievant and any necessary witnesses.

The process also involves securing such records and documents as may be necessary for a proper understanding of the matter. Under Supreme Court rules, all disciplinary investigations are confidential until and unless a complaint has been filed and served. Investigative 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.

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. Most OAE cases are classified as complex matters. The actual time involved necessarily depends on a number of factors, including staffing, the cooperation of the grievant, the respondent and any other witnesses and the complexity of the matter itself.

At the conclusion of the investigative process, a report is submitted to the chair of a committee, who determines whether there is adequate proof of unethical conduct. If the chair finds that there is no reasonable prospect of proving unethical conduct, the chair directs the secretary to dismiss the matter and to so advise the grievant. The grievant has a right to appeal a 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, there are two choices. Where both the chair and the Director, OAE agree that the attorney is guilty of “minor unethical conduct” and the attorney acknowledges the unethical conduct, the case may be diverted. “Minor unethical conduct” 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. In all other cases, the chair directs that a formal complaint charging unethical conduct be filed and served on the respondent attorney who has 21 days to file an answer. Then a disciplinary hearing is held.

Changes In Investigations			
Year	Filings	Change	Overall
2004	1,513	-11%	
2003	1,703	15.6%	
2002	1,472	10.6%	14.6%
2001	1,330	0.8%	
2000	1,320	-	

Figure 14

The number of investigations docketed with the system has increased by 15% over the most recent 5-year period. (Figure 14). However, 2004 was the first year where the number of filings decreased, by 11%.

The disciplinary system began 2004 with a total of 1,204 investigations carried over from prior years. During the year, 1,514 new investigations were added for a total disposable caseload of 2,717. A total of 1,563 investigations were completed and disposed of, leaving a total of 1,154 pending investigations at year’s end. Of that number, 216 were in untriable status, leaving an active pending investigative caseload of 938 matters. Certain cases are inactive and are placed in untriable status due to pending criminal, civil or related disciplinary litigation (in this state or another state),

illness of a party, witness or counsel, pre-diversion review by OAE or similar reasons. Most untriable cases are handled by the OAE, which monitors the cases and then reactivates them and takes any appropriate action.

PUBLIC HEARINGS

Once a formal complaint is issued and served on a respondent, the record in the case is public. 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 each office. 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.

Changes In Complaints			
Year	Filings	Change	Overall
2004	281	43.0%	10.0%
2003	196	8.0%	
2002	182	-8.0%	
2001	197	-23.0%	
2000	255	-	

Figure 15

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. After conclusion of the hearing, the panel or special ethics master deliberates in private and takes one of the following actions: dismisses the complaint, if it finds that the lawyer has not committed unethical conduct; or determines that the lawyer is guilty of unethical conduct for which discipline, i.e., admonition, reprimand, censure, suspension or disbarment, is required.

The number of formal complaints filed with the system increased by 43% this year over last. For the most recent 5-year period, formal complaints filed increased overall by 10%. (Figure 15).

The disciplinary system began 2004 with a total of 198 complaints carried over from prior years. During the year, 281 new complaints were added for a total disposable caseload of 479. A total of 254 complaints were completed and disposed of through the hearing process, leaving a total of 225 pending complaints at year's end. Of that number, 10 were in untriable status, leaving an active pending caseload of 215 matters. Certain cases are inactive and are placed in untriable status due to pending criminal, civil or related disciplinary litigation (in this state or another state), illness of a party, witness or counsel, or for similar reasons where the matter cannot proceed through the hearing process. When the reason for placement in untriable status is resolved, the case is reactivated by the OAE and appropriate action is taken.

DISCIPLINARY REVIEW BOARD

The Disciplinary Review Board (Review Board) is composed of nine members: presently five are lawyers, one is a retired Assignment Judge and three are public members. As is true at the district level, all Review Board members volunteer their time to the profession. The Review Board meets monthly in Trenton at the Richard J. Hughes Justice Complex where oral arguments are held on recommendations for the imposition of discipline. Oral arguments are open to the public.

The composition of the Review Board for 2004 is:

Mary J. Maudsley, Esq., Chair
April, Maudsley & Goloff, Esq.
of Marmora, Cape May County

William J. O'Shaughnessy, Esq., Vice Chair
McCarter & English, L.L.P.
of Newark, Essex County

Mathew P. Boylan, Esq.
Lowenstein, Sandler, P.C.
of Roseland, Essex County

Robert C. Holmes Esq.
of Newark
Essex County

Ms. Ruth Jean Lolla
of Toms River
Ocean County

Louis Pashman, Esq.
Pashman Stein, P.C.
of Hackensack, Bergen County

Ms. Barbara F. Schwartz
of Vineland
Cumberland County

Hon. Reginald Stanton
of Florham Park
Morris County

Spencer V. Wissinger, III
of Morristown
Morris County

When a special ethics master or district hearing panel finds unethical conduct warranting discipline, the hearing report and recommendation is forwarded to and considered by the Review Board. If, after reviewing a matter in which an admonition (the least serious form of discipline) is recommended, the Review Board determines that sanction is adequate discipline, it issues a written letter of admonition. Reports recommending reprimand, censure, suspension or disbarment, are routinely scheduled before the Review Board for oral argument. 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.

At its monthly meetings, the Review Board also decides ethics appeals, fee appeals and requests for reinstatement by suspended attorneys. In the event that a district committee or the OAE dismisses a docketed grievance after investigation or hearing, the grievant, the respondent or the OAE has the right to appeal to the Review Board. The Review Board also hears appeals from the statewide district fee arbitration committees, which arbitrate fee disputes between clients and attorneys. There is no charge for filing any appeal. Suspended attorneys are not automatically readmitted to practice at the conclusion of their term of suspension, but must file a detailed petition for reinstatement on notice to the OAE. That petition is reviewed by the Review Board, which makes a recommendation to the Supreme Court. The Court then grants or denies the reinstatement requests.

For the OAE, 2004 was a very busy year before the Review Board as its ethics counsel conducted a total of 67 oral arguments. 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 should be imposed, its written decision is reviewed by the Supreme Court of New Jersey, which then issues the final order imposing discipline.

SUPREME COURT

Under the State Constitution, the Supreme Court of New Jersey 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 is the highest court in the state. It is composed of a Chief Justice and six Associate Justices. 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.

Members of the Supreme Court of New Jersey in 2004 are:

Chief Justice Deborah T. Poritz

Associate Justice Virginia A. Long

Associate Justice Jaynee LaVecchia

Associate Justice James R. Zazzali

Associate Justice Barry T. Albin

Associate Justice John E. Wallace, Jr.

Associate Justice Roberto A. Rivera-Soto



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

The Court hears oral arguments in disciplinary matters at the Richard J. Hughes Justice Complex in Trenton. Only the Court can order disbarment. In all other matters, the decision of the Review Board becomes final on the entry of a confirmatory order by the Court, unless it grants a petition for review or

issues an order to show cause on its own motion. The OAE represents the public interest in all cases before the Court. During 2004, OAE attorneys appeared 45 times for oral argument. This is the largest number of disciplinary arguments held since 1997 when there were 56 cases argued.

The Court has announced that, beginning in January 2005, all oral arguments will be televised in real time via streaming video technology over the Internet. This innovative use of technology, called **WEBCAST**, includes attorney disciplinary arguments. Arguments can be accessed from the Judiciary's Website at www.njcourtsonline.com by clicking on the **WEBCAST** icon. Listings for future arguments are scheduled in advance. Past arguments are archived for a period of thirty days and then re-archived on the website of the Rutgers Newark School of Law.

OVERSIGHT COMMITTEE

The Supreme Court has established a Disciplinary Oversight Committee (Oversight 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 charged 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. Following are the members of the Oversight Committee for 2004, all of whom serve pro bono:

Lanny S. Kurzweil, Esq., Chair
McCarter & English, Esqs.
of Newark

Kathryn Flicker, Esq., Vice Chair
State Commission on Investigation
of Hopewell

Richard L. Bland, Jr., Esq.
Essex County Prosecutor's Office
of Newark

Mr. Robert Boyle
William H. Hintelmann Real Estate
of Rumson

John J. Degnan, Esq.
President, Chubb & Son, Inc.
of Warren

Paris P. Eliades, Esq.
Daggett, Kraemer, Eliades &
Vanderweile
of Sparta

Michael K. Furey, Esq.
Partner in Riker, Danzig, Esq.
of Morristown

Mr. Anthony J. Guaci
Shering Sales Corporation
of Kennilworth

Harriett A. Kass
Public-Private Partnerships
of Princeton

Mr. Lee Neuwirth
of Princeton

Raymond Ocasio
La Casa De Don Pedro, Inc.
of Newark

OFFICE OF ATTORNEY ETHICS

On October 19, 1983, the Supreme Court of New Jersey established the Office of Attorney Ethics as the investigative and prosecutorial arm of the Court in discharging its constitutional authority to supervise and discipline New Jersey attorneys. *N.J. Const. Art VI, Section II, P3.*

The OAE (Figure 16) has programmatical 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 3), which hear and determine disputes over legal fees between

attorneys and clients. Likewise, the OAE conducts the Random Audit Program (**Chapter 4**), 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 provides demographic and private practice information about all New Jersey lawyers, including trust and business account data.



Home of Office of Attorney Ethics

Figure 16

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, cases where an attorney is the subject of reciprocal discipline in another United States Jurisdiction, matters involving allegations against a sitting Superior Court or Appellate Division judge concerning conduct while the judge was an attorney, cases where district ethics 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)*.

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 the OAE legal staff, which averages over 20 years of legal experience:

David E. Johnson, Jr., Director

Appointed Director in 1983; Admitted to Practice 1971
A.B. Rutgers University 1968; J.D. Memphis University Law School 1971;
M.P.A. Rider University 1984

Law Practice: Associate of Wesley L. Lance, Esq., of Clinton (1971); Attorney, Ethics Unit, Administrative Office of Courts (1976-80); Chief, Division Ethics & Professional Services (1980-83).

Related Experience: Associate Editor, University of Memphis Law Review (1969-1971); 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, Department of Justice Immigration Fraud Working Group (1997-1998); Author of *Trust and Business Accounting for Attorneys (5th Edition 2003)*

John J. Janasie, *First Assistant Ethics Counsel*

Joined OAE in 1986; Admitted to Practice 1973

B.S. Saint Peters College 1970; J.D. Rutgers School of Law Newark 1973

Law Practice: Associate at Holzapfel and Perkins of Cranford (1973-76), Assistant Prosecutor for Union County (1976-84), Senior Associate at Sauer, Boyle, Dwyer and Canellis of Westfield (1984-86).

Related Experience: Chief of Economic Crimes Unit at Union County Prosecutor's Office (1982-84); Member, Supreme Court's Ad Hoc Committee on Skills and Methods Course (2003-04).

Michael J. Sweeney, *Assistant Ethics Counsel*

Joined OAE 1993; Admitted to Practice 1977

B.A. St. Joseph's University 1974; J.D. Temple University Law School 1977

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).

Richard J. Engelhardt, *Counsel to Director*

Joined OAE 1977; Admitted to Practice 1973

A.B. Cum Laude Rutgers University 1968; J.D. Cornell University Law School 1973

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 Advisory Committee on Judicial Conduct (1977-83); Secretary to Unauthorized Practice Committee (1980-83).

Janet Brownlee Miller, *Deputy Ethics Counsel*

Joined OAE 1995; Admitted to Practice 1981

B.A. Monmouth College 1962; M.A. Indiana University 1967; J.D. Honors Rutgers Law Camden 1981

Law Practice: Associate at James Logan, Jr., Esq., (1982-94); Owner, Law Offices of Janet Brownlee Miller (1994-95), both 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).

Walton W. Kingsbery, III, *Deputy Ethics Counsel*

Joined OAE 1992; Admitted to Practice 1980

B.A. Washington and Lee University 1976; J.D. Washing and Lee University School of Law 1980

Law Practice: Associate of Richard A. Amdur, Esq. of Oakhurst (1981-84); 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 of 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).

John McGill, III, *Deputy Ethics Counsel*

Joined OAE 1990; Admitted to Practice 1985

B.A. Cleveland State University 1976; J.D. Salmon P. Chase College of Law 1984

Law Practice: Assistant Prosecutor for the County of Essex 1986-90

Related Experience: Law Secretary to Hon. Philip M. Freedman, Essex Superior Court (1985-86).

Nitza I. Blasini, Deputy Ethics Counsel

Joined OAE 1993; Admitted to Practice 1983

B.A. University of Puerto Rico 1972; J.D. Rutgers School of Law - Camden 1982

Law Practice: Assistant Prosecutor Camden County (1984-87); Assistant Prosecutor Atlantic County (1987-88); Assistant Prosecutor Cumberland County (1988-90); Public Defender Cape May (1990-93).

Lee A. Gronikowski, Deputy Ethics Counsel

Joined OAE 1993; Admitted to Practice 1984

B.A. Magna Cum Laude Rider University 1981; J.D. Syracuse University Law School 1984

Law Practice: Associate of Lindabury, McCormick and Eastabrook of Westfield (1984-87); Assistant Prosecutor Middlesex County (1987-89); Deputy Attorney General, Division of Criminal Justice (1989-93).

Related Experience: Lieutenant Colonel, U.S. Air Force Reserve, currently assigned as Assistant Chief of Professional Responsibility, Headquarters, U.S. Air Force, The Pentagon.

Brian D. Gillet, Deputy Ethics Counsel

Joined OAE 1995; Admitted to Practice 1983

B.A. Northwestern University 1979; J.D. Seton Hall University Law School 1982

Law Practice: Special Assistant United States Attorney (1988-92); Assistant Prosecutor 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).

Janice R. Richter, Deputy Ethics Counsel

Joined OAE 2001; Admitted to Practice 1981

B.S. Trenton State College 1978; J.D. Rutgers School of Law - Camden 1980

Law Practice: Associate at Brown & Commery of Westmont (1980-87); Owner, Law Office of Janice L. Richter, P.C.(1988-97); Of Counsel, Braverman, Kaskey & Caprara (1997-01), both of Cherry Hill.

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.

Marina Peck, Deputy Ethics Counsel

Joined OAE 2003; Admitted to Practice 1995

B.A. Johns Hopkins University 1991; J.D. Seton Hall University Law School 1995

Law Practice: Associate, Lowenstein, Sandler (1996-97); Assistant Somerset Prosecutor (1997-03).

Related Experience: Law Secretary to Hon. Wilfred P. Diana, Assignment Judge (1995-96).

An administrative staff of six supports the OAE's disciplinary work:

Susan F. Robert, Law Office Administrator

Mark S. Wagner, Manager, Information Systems

Bonnie M. Kaufman, Local Area Network Administrator

Rhonda L. Hardinger, Administrative Assistant

Patricia D. Strieffler, Administrative Assistant

The OAE's Support Staff for discipline consists of legal assistant Mercedes R. Schneider and the following 13 secretaries and assistants: Ruth Bailey, Marion B. Besecker, Danette Brown, Patricia C. Bramley,

Anderia L. Calhoun, Barbara A. Cristofaro, T. Paul Dawson, Gail S. Gross, Serita Lee, Lavette D. Mims, Rosalind J. Roberts, Emma Tomlinson and Sharon D. Vandegrift.

A Chief of Investigations and two Assistant Chiefs lead the OAE's investigative staff:

Gerald J. Smith, Chief of Investigations

B.S. LaSalle University 1961 - Joined OAE 1988

Experience: Criminal Investigation Division, United State Treasury Department, Internal Revenue Service (1961-81); Branch Chief, Philadelphia District Office (1981-87); Assistant to the Assistant Regional Commissioner of the Criminal Investigation Division.

Jeanine E. Verdel, Assistant Chief Investigator

B.A. Glassboro State College 1981 - Joined OAE 1988

Experience: Paralegal at Duane, Morris and Heckscher (1981-82); Loan Officer, 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).

William M. Ruskowski, Assistant Chief Investigator

A.A. 1987 and B.A. 1991 Temple University - Joined OAE 1993

Experience: Philadelphia Police Officer (1981-87); Promoted to Police Sgt. (1987); Detective Sgt. Philadelphia District Attorneys Office supervising the Economic Crime Unit, The Government Fraud Unit and the Narcotics Forfeiture Units (1988-93).

The OAE's Complex Investigative Group consists of forensic auditors and disciplinary investigators. This group primarily conducts statewide investigations of complex matters, some standard cases, reciprocal discipline and criminal and civil charges made against New Jersey lawyers. Cases often involve misappropriation of trust funds, financial and fraudulent matters, recidivist attorneys, and related white-collar misconduct. The group 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 two Assistant Chiefs. Investigative Aide Therese M. Bruck assists the group. The seventeen members of the group for 2004 were:

Alan Beck	Arthur L. Garibaldi	Gary K. Lambiase
Mary Jo Bolling	Robert J. Gudger	Christopher Spedding
Margaret M. Cox	G. Nicholas Hall	Wanda L. Riddle
M. Scott Fitz-Patrick	Steven J. Harasym	John Rogalski
Barbara Galati	Theresa Hubal	Jennie Anne Rooth
Denise A. Gamble	Gregory Kulinich	

The Office of Attorney Ethics also operates a District Investigation Group consisting of two investigators. Deputy Ethics Counsel-in-Charge, Walton W. Kingsbery, III and Assistant Chief Investigator Jeanine E. Verdel provide supervision. This group primarily investigates about one-third of the standard cases arising out of the Essex-Newark (District VA) Ethics Committee. These investigators are: Julie K. Bakle and Susan R. Perry-Slay. The Supreme Court has announced that this group would be phased out at the end of 2004 and transferred to the OAE's Complex Group.

DISTRICT ETHICS COMMITTEES

The attorney disciplinary system consists of full-time members of the OAE and volunteer attorneys and public members who serve on 17 regionalized district ethics committees. Volunteer attorney members serve as investigators in all districts. Public members join their volunteer attorney counterparts on hearing panels in cases where a formal complaint has been filed. Volunteer attorneys also prosecute cases they investigate before district hearing panels.

The OAE supports the efforts of all volunteer district ethics committees. Deputy Ethics Counsel Janel Brownlee Miller, who serves as Statewide Ethics Coordinator, spearheads this effort. Caroline E. Allen, Administrative Assistant, assists Ms. Miller, as does Sharon D. Vandegrift of the support staff, who serves on a part-time basis.

As of September 1, 2004 there were 489 volunteers (400 attorneys and 89 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 2004-2005 term.

	Term Expires		Term Expires
District I			
(Atlantic, Cape May, Cumberland and Salem Counties)			
Secretary: Frank L. Corrado of Wildwood			
Sherri A. Affrunti of Lawrenceville, Chair	2005	Lorraine Teleky-Petrella of Hackensack	2006
Mark Pfeffer of Atlantic City, Vice Chair	2006	Jeffrey L. Clutterbuck of Ridgewood	2007
Stanley L. Bergman, Jr. of Atlantic City	2005	Donald M. Onorato of Hackensack	2007
Hance C. Jaquett of Ocean City	2005	John P. Wallace of Ridgewood	2007
Mary Todd Merenich of Linwood	2005	David C. Hoffman of Cresskill	2008
James H. Pickering, Jr. of South Seaville	2005	Anthony M. Iannarelli, Jr. of Ridgewood	2008
William S. Donio of Hammonton	2006	Jill SunJung Park of Fort Lee	2008
Gary R. Griffith of Ocean City	2006	Gale B. Weinberg of Hackensack	2008
Trinna Rodgers of Atlantic City	2006	Robert Mark Kutik of Hackensack	2005
Donald R. Charles, Jr. of Ocean City	2007	William J. Meisner of Mahway	2005
Tracey Furno Oandasan of Woodstown	2007	Marge Wyngaarden of Westwood	2005
Nancy L. Ridgway of Linwood	2007	Tiberio Fabricante of Closter	2006
Anthony A. Swan of Atlantic City	2007	Michele Phibbs of Upper Saddle River	2006
John W. Tumely of Palermo	2007	Bettina Kretz of Upper Saddle River	2007
Jennifer R. Webb of Millville	2007	Nancy Cronk Peet of Midland Park	2007
Frank G. Basile of Vineland	2008		
Michael J. Fitzgerald of Linwood	2008	District IIB	
Willis F. Flower of Linwood	2008	(South Bergen County)	
Bonnie L. Laube of Vineland	2008	Secretary: Morton R. Covitz of Hackensack	
Carmine J. Tagliatalata of Northfield	2008	Thomas J. Herten of Hackensack, Chair	2005
Samantha S. Wolf of Linwood	2008	Edward P. D'Alessio of Hackensack, Vice Chair	2006
Robert Helsabeck of Absecon	2005	Sharon Clancy of Hackensack	2005
Joseph M. Dolan of Atlantic City	2006	Matthew J. Jeon of Palisade Park	2005
Rev. Paul C. Wise of Atlantic City	2006	Paul D. Kreisinger of Ho-Ho-Kus	2005
Donald A. Wadsworth of Northfield	2007	Jerrod S. Fond of Hackensack	2006
James V. Wray of Pleasantville	2007	Gerri L. Squire of Closter	2006
Jeanne Doremus of Bridgeton	2008	Rustine Tilton of Elmwood Park	2006
		Daniel M. Eliades of Rochelle Park	2007
		Jason Errol Foy of Hackensack	2007
		Salvatore A. Giampiccolo of Ridgewood	2007
		Janet B. Lurie of Hackensack	2007
		James X. Sattely of Hackensack	2007
		Ilana Volkov of Hackensack	2007
		Priscilla M. Boggia of Ridgefield	2008
		David Edelberg of Hackensack	2008
		Deborah M. Gross-Quatrone of Saddle Brook	2008
		Doris J. Newman of Hackensack	2008
		Donna Russo of Hackensack	2008
		Salvador H. Sclafani of Hackensack	2008
		Michael Bertty of Teaneck	2006
		Alma Scott-Buczak of Cliffside Park	2006
		Joseph M. Valenzano, Jr. of Woodcliff Lake	2007
		Doreen Cevasco of Rutherford	2008
District IIA			
(North Bergen County)			
Secretary: Morton R. Covitz of Hackensack			
Helen L. Glass of Hackensack, Chair	2005		
Patrick J. Kelly of Maywood, Vice Chair	2006		
Ellen K. Bromsen of Englewood	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		
Anna Navatta of Hackensack	2006		

	Term Expires		Term Expires
District IIIA		District IIIA	
(Ocean County)		(Ocean County)	
Secretary: Steven Secare of Toms River		Secretary: Steven Secare of Toms River	
Kevin Neal Starkey of Brick, Chair	2005	John P. Jehl of Haddonfield	2006
Suzanne M. Jorgensen of Brick, Vice Chair	2006	John J. Murphy, III of Cherry Hill	2006
Barbara A. Baggett of Brick	2005	Lee M. Perlman of Cherry Hill	2006
Mary Ann Pelly Bogan of Point Pleasant	2005	Laura D. Ruccolo of Cherry Hill	2006
Bette A. Hughes of Point Pleasant	2005	Eric S. Spevak of Haddonfield	2006
Robert Leo Tarver, Jr. of Toms River	2005	Robert H. Williams of Haddonfield	2006
Carmine R. Villani of Point Pleasant Beach	2005	Margaret McClellan Gatti of Haddonfield	2007
A. Leslie Burton-Clark of Bricktown	2006	David A. Haworth of Cherry Hill	2007
Joan Crowley of Toms River	2006	Christine P. O'Hearn of Westmont	2007
Jonathan S. Fabricante of Lakewood	2006	Anne T. Picker of Camden	2007
Gregory Patrick McGuckin of Forked River	2006	William S. Skinner of Cherry Hill	2007
Daniel D. Olszak, Jr. of Lakewood	2006	Mary C. Trace of Deptford	2007
Kathleen Peterson of Toms River	2006	Ernest Louis Alvino, Jr. of Woodbury	2008
Kenneth F. Fitzsimmons of Point Pleasant	2007	Lisa B. Baughman of Marlton	2008
Sean D. Gertner of Lakewood	2007	Robert N. Braverman of Cherry Hill	2008
Debra M. Himber of Forked River	2007	Lisa Caroline Evans of Camden	2008
Jeff J. Horn of Toms River	2007	Linda W. Eynon of Trenton	2008
Peter J. Van Dyke of Toms River	2007	Richard L. Goldstein of Cherry Hill	2008
Lynne A. Dunn of Toms River	2008	Robert G. Harbeson of Haddonfield	2008
Joseph D. Gristanti of Jackson	2008	Craig H. Klayman of Woodbury	2008
Richard Gross of Brick	2005	Leah of Morris of Trenton	2008
Kathleen Hoffmann of Brick	2005	Efrain Nieves of Camden	2008
Robert B. O'Brien, Jr. of Bay Head	2007	Steven J. Richardson of Woodbury	2008
Louise Marie Cole of Toms River	2008	Lisa J. Rodriguez of Haddonfield	2008
		Louise A. Watson of Marlton	2008
		Joyce Alexander May of Barrington	2005
		Alan Klein of Cherry Hill	2006
		Peggy Leone of Merchantville	2006
		Carl Mogil, D.O. of Cherry Hill	2006
		William R. Carter, Ed.D. of Williamstown	2007
		Martin H. Abo of Voorhees	2008
		Rhea Weinberg Brekke of Voorhees	2008
District IIIB		District VA	
(Burlington County)		(Essex County - Newark)	
Secretary: Cynthia S. Earl of Moorestown		Secretary: Seth E. Zuckerman of Newark	
Jeffrey S. Apell of Browns Mills, Chair	2005	Scott L. Weber of Newark, Chair	2005
J. Llewellyn Mathews of Cherry Hill, Vice Chair	2006	Douglas H. Amster of Newark, Vice Chair	2006
Nancy T. Abbott of Burlington	2005	Elizabeth R. Charters of Newark	2005
Patricia P. Davis of Cinnaminson	2005	Anne Marie Kelly of Newark	2005
George J. Singley of Mount Laurel	2005	Edward J. O'Donnell of Livingston	2005
Paul Allen Snyder of Marlton	2005	Stefanie A. Brand of Newark	2006
Elizabeth Coleman Chierici of Moorestown	2006	Eric R. Breslin of Newark	2006
Pamela Adriano Moy of Moorestown	2006	Elizabeth A. Kenny of Newark	2006
Martin Pappaterra of Mount Holly	2006	Sofia Samuel Lipman of Newark	2006
Michael S. Rothmel of Mount Holly	2006	Jeffrey Bernstein of Newark	2007
Janice Heinold Rourke of Marlton	2006	Christopher J. Dalton of Newark	2007
Warren S. Wolf of Delran	2006	Elizabeth Wizeman Dollin of Newark	2007
Michael A. Bonamassa of Marlton	2007	Christopher M. Farella of Newark	2007
Michelle Lee Corea of Mount Laurel	2007	Clement Jude Farley of Newark	2007
Michael A. Taylor of Mount Laurel	2007	Lisa D. Love of Newark	2007
Steven R. Cohen of Mount Laurel	2008	Jeffrey M. Wactlar of Wayne	2007
J. Brooks DiDonato of Marlton	2008	Jean W. Watley of Orange	2007
Frances Ann Hartman of Moorestown	2008	Raymond Armour of Newark	2008
Karen M. Murray of Delran	2008	David A. Cohen of Newark	2008
Joseph M. Pinto of Moorestown	2008	Irvin M. Freilich of Newark	2008
Ronald Monokian of Lumberton	2006	Mark Todd Galante of Newark	2008
Robert Zmirich of Mount Laurel	2006	Robert D. Kuttner of Millburn	2008
Susan K. Geary of Florence	2008	Anthony J. Laura of Newark	2008
Patricia A. Thomas of Mount Holly	2008	Rachel Y. Marshall of Newark	2008
		Bonnie L. McMillan of Jersey City	2008
		Scott R. Krieger of Livingston	2005
		Hope Allen of Newark	2007
		Harold L. Bernstein of Newark	2007
		Christina Y. Bookhart of Hamilton	2007
		Danielle A. Smith of Newark	2007
		Nayna Patel of Newark	2008
District IV			
(Camden and Gloucester Counties)			
Secretary: John M. Palm of Cherry Hill			
John Morelli of Voorhees, Chair	2005		
Steven M. Janove of Cherry Hill, Vice Chair	2006		
Shereen C. Chen of Pennsauken	2005		
Theresa C. Grabowski of Haddon Heights	2005		
Howard C. Long, Jr. of Laurel Springs	2005		
Robert A. Porter of Cherry Hill	2005		
James R. Thompson of Cherry Hill	2005		

	Term Expires		Term Expires
District VB			
(Essex County - Suburban Essex)			
Secretary: Seth Ptasiewicz of Newark			
Cynthia M. Craig of West Orange, Chair	2005	Cristina Accardi Mirda of Livingston	2009
Sonya M. Longo of Short Hills, Vice Chair	2006	Paul Erlich of Glen Ridge	2005
Steven H. Daniels of Springfield	2005	Arthur J. Thompson of Montclair	2005
Joel D. Fierstien of Denville	2005	Robert Cohen of Springfield	2006
Raymond Louis Hamlin of Newark	2005	Kristine H. O'Connor of Essex Fells	2006
David B. Katz of Livingston	2005	Deborah Boone-Coy of Newark	2008
James A. Mella of Short Hills	2005	Anthony J. Cervasio of Nutley	2008
Bradley M. Wilson of Hackensack	2005	District VI	
Edna Ball Axelrod of South Orange	2006	(Hudson County)	
Kenneth J. Isaacson of Wayne	2006	Secretary: Jack Jay Wind of Jersey City	
Lisa Kaplan of Livingston	2006	Perry Florio of Secaucus, Chair	2005
Anthony Mazza of West Orange	2006	Jeffrey R. Jablonski of Kearny, Vice Chair	2006
John J. Peirano, Jr. of Newark	2006	Richard N. Campisano of Jersey City	2005
Michael R. Ricciardulli of Millburn	2006	John J. Elefthrow of Jersey City	2005
Brad S. Schenerman of Newark	2006	Cataldo F. Fazio of Paramus	2005
Thomas P. Scivo of Morristown	2006	James Patrick Flynn of Newark	2005
Lisa T. Wahler of New Brunswick	2006	Marc J. Keane of Jersey City	2005
Francis X. Dee of Newark	2007	Rolando Orbe of West New York	2005
Phillip J. Duffy of Newark	2007	Stanley R. Pietruska of Bayonne	2005
Marc D. Garfinkle of Maplewood	2007	Lawrence Sindoni of Jersey City	2005
Frederick Evan Gerson of Florham Park	2007	Gregory J. Castano, Jr. of West Caldwell	2006
Marcy Ann Gilroy of Short Hills	2007	Howard S. Feintuch of Jersey City	2006
Elizabeth Kronisch of Roseland	2007	Julien X. Neals of Secaucus	2006
Lisa A. Lehrer of West Orange	2007	Wendy J. Parmet of Jersey City	2006
Marsha Papanek Long of Short Hills	2007	Mary K. Costello of Morris Plains	2007
Ricki Anne Sokol of West Orange	2007	Michael J. Dillon of Jersey City	2007
Janet Armuth Wolkoff of South Orange	2007	Paula J. Mercado of Parsippany	2007
Denise Mullens Carter of East Orange	2008	Marybeth Rogers of Fairview	2007
Penelope Codrington of Morristown	2008	Nadya M. Zerquera of Guttenberg	2007
Novlet M. Lawrence of East Orange	2008	Charles M. D'Amico of Union City	2008
Barry E. Moscovitz of Hackensack	2008	Richard D. DeVita of Hoboken	2008
Ellen Lewis Rice of Cranford	2008	Susan A. McCurrie of Kearny	2008
Michael R. Spar of West Orange	2008	Vincent J. Militello of Short Hills	2008
Alvin Weiss of Morristown	2008	Donna R. Newman of Jersey City	2008
Ronnie Schuman Brown of Short Hills	2005	Nancy A. Skidmore of Secaucus	2008
Chuck Lanyard of Fair Lawn	2005	Peter M. Weiner of Secaucus	2008
James Clark, DDS of Short Hills	2007	Reverend Tyrone Chess of Jersey City	2005
Camille Marlow of New York	2008	Ana J. Garcia of West New York	2005
Bonnie J. Granatir of Livingston	2008	Zohreh Behin of Jersey City	2006
		Rene R. Escobar of Chatham	2006
		Paul A. Foddai, M.D. of Jersey City	2006
		John R. Raslowsky, II of Hoboken	2007
District VC		District VII	
(Essex County - West Essex)		(Mercer County)	
Secretary: Angela A. Iusoof Newark		Secretary: Alan G. Frank, Jr. of Trenton	
Karen Meislik of Montclair, Chair	2005	David J. Byrne of Lawrenceville, Chair	2005
Gary J. Lustbader of West Orange	2006	Anthony M. Massi of Trenton, Vice Chair	2005
Brian H. Fenlon of Roseland	2005	Gina Gloria Bellucci of Trenton	2005
Judith D. Musser of Upper Montclair	2005	Peter R. Freed of Princeton	2005
Kathleen McCormick Campi of Upper Montclair	2006	Brian J. Mulligan of Trenton	2005
Barbara A. Dennis of Bloomfield	2006	David Schroth of Trenton	2005
Richard L. Scharlat of Newark	2006	Karen A. Confoy of Trenton	2006
Jill Tobia Sorger of Montclair	2006	Samuel M. Gaylor of Lawrenceville	2006
Lindsey H. Taylor of Roseland	2006	Susan J. Knispel of Trenton	2006
G. Glennon Troublefield of Roseland	2006	Anna M. Lascrain of Trenton	2006
Angelo Cifelli of Nutley	2007	Edith Saviola Brower of Trenton	2007
Nancy S. Feinberg of South Orange	2007	Bruce W. Clark of Princeton	2007
Harrison J. Gordon of West Orange	2007	Keith P. Jones of Princeton	2007
Alexander J. Graziano of Verona	2007	Scott A. Krasny of West Trenton	2007
William Seth Greenberg of West Orange	2007	Rachel Jeanne Lehr of Trenton	2007
Thomas James Cannon, III of Essex Fells	2008	Mitchell A. Livingston of Trenton	2007
J. Craig Dickson, III of Upper Montclair	2008	Linda J. Mack of Lawrenceville	2007
Sandra Escobar Gabriele	2008	Mala S. Narayanan of Trenton	2007
Christopher S. Franges of Morristown	2008	Charles J. Casale, Jr. of Trenton	2008
JoAnne Giger of Roseland	2008	Matthew V. DelDuca of Princeton	2008
Gregory G. Lotz of Montclair	2008	Robert Loyd Grundlock, Jr. of Princeton	2008
Arthur S. Horn of Nutley	2009		

	Term Expires		Term Expires
Elizabeth Walsh Kreger of Lawrenceville	2008	Peter Petrou of Parsippany, Chair	2005
Robert S. Rothenberg of Princeton	2008	Kurt W. Krauss of Parsippany, Vice Chair	2006
Betty Yan of Princeton	2008	Jefferson T. Barnes of Chatham	2005
Ray Montgomery of Trenton	2005	Mark Andrew Blount of Chester	2005
Sharon H. Press of Princeton	2006	Brian J. Fruehling of Madison	2005
B. Lynn Robinson of Columbus	2006	Laura Ann Kelly of Morristown	2005
Frans M. Djourup of Princeton	2007	Margaret Anne Kerr of Morris Plains	2005
District VIII			
(Middlesex County)			
Secretary: Manny Gerstein of Edison			
Barry A. Weisberg of Woodbridge, Chair	2005	John M. DeMarco of Morristown	2006
Raymond P. DeMarco of Dunellen, Vice Chair	2005	Christopher J. McAuliffe of Mountain Lakes	2006
Richard A. Deutchman of New Brunswick	2005	James M. McCreedy of Morristown	2006
Marcia L. Hendler of North Brunswick	2005	Arlene E. Pasko of Kinnelton	2006
Heidi A. Lepp of Metuchen	2005	James M. Porfido of Morristown	2006
Michele Labrada of New Brunswick	2006	Moly K. Hung of Madison	2007
Barbara T. Lang of Piscataway	2006	Henry Ellis Klingeman of Madison	2007
Michael J. Rossignol of Piscataway	2006	Fredric M. Knapp of Morristown	2007
Peter Tsu-Man Tu of Plainsboro	2006	Kevin Thomas Kutyla of Hopatcong	2007
Howard Duff of Woodbridge	2007	Connie a. Matteo of Morristown	2007
Hon. Bennett E. Hoffman, JSC of North Brunswick	2007	Laurie L. Newmark of Morristown	2007
Allan Marain of New Brunswick	2007	Michael J. Riordan of Florham Park	2007
Ellen F. Schwartz of Edison	2007	George D. Schonwald of Parsippany	2007
Charles J. Soos of Kendall Park	2007	Clifford J. Weininger of Denville	2007
Renee D. Anthony of New Brunswick	2008	Richard J. Williams, Jr. of Morristown	2007
Jennifer Leigh Bradshaw of Princeton	2008	Catherine M. Brown of Morristown	2008
Timothy M. Casey of Woodbridge	2008	William O. Crutchlow of Edison	2008
Eileen M. Foley of North Brunswick	2008	Robert W. McAndrew of Morristown	2008
Robert H. Goodwin of New Brunswick	2008	Dominic A. Tomaio of Morristown	2008
Mary A. Pidgeon of Princeton	2008	Thomas L. Weisenbeck of Florham Park	2008
Jeanne A. Kushinsky of Edison	2005	Edgar M. Whiting of Parsippany	2008
Jerry Kaplan of Edison	2006	William D. Primus of Morristown	2005
Dawn McPhee of New Brunswick	2006	J. Peter Borbas of Boonton	2006
Mabel J. Casagrand of Metuchen	2007	Sherry E. Jorge of Hillsborough	2006
Arthur A. Gross of Woodbridge	2007	Mary E. VanKirk of Morristown	2006
Jonathan P. Cowles of Colts Neck	2008	Susan King, CPA of Madison	2007
District IX			
(Monmouth County)			
Secretary: Kathleen A. Sheedy of Oakhurst			
Susan M. Scarola of Freehold, Chair	2005	District XI	
James A. Paone, II of Freehold, Vice Chair	2006	(Passaic County)	
Ambar I. Abelar of Long Branch	2005	Secretary: Robert L. Stober of Clifton	
R. Diane Aifer of Middletown	2005	Kathleen A. Browning Sheridan of Hawthorne, Chair	2005
Allison Ansell of Ocean	2005	Patrick J. Caserta of Wayne, Vice Chair	2006
Judson Bernard Barrett of Oakhurst	2005	JoAnn G. Durr of Wayne	2005
David A. Laughlin of Neptune	2005	Ellen Jo Gold of Paterson	2006
Linda L. Piff of Wall	2005	Maria J. LaSala of Wayne	2006
Scott J. Basen of Freehold	2006	Imre Karaszegi, Jr. of Clifton	2006
Julie S. Dasaro of Edison	2007	Lawrence M. Maron of New Brunswick	2006
Jane Marie Langseth of Little Silver	2007	Ralph M. Fava, Jr. of Hawthorne	2007
David P. Levine of West Long Branch	2007	Thomas M. Kaczka of Mountain Lakes	2007
Daniel L. Weiss of Paterson	2007	Robert Saul Molnar of Wayne	2007
Elias Abilheira of Freehold	2008	David Lamont Holley of Bloomfield	2008
Gregg M. Hobbie of Shrewsbury	2008	Patricia M. Petro of Wayne	2008
Joanne S. Nadell of Shrewsbury	2008	John D. Pogorelec, Jr. of Clifton	2008
Janice J. Venables of Manasquan	2008	A.W. Sala, Jr. of Clifton	2008
Dolores Pegram Wilson	2008	Patti A. Scott of Wayne	2008
James Cooper of Eatontown	2006	Jeffrey James Trapanese of Little Falls	2008
Susan M. Schneider of Freehold	2006	Jackie Bonney of Wayne	2006
Melissa A. Keale of Fair Haven	2007	Cristobal Collado of Paterson	2007
Carol Ann Roche, Ph.D. of Spring Lake	2008	Patricia M. Henry of Hackensack	2007
District X			
(Morris and Sussex Counties)			
Secretary: Bonnie C. Frost of Denville			
Albert Pra Sisto of Passaic			

District XII
(Union County)
Secretary: William B. Ziff of Westfield

	Term Expires
Mark P. Dugan of Elizabeth, Chair	2005
Judith DeRosa of Cranford, Vice Chair	2006
Robert J. Logan of New Providence	2005
Theresa E. Mullen of Clark	2005
Bill R. Fenstemaker of Elizabeth	2006
Marjorie B. Leffler-Wachtel of Westfield	2006
Kenneth B. Rotter of Newark	2006
Catherine J. Tafaro of New Providence	2006
Linda S. Ershow-Levenberg of Clark	2007
Michael J. Keating of Cranford	2007
Patricia A. Mack of Elizabeth	2007
Gary D. Nissenbaum of Union	2007
Michael Margello of Mountainside	2007
Mark B. Watson of Springfield	2007
Jane M. Coviello of Paramus	2008
Richard S. Elmiger of Summit	2008
Eric G. Kahn of Springfield	2008
Anthony J. LaRusso of Westfield	2008
Cindy K. Miller of Westfield	2008
Louis H. Miron of Westfield	2008
Carl A. Salisbury of Clark	2008
Diane Stolbach of Springfield	2008
Steven F. Wukovitz of Cranford	2009
Jean Risen of Summit	2005
Eugene Kertis, M.D. of Westfield	2007
Andrea Mattingly of Berkeley Heights	2007
Robert Ira Oberhand, M.D. of Westfield	2008

District XIII
(Hunterdon, Somerset and Warren Counties)
Secretary: Donna P. Legband of Skillman

	Term Expires
Rosalyn A. Metzger of Somerville, Chair	2005
David W. Trombadore of Somerville, Vice Chair	2006
Robert J. Foley of Raritan	2005
Karen A. Gugliotta of Phillipsburg	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
Kevin P. Kovacs of Bedminster	2007
Sheryl M. Schwartz of Warren	2007
Peter V. Abatamarco of Flemington	2008
Jerry S. D'Aniello of Somerville	2008
Jane Anne Herschenroder of Somerville	2008
Jeralyn L. Lawrence of Somerville	2008
Kimarie Rahill McDonald of Hackettstown	2008
Alexander F. McGimpsey of Somerset	2008
Katherine K. Wagner of Somerville	2008
Michele Chen of Watchung	2005
Paul McCormick of Flemington	2006
David J. Desiderio of Annandale	2007
George J. Sopko of Somerville	2008

**FEE
ARBITRATION
SYSTEM**

Chapter Three



“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)

2004 HIGHLIGHTS

District fee arbitration committees handled a total of 1,628 disputes over lawyers' fees in 2004. That total consisted of 509 matters carried over from 2003 and 1,119 new filings. For the fourth year out of the last five, the fee arbitration system cleared more cases than it added. (Figure 17). Only in 2000 were committees unable to clear the calendar as the number of cases disposed (1,200) failed to exceed the number of new filings that year (1,232).

Fee committees took in 1,119 new cases and disposed of 1,130 during 2004. As a result, the number of cases pending at year's end dropped slightly to 498 from 509.

The average number of cases pending before each of the 17 district fee arbitration committees remained at a manageable level of 30 cases per district. These achievements reflected the continued hard work of over 295 volunteer attorneys and public members. Their work is coordinated and administered by the Office of Attorney Ethics (OAE), aided by a statewide database that tracks all fee cases.

Fee Case Clearance

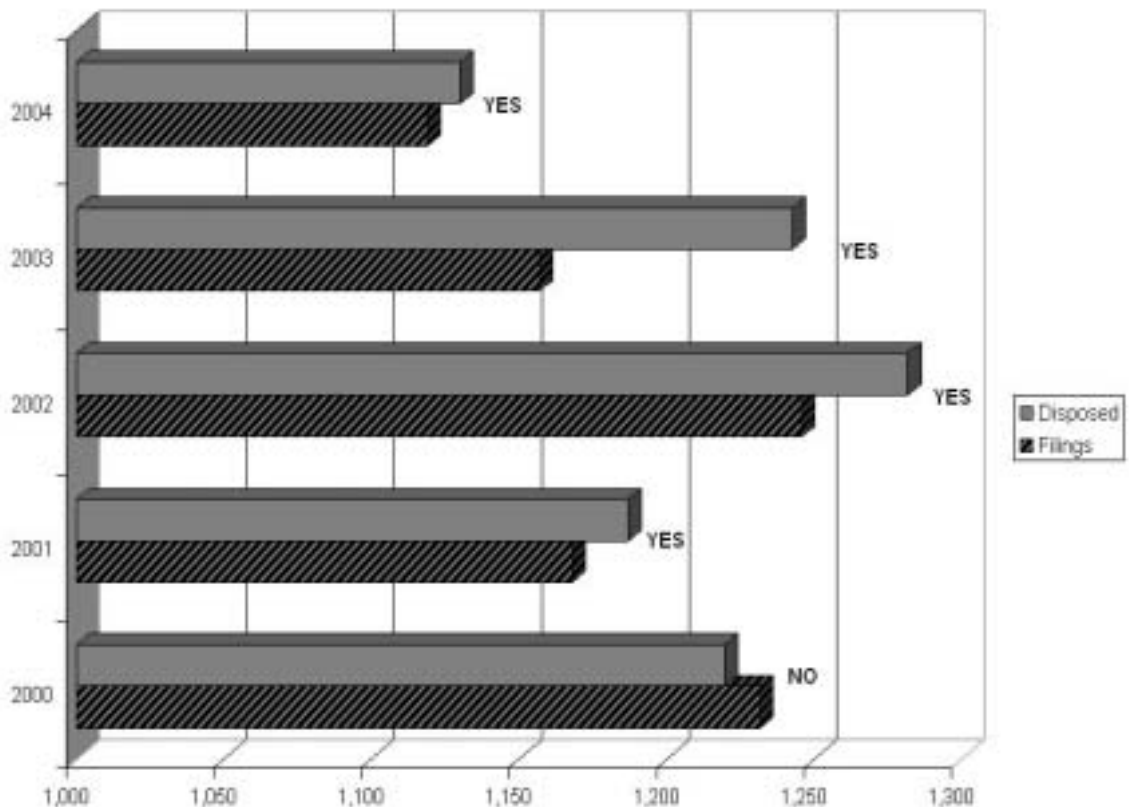


Figure 17

ORIGIN AND ADMINISTRATION

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. As a result, the Attorney Fee Arbitration System in New Jersey operates independently of the attorney disciplinary system.

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 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 their clients of the availability of fee arbitration prior to bringing a lawsuit. If a client chooses fee arbitration, the lawyer must arbitrate the matters.

The fee arbitration process is a model of simplicity. It is a two-tiered system that operates statewide. **Figure 18.** The OAE administers it. Deputy Ethics Counsel John McGill, III is the OAE's part-time Statewide Fee Coordinator. Fee Assistant, Gerry M. Stults, Secretary Lavette D. Mims and Support Staff Mary Zienowicz assist him on a part-time basis. Fee arbitration is conducted on two levels: 17 District Fee Arbitration Committees and the Statewide Disciplinary Review Board (Review Board).

INITIATING ARBITRATION

Fee arbitration is initiated when a client files an arbitration request form with the secretary of the 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: the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; the fee customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship with the client; the experience, reputation, and ability of the lawyer or lawyers performing the services; and whether the fee is fixed or contingent.

Fee Arbitration System



Figure 18

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 contained in 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 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 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, OAE. 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

Arbitration Flowchart

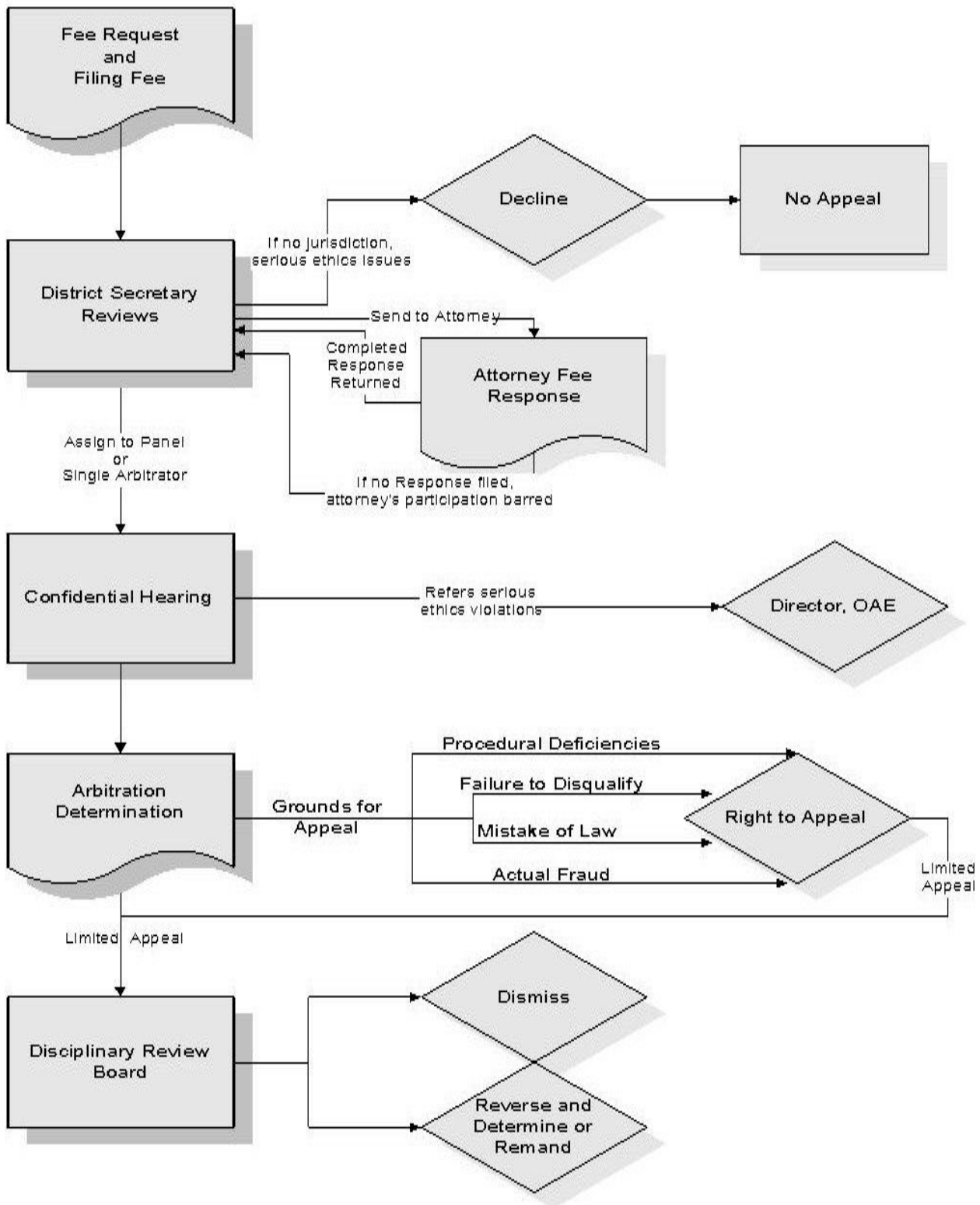


Figure 19

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: 1) failure of a member to be disqualified in accordance with *R. 1:12-1*; 2) failure of the committee to substantially comply with mandatory procedural requirements; 3) actual fraud on the part of any member of the committee; and 5) 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 19 shows a flowchart of the process, from initiation of fee arbitration, through docketing, hearing, decision and a limited appeal to the Review Board.

FEE DISPUTE FILINGS

The number of filings has shown an 8.9% decrease since 2000 when a total of 1,232 new fee matters were docketed. Fee arbitration filings decreased by 3.2% in 2004, to 1,119 from 1,157 in 2003. **Figure 20.** This decline in filings in the past five years 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

Change In Fee Disputes			
Year	Filings	Change	Overall
2004	1,119	-3.3%	
2003	1,157	-7.15%	
2002	1,246	+6.6%	-9.2%
2001	1,168	-5.2%	
2000	1,232	-	

Figure 20

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.

Fee arbitration remains a 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.

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 disputes. **Figure 21.** During 2004, 39.2% of all fee disputes arose out of this type of practice. This

Types of Practice

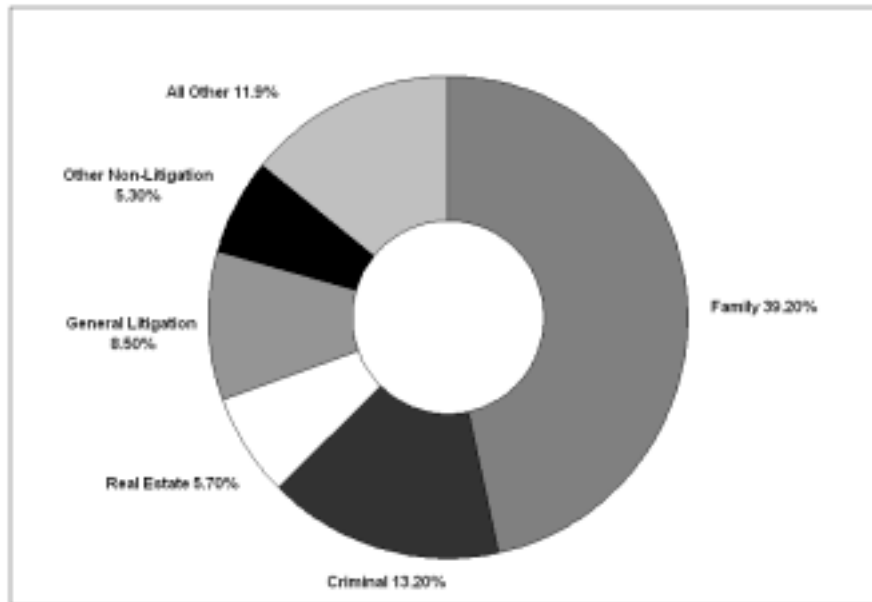


Figure 21

represents a decrease over domestic relations cases filed a year earlier when they accounted for 41.2% 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, this 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. It 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 13.2% of all fee disputes filed, up slightly from 12.3% last year. As with matrimonial cases, contingent fees are prohibited as a matter of policy in criminal cases. The “General Litigation” category amounts to 8.5% of new filings in 2004, compared to 9.2% last year.

Real Estate matters provided the fourth most frequent cause for fee arbitration filings at 5.7% versus 7.8% last year. Contract matters followed next at 5.5%, compared to 3.6% the prior year. The category of “Other Non-Litigation” disputes stood at 5.3% compared to 5.5% in 2003. Estate/Probate disputes involved 4.7% of filings; it stood at 3.6% in 2003, followed by bankruptcy/insolvency/foreclosure matters, at 3.5% versus 2.6% in 2003.

Rounding out the top ten were negligence cases at 2.5%, with labor matters involving 1.9% of fee arbitration filings and collection matters at 1.5%.

AGE OF CASELOAD

Seven out of every ten (70.5%) fee disputes disposed of (1,130) in 2004 had an average age of less than 180 days. **Figure 22.** This represents an increase over the 68.6% figure for disposed cases during the same period in 2003. The percent of the oldest cases (i.e. those over one year old) remains the same this year at 9.7% as in 2003. Cases in the mid range - from 6 to 12 months of age - increased slightly from 18.7% last year to 19.8% this year. The overall average disposed age decreased from 195 days in 2003 to 172 days in 2004.

At the end of calendar year 2004, there were a total of 498 cases pending. This compares to 509 matters at the conclusion of 2003.

Age of Disposed Cases

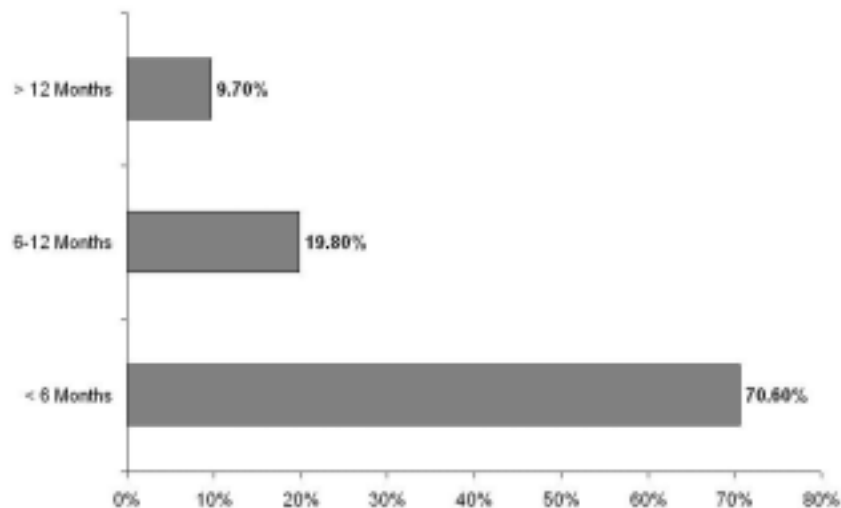


Figure 22

NATURE OF DISPOSITIONS

Of the 1,130 cases disposed of by the fee committees in 2004, 91% were either arbitrated by fee committees (64% or 729 cases) or settled by the parties voluntarily (27% or 301 cases) after fee arbitration was initiated. The percentage of formal determinations for 2004 (64%) was virtually the same as the 65% in 2003. Settled matters comprised 27% of year 2004 dispositions, up slightly from 26% in 2003. Clients voluntarily withdrew almost 2.0% of all cases disposed.

Fee committees declined to arbitrate 1% 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. Less than one-half of 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 OAE disposed the remained 4.3% 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 1,030 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 \$16,092,611. This represents a 12% decrease over the 2003 total of 18,244,802 settled or arbitrated.

During 2004, the committees conducted 729 hearings involving \$11,180,125 in total attorney's fees charged. In 32.1% of the cases (234 hearings), they upheld the attorney's fees in full. In the remaining 67.9% of the fee cases (495 hearings), they reduced the reduced the fees by a total of \$2,374,992, which represents 28.2% 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 301 reported settlements, the original billings totaled \$4,912,485. The clients agreed to pay the entire fee charged in only 24 (8.0%) of the 301 settlements. In the remaining 277 settlements, the attorneys and clients agreed to voluntarily reduce fees by 46.8%, or \$2,063,803.

The amount of reductions was specifically analyzed in ranges of from less than \$100 up to \$20,001 to \$50,000. In over 51.1% of the hearings resulting in a reduction, the dollar amount of the reduction was between \$251 and \$2,000. In settled matters, 35.7% of the cases involved reductions in the \$251 to \$2,000 range. The average bill in cases formally determined was \$15,336 while the average reduction in these matters was \$4,797.

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 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 2004, 1,119 new fee disputes were filed against New Jersey attorneys. This number represents just under 2.0% of the active New Jersey lawyer population (59,919). With hundreds of thousands of civil, criminal, equity, small claims and municipal court matters 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, 2004 there were 295 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 2004-2005:

	Term Expires		Term Expires
District I		District IIA	
(Atlantic, Cape May, Cumberland and Salem Counties)		(North Bergen County)	
Secretary: Michael A. Pirolli of Bridgeton		Secretary: Terrence J. Corrison of Hackensack	
Susan Korngut of Northfield, Chair	2005	Joel J. Reinfeld of Wayne, Chair	2005
Robert C. Litwack of Bridgeton, Vice Chair	2006	Dennis W. Blake of Montvale, Vice Chair	2006
H. Parker Smith of Cape May Courthouse	2005	Jeffrey B. Steinfeld of Hackensack	2005
Karen Williams of Atlantic City	2006	Charles J. Lange, Jr. of Leonia	2005
Elaine B. Frick of Pleasantville	2007	Julia Barash of Hillsdale	2005
Michael M. Mulligan of Carneys Point	2007	Robert E. Landel of Frankin Lakes	2006
Michele C. Verno of Northfield	2007	Colin M. Quinn of Westwood	2006
Kim Bloomer of Pleasantville	2008	Russell B. Teschon of Midland Park	2006
Marian E. Haag of Bridgeton	2008	Lawrence A. Joel of Oradell	2006
Braun D. Littlefield of Pleasantville	2008	Frank LaRocca of Glen Rock	2007
Michael J. Mackler of Atlantic City	2008	Debra F. Schneider of Glen Rock	2007
Renee G. Malamut of Linwood	2008	Margaret S. Sullivan of Ridgewood	2008
Dorothy F. McCrosson of Ocean City	2008	Anne C. Skau of Ridgewood	2007
Eileen Ballinghoff of Cape May Courthouse	2005	Beth Politi of Montvale	2005
Al Gutierrea of Somers Point	2006	Joseph Tedeschi of Fair Lawn	2006
Kathy Arrington of Atlantic City	2006	Betty Williams of Teaneck	2007
Joan L. Clarke of Tuckerton	2006	Alexander P. Adler of Cliffside Park	2008
John M. Bettis of Pleasantville	2006	Jeffrey Hering of Montvale	2008
Catherine J. Arpino of Vineland	2007	Philip J. Weiler, Jr. of Ridgewood	2008
Joseph Abbott, Jr. of Pleasantville	2008		
Paul S. Cooper of Bridgeton	2008		

	Term Expires
District IIB	
(South Bergen County)	
Secretary: Michael J. Sprague of Hackensack	
William J. Heimbuch of Hackensack, Chair	2005
Ira C. Kaplan of Hackensack, Vice Chair	2006
Wendy F. Klein of Hackensack	2005
Ellen W. Smith of Hackensack	2005
Menelaos W. Toskos of Hackensack	2006
Peter V. Moore of Wood Ridge	2006
David M. Kohane of Hackensack	2006
Irwin S. Markowitz of Englewood Cliffs	2006
Alice W. Meehan of Hackensack	2007
Daniel P. McNerney of Hackensack	2007
Janell W. Weinstein of Hackensack	2007
Ronald M. Abramson of Hackensack	2008
William J. Bailey of Westwood	2008
Edward S. Kiel of Hackensack	2008
Anthony Scardino of Lyndhurst	2005
Peter A. Michelotti of Fair Lawn	2006
Suzanne DePuyt of Mahwah	2007
Rosario J. Lazzaro of Cresskill	2007
Robert Boyle of Hackensack	2008
Joseph A. Harris of Teaneck	2008
Steven Frimmer of Ridgefield Park	2008

	Term Expires
District IIIA	
(Ocean County)	
Secretary: Lisa E. Halpern of Toms River	
Joan L. Murphy of Toms River, Chair	2005
Terry F. Brady of Toms River, Vice Chair	2006
Philip G. Pagano of Red Bank	2006
Michael T. Wolf of Toms River	2006
Linda S. Reinheimer of Toms River	2006
Claire M. Calinda of Toms River	2007
Joel A. Davies of Toms River	2007
Maria A. Stork of Toms River	2007
Ann Koukos of Lenoka Harbor	2005
Charles W. Bowden of Smithville	2008
E. Kevin Mosely of Lakewood	2008
Patricia Speck of Shrewsbury	2008

	Term Expires
District IIIB	
(Burlington County)	
Secretary: Christopher R. Musulin of Mount Holly	
Marybeth F. Baron of Mount Holly, Chair	2005
Donald N. Elsas of Willingboro, Vice Chair	2006
Kevin E. Aberant of Moorestown	2005
Carolyn V. Chang of Mount Holly	2006
Patricia A. Barasch of Moorestown	2007
Beth Ann Burton of Maple Shade	2007
Jeremy D. Countess of Moorestown	2008
Keith D. Graham of Lumberton	2008
Marie Kotch of Burlington	2008
Nina Ladoff of Moorestown	2008
Jennifer Miles of Burlington	2006
Kathleen Sweeney of Roebling	2007

	Term Expires
District IV	
(Camden and Gloucester Counties)	
Secretary: Joel Schneider of Haddonfield	
Rita S. Polonsky of Audubon, Chair	2005
Daniel McCormack of Audubon, Vice Chair	2006
Michael D. Fioretti of Cherry Hill	2005
Bruce P. Matez of Haddonfield	2005
Antoinette Falciani of Woodbury	2005
Scott H. Marcus of Turnersville	2005

	Term Expires
Thomas G. Heim of Woodbury	2005
Andrew Kushner of Cherry Hill	2006
Maury K. Cutler of Blackwood	2006
Robert Adinolfi of Haddonfield	2007
Daniel M. Replogle, III of Camden	2007
Augusta Joy Pistilli of Woodbury	2007
Stacy L. Spinosi of Woodbury	2007
Peter M. Halden of Cherry Hill	2007
Lynn M. Castillo of Woodbury	2008
Jacquelynn Brouthton Hudgee of Lawrenceville	2008
William Spencer, Jr. of Haddon Township	2008
Frederick R. Linden of Mount Laurel	2006
Altheia Leduc of Moorestown	2006
Marie D. Fairchild of Haddonfield	2006
Jeffrey Clark of Mantua	2007
Julie Washington	2008
Doreen McQueen of Camden	2008

	Term Expires
District VA	
(Essex County - Newark)	
Secretary: Robert A. Berns of Newark	
Rosalyn Cary Charles of South Orange, Chair	2006
Pamela M. Ceruti of Montclair, Vice Chair	2006
Eileen A. Lindsay of Roseland	2006
Gustavo J. Perez of Newark	2006
Stanley A. Epstein of Newark	2007
Robert A. Fagella of Newark	2007
Robert M. Goodman of Newark	2007
John H. Klock of Newark	2008
Joan H. Langer of Newark	2008
Luis E. Rivera-Castro of Montclair	2008
Valarie Davia of Maplewood	2005
Robert S. Perelman of West Caldwell	2006
Louis V. Henston of Livingston	2007
Celia King of Maplewood	2007
Harold Bobrow of Maplewood	2008

	Term Expires
District VB	
(Essex County - Suburban Essex)	
Secretary: David Schechner of West Orange	
Stuart I. Gold of West Orange, Chair	2005
Pamela C. Mandel of Millburn, Vice Chair	2006
Jeffrey George Paster of West Orange	2005
Sherri Davis Fowler of West Orange	2005
Bruce Levitt of South Orange	2006
Stewart M. Leviss of West Orange	2007
Domenic D. Toto of Roseland	2007
Peter Vazquez, Jr. of Florham Park	2007
Cheryl H. Burstein of West Orange	2008
Marc B. Kramer of Short Hills	2008
Louis Weiner of Short Hills	2005
Walter Pagano of Warren	2005
Arthur Fischman of West Orange	2007
David Rothschild of Maplewood	2007
Jack L. Wigler of Verona	2008

	Term Expires
District VC	
(Essex County - West Essex)	
Secretary: Anne K. Franges of Newark	
Raymond Kramkowski of Fairfield, Chair	2005
Barbara S. Fox of Upper Montclair, Vice Chair	2006
Floyd Shapiro of Roseland	2005
Daniel J. Jurkovic of Verona	2006
Eleanore K. Cohen of Springfield	2006
Bryan Blaney of Roseland	2007
Leslie A. Lajewski of Roseland	2007
Sherry Gale Chachkin of Hackensack	2007

	Term Expires
Kenneth F. Mullaney, Jr. of Fairfield	2007
Laurie A. Bernstein of Roseland	2008
Geraldine Reed Brown of Montclair	2008
A.L. Gaydos, Jr. of Montclair	2008
Anthony C. Mack of Newark	2008
Robert Fischbein of Short Hills	2006
Hilda L. Jaffe of Verona	2007
Laurena G. White of Montclair	2007
Audrey Bartner of Verona	2008
Reginald Oliver of Montclair	2008
David Rothschild of Millburn	2008

District VI
(Hudson County)

Secretary: Marvin R. Walden, Jr. of West New York

Marlene Caride of Union City, Chair	2005
Thomas M. Venino, Jr. of North Bergen, Vice Chair	2007
Lisette Castelo of Fort Lee	2006
James C. Dowden of Secaucus	2006
Gerald J. Lepis of Jersey City	2007
Norberto A. Garcia of Jersey City	2008
Joseph J. Talafous, Jr. of Jersey City	2008
Cindy N. Vogelmann of Secaucus	2008
Lynn Arricale of Weehawken	2005
Raymond Buland of Union City	2008
Wanda Moreno of Union City	2006
Corrado Belgiovine of Jersey City	2007

District VII
(Mercer County)

Secretary: Sahbra Smook Jacobs of Trenton

Dale E. Console of Kingston, Chair	2005
Katherine Benesch of Princeton, Vice Chair	2006
Kevin M. Shanahan of Pennington	2005
Jose Miguel Ortiz of Trenton	2005
Patricia M. Graham of Princeton	2006
Howard L. Felsenfeld of Mercerville	2007
Howard S. Rednor of Trenton	2007
Roger T. Haley of Trenton	2008
Deborah T. O'Donnell of Lawrence	2008
Kathy Dillione of West Trenton	2005
Tracey A. Destribats of Hamilton	2007
Frederick R. Gladston of Belle Mead	2008
Robert Sunna of Princeton	2007

District VIII
(Middlesex County)

Secretary: William P. Isele of Milltown

James B. Smith of Metuchen, Chair	2005
Edward J. Ramp of East Brunswick, Vice Chair	2007
James P. Fitzgerald of Dunellen	2005
Barry E. Rosenberg of Bound Brook	2005
Guillermo R. Arango, Jr. of New Brunswick	2007
Arlene R. Green of Colonia	2007
Gregory B. Pasquale of Princeton	2007
Deborah A. Rose of Edison	2007
Elizabeth S. Bair of Woodbridge	2008
Ernest Blair of Paulsboro	2008
Gregory A. Drews of New Brunswick	2008
Chris E. Piasecki of Middlesex	2008
Antonio J. Toto of South River	2008
Juan J. Tenreiro of Edison	2005
Kerny Kuhltau of Piscataway	2006
Mary Martin of Middlesex	2006
Louis G. Cangelosi of Woodbridge	2007
Navin Jiwnani of Greenbrook	2007

	Term Expires
Charles F. Shaughnessy of Colonia	2007
Robin Cholowski of South Amboy	2008

District IX
(Monmouth County)

Secretary: Robert J. Saxton of Wall Township

Gregory S. Baxter of Shrewsbury, Chair	2006
Jeanette Pappas of Spring Lake, Vice Chair	2007
Christine Giordano Hanlon of Edison	2005
Van Lane of Freehold	2005
Michele C. Bowden of Red Bank	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
Robert J. Boland of Morganville	2007
Michael Richard DuPont of Red Bank	2007
Leslie S. Vincent of Middletown	2007
Richard W. Hogan of Ocean Grove	2007
Edward P. Fradkin of Oakhurst	2008
Elaine Wilcher of Asbury Park	2005
Denise A. Clericuzio of Holmdel	2006
Joseph E. Bennett of Neptune	2006
Dr. Linda O. Hochman of Shrewsbury	2006
Diane Traverso of Oakhurst	2006
Michelle Ragula of Manalapan	2006
Michel A. Tartza of Wall	2006
Lydia Valencia of Lakewood	2007
Allen C. Jenkins of Marlboro	2008
Walter T. MacGowan, Jr. of Spring Lake	2008

District X

(Morris and Sussex Counties)

Secretary: Melinda d. Middlebrooks of Morristown

Ann M. Edens of Chester, Chair	2005
Fred Semrau of Boonton, Vice Chair	2006
Mallary Steinfeld of Morristown	2006
Mark A. Blount of Chester	2007
Robert L. Gaynor of Succasunna	2007
Allan J. Iskra of Parsippany	2007
Aron M. Schwartz of Woodbridge	2007
Arthur J. Shulman of Livingston	2007
Leonar C. Walczyk of Millburn	2007
Jonathan S. Bristol of Morristown	2008
John E. Ursin of Sparta	2008
Herbert M. Strulowitz of Randolph	2008
Peter J. Tol of Far Hills	2008
Bernard B. Verosub of Rockaway	2006
Catherine S. Litwin of Morristown	2007
Dan Vinod of Morristown	2007
John A. Escobar of Budd Lake	2008
Alyssa Okrent of Flanders	2008

District XI

(Passaic County)

Secretary: Anthony Benevento of Totowa Borough

Linda Couso Puccio of Wayne, Chair	2005
Irene Mecky of Wayne, Vice Chair	2006
Jane E. Salomon of Paterson	2005
Richard A. Shackil of Paterson	2005
Randall Chiocca of Parsippany	2005
Amato A. Galasso of Ridgewood	2006
Kristin M. Corrado of Totowa Borough	2007
William S. Taylor of Clifton	2007
Richard J. Baldi of Paterson	2008
Jose I. Bastarrika of Paterson	2008
Stephen B. Glatt of Paterson	2008

	Term Expires		Term Expires
Claudine M. Liss of Little Falls	2008	Pamela J. Labaj of Newark	2008
Yolanda Simmons of Paterson	2007	Marc Kelley of Cranford	2005
Millie Santiago of Clifton	2007	Mary N. Cooper of Summit	2007
Angelo Lobosco of West Paterson	2007	Linda B. Hander of New Providence	2008
Carmine Maggio of Clifton	2007	Alan T. English of Summit	2008
Patricia M. Rocco of Paterson	2008	Gerald A. Hale of Summit	2008
Linda Petsch of Newfoundland	2008	Christine Piga of Elizabeth	2008

District XII

(Union County)

Secretary: Carol A. Jeney of Scotch Plains

Gianfranco A. Pietrafesa of Summit, Chair	2005
Robert L. Munoz of Clark, Vice Chair	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
John M. Boyle of Westfield	2007
Michael F. Brandman of Cranford	2007
Cary R. Hardy of Summit	2007
Susan C. Taylor of Summit	2007
James J. Byrnes of Union	2008

District XIII

(Hunterdon, Somerset and Warren Counties)

Secretary: Stuart C. Ours of Washington

James Scott DeMasi of Phillipsburg, Chair	2005
Joanne Byrnes of Flemington, Vice Chair	2007
Charles Z. Schalk of Somerville	2005
Kurt G. Ligos of Hackettstown	2005
Eliot M. Goldstein of Warren	2007
Donna Marie Jones Emmi of Hillsborough	2008
Lisa J. Pezzano of Bridgewater	2008
Robert G. Wilson of Somerville	2008
Gale S. Wachs of Bridgewater	2005
Dorothy Pesaniello of Phillipsburg	2006
Marjorie L. Rand of Martinsville	2006
Andrae Wood of Lebanon	2007

**RANDOM AUDIT
COMPLIANCE
PROGRAM**

Chapter Four



“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)

PROTECTING THE PUBLIC TRUST

The latest financial information shows that clients allowed Garden State lawyers to hold in excess of \$2 Billion on average in mandatory IOLTA attorney trust accounts according to the *2003 Annual IOLTA Fund Report*. Additionally, billions of dollars are also handled by New Jersey law firms in other attorney trust accounts and in separate accounts maintained in connection with estates, guardianships, receiverships, trusteeships and other similar fiduciary capacities. As former Chief Justice Robert N. Wilentz put it 25 years ago, clients trust the legal profession implicitly to safe keep their money and their property:

“Having sought his advice and relying on his expertise, the client entrusts the lawyer with the transaction including the handling of the client’s funds. Whether it be a real estate closing, the establishment of a trust, the purchase of a business, the investment of funds, the receipt of proceeds of litigation, or any one of a multitude of other situations, it is commonplace that the work of lawyers involves possession of their clients’ funds. That possession is sometimes expedient, occasionally simply customary, but usually essential. Whatever the need may be for the lawyer’s handling of clients’ money, the client permits it because he trusts the lawyer.

It is a trust built on centuries of honesty and faithfulness. Sometimes it is reinforced by personal knowledge of a particular lawyer’s integrity or a firm’s reputation. The underlying faith, however, is in the legal profession, the bar as an institution. No other explanation can account for clients’ customary willingness to entrust their funds to relative strangers simply because they are lawyers.” *81 N.J. 451, 454-455 (1979)*.

Such unwavering public trust requires thorough and responsible regulatory oversight on a continuous basis. This was the foundation on which New Jersey’s Random Audit Compliance Program was established in 1978. The random program has actually conducted financial audits of private law firms for twenty-three years, commencing in 1981. All private law firms in this state are required to maintain trust and business accounts in their practices and are subject to random reviews for accounting compliance. Private practice law firms are randomly selected annually from the state’s Annual Attorney Registration database. The program maintains an experienced staff of five full-time random auditors and one support staff member. The random program is conducted under the auspices of the Supreme Court’s Office of Attorney Ethics (OAE). New Jersey has the largest random auditing program in the country. Only six other states in the nation have operational Random Audit Programs.

The program results over almost a quarter of a century are encouraging. They show that the overwhelming majority of New Jersey law firms (98.8%) account for clients’ funds without incident. While the random program identifies minor record keeping deficiencies, it also educates lawyers about the causes of these deficiencies, as well as how they may be corrected. Practitioners then make corrections and certify their compliance in writing. Serious ethical misconduct has been detected in just over one percent of all audits conducted.

Please also note that your auditor was extremely helpful to me by providing guidance and advice regarding the accounting practices of my very young firm. Nothing in my practice brought me fear except dealing with client funds and the related accounting. With your auditor’s help, I am now much more confident that the task is being dispatched correctly and in compliance with the rules.

A Morris County Sole-Practitioner

RANDOM AUDIT PURPOSES

The Random Program serves multiple purposes in New Jersey. The central purpose is to insure compliance with the Court's stringent financial record keeping rules governing the handling of clients' funds and 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 in those relatively small number of law firms where it occurs. Since the random selection process results, by definition, in selecting a representative cross-section of the New Jersey Bar, a few audits inevitably uncover lawyer theft, even though this is not the primary purpose of the program. These cases are discussed later under the heading "Disciplinary Action."



SELECTION, STANDARDS and SCHEDULING

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."

In New Jersey, the actual selection is computer-generated based on a Microsoft algorithm for randomness. The selection utilizes the main law office telephone number provided by attorneys on their

Annual Attorney Registration Statement (**Chapter 5**) as an identifier for the law firm in the random selection process. The selection is made on a statewide basis and not by county. The Supreme Court approved this methodology in 1991 as the fairest and most unbiased selection process possible, because it insured that each law firm has an equal chance of being selected.

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 among 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 must be uniformly and prominently designated "Attorney Trust Account." All business accounts are required to be prominently designated as either "Attorney Business Account," "Attorney Professional Account," or "Attorney Office Account." All required books and records have to be maintained for a period of seven years. These required records must be made available for inspection by random audit personnel. The confidentiality of all audited records is maintained at all times.

New Jersey uses a statewide approach to audit selection. Once an annual, statewide selection has been made, scheduling 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, checkbooks stubs, duplicate deposit slips and receipts and disbursements journals for both the business and trust account covering a two year period.

On a more personal note, I would like to note the professionalism of the compliance auditor who met with me. The auditor was professional, concise and easy to work with. I appreciated the auditor's comments and feel that the audit was productive for the firm.

A MULTI-MEMBER CAMDEN LAW FIRM

CONFERENCE, EXAMINATION and EXIT INTERVIEW

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. The auditor then conducts a physical inspection of the required books and records for both the trust and business accounts. The heart of the review and audit is the examination and testing of the law firm's financial record keeping system.

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.

NOTICE OF DEFICIENCY

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 a confirming letter is not received, a final ten-day letter is sent advising the law firm that, if no confirming letter is received 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 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).

Thank you for this opportunity to correct these deficiencies. I have already seen positive results in terms of efficiency in my practice as a result of the correctionse. Your auditor was professional and courteous in the interview and her input and instruction was very helpful.

A SOLE PRACTITIONER FROM ATLANTIC COUNTY

PERSONNEL

The Random Audit Program is conducted under the auspices of the Supreme Court's OAE. This group 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. Secretary Elvira Pilla assists these individuals.

The Chief Auditor and all staff are appointed by the Director of the OAE, subject to the approval of the Chief Justice of the Supreme Court of New Jersey. Random audit personnel are full-time employees and all random audits are performed in-house. The use of full-time, experienced auditors insures the development of expertise in legal practice, uniformity of audit approach and also, maximizes the program's ability to detect misappropriations when they occur.

Robert J. Prihoda, Chief, Random Audit Program

Joined OAE 1981

Education: B.S. Trenton State College 1977; J.D. Rutgers School of Law Camden 1993

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 CPA's; Admitted to New Jersey and Pennsylvania Bars (1993).

Mary E. Waldman, Assistant Chief Random Auditor

Joined OAE 1988

Education: B.S. Rider University 1984

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

Mimi Lakind, Senior Random Auditor

Joined OAE 1984

Education: B.A. Summa Cum Laude 1978, M.A. Magna Cum Laude William Paterson College 1985; J.D. Cum Laude Seton Hall University School of Law 1993.

Accounting Experience: Bookkeeper, I. Mirsky & Co. (1972-76); Accountant, Global Distributors (1977-81); Accountant, Lowenstein, Sandler, Esqs. (1982-83).

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

Karen J. Hagerman, Senior Random Auditor

Joined OAE 1995

Education: B.A. Monmouth University 1991

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

Joseph R. Strieffler, Jr., Random Auditor

Joined OAE 1998

Education: B.A. Holy Family College 1995

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

Personally, I would like to express my gratitude for the assistance, cooperation and complete professionalism of your auditor. I learned everything about the appropriate Rules regarding the accounts. The auditor's knowledge is unsurpassed and delivered in a very congenial, non-threatening manner. Your auditor is a wonderful representative of your Unit.

A BERGEN COUNTY LAW FIRM

TRUST ACCOUNTING EDUCATION

As 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 course that includes this important subject. This course is offered several times per year and is conducted by the New Jersey Institute for Continuing Legal Education.

In addition, the Director of the OAE has published a book entitled *Trust and Business Accounting for Attorneys* (5th Edition 2003), 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 required all private practitioners to list their primary trust account and business account and to certify their compliance with the record keeping requirements of *Rule 1:21-6*. A reproduction of that rule is included in the annual mailing. The program also publishes a brochure entitled *New Jersey Attorney's Guide to the Random Audit Program and Attorney Trust Accounts and Record Keeping*. Since 1996, that brochure is sent to all private practice law firms, together with the initial letter scheduling a random audit. Moreover, that document is also available on the OAE's website under "Random Audits" at <http://www.judiciary.state.nj.us/oae/index.htm>.

**Key
Trust Accounting
Concepts**



	1. Separate Clients Are Separate Accounts
	2. You Can't Spend What You Don't Have
	3. Timing Is Everything
	4. Always Maintain An Audit Trail
	5. Trust Accounting Is Zero-Based Accounting
	6. There Is No Such Thing As A Negative Balance
	7. You Can't Play the Game Unless You Know the Score

Figure 23

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 OAE has developed seven key concepts (Figure 23) that help lawyers understand basic concepts about proper trust accounting procedures. These key concepts, which form the cornerstone of the “Trust and Business Accounting for Attorneys” book, are also explained in detail in the mandatory trust and business course required of all newly admitted attorneys.

DISCIPLINARY ACTION

The random program is designed to insure public accountability and 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-three year period from July 1981, when audits first began, through December 31, 2004, serious financial misconduct by 106 attorneys was detected solely as a result of being randomly selected for audit. These attorneys received the following discipline for their violations: 57 attorneys were disbarred, 15 were suspended for periods of three months to two years, 25 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. Disbarred (57) and suspended (15) attorneys account for 69% of all disciplined attorneys. A complete list of all disbarred attorneys is shown as Figure 24.

However, even this discussion does not begin to adequately emphasize the real importance of the role of the random program over the past 23 years and the monies saved by the Lawyers’ Fund for Client Protection (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 random 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, DWI checkpoints, etc.). 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.

During calendar year 2004, the Supreme Court finally disciplined two attorneys who committed serious ethical violations. These attorneys were detected solely by the program.

On April 19, 2004, Paul W. Dare of Cape May County was disbarred by consent by the Supreme Court of New Jersey when he admitted that he could not successfully defend pending disciplinary charges involving the knowing misappropriation of over \$75,000 in trust money from an estate. *In re Dare, 180 N.J. 114*.

The Supreme Court disbarred Emanuel H. Needle of Essex County on June 29, 2004 where the respondent, over a period of more than a decade, settled personal injury claims for clients, took excessive fees and transferred the balance of monies being held to pay medical costs and welfare liens to a T. Rowe Price mutual fund account in respondent’s sole name outside the State of New Jersey. The respondent did virtually nothing to see that the medical charges and welfare liens were paid. He also engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in repeatedly lying to the Internal Revenue Service about the T. Rowe Price account, claiming that all the monies in the account were clients’ trust funds, when, in fact, most of the monies belonged to respondent; thus, he failed to pay income tax on the substantial

interest paid on this account. Furthermore, respondent engaged in dishonesty and deceit when he loaned clients monies from a non-existent individual “Molly Glicker,” when, in fact, the loans were from respondent. He failed to comply with the notice and authorization requirements of *RPC 1.8(a)* in connection with those loans. *In re Needle, 180 N.J. 300.*

SERIOUS RANDOM AUDIT DISCIPLINE

<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	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
Boyadjis, Andreas A.	Morris	Disbarment By Consent	112 N.J. 618	1988
Brasno, Andrew T., Jr.	Middlesex	Disbarment	171 N.J. 341	2002
Briscoe, John F.	Ocean	Disbarment By Consent	Unreported	1987
Bryant, Donald	Mercer	Disbarment By Consent	117 N.J. 676	1989
Buda, David N.	Bergen	Disbarment By Consent	178 N.J. 257	2003
Calise, Francis T.	Passaic	Disbarment By Consent	135 N.J. 78	1994
Callahan, John E.	Union	Disbarment	162 N.J. 182	1999
Combes, Charles L.	Bergen	Disbarment By Consent	116 N.J. 778	1989
Conway, Charles D.	Ocean	Disbarment By Consent	167 N.J. 207	2003
Cronin, Clinton E.	Ocean	Disbarment	146 N.J. 487	1996
Dare, Paul W.	Cape May	Disbarment By Consent	180 N.J. 114	2004
DiLieto, Louis	Monmouth	Disbarment	142 N.J. 492	1995
Franco, Leonard H.	Hudson	Disbarment By Consent	169 N.J. 386	2001
Freimark, Lewis B.	Essex	Disbarment	152 N.J. 45	1997
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
Haeberle, 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
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
Kern, Walter M.D., Jr.	Bergen	Disbarment By Consent	109 N.J. 635	1987
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
Mogck, John J., III	Burlington	Disbarment By Consent	130 N.J. 386	1992
Mysak, Charles J.	Passaic	Disbarment	113 N.J. 553	1989
Needle, Emauel H.	Essex	Disbarment	180 N.J. 300	2004
Nitti, Louis J.	Essex	Disbarment	110 N.J. 321	1988
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
Silber, Benjamin A.	Salem	Disbarment By Consent	175 N.J. 552	2003
Spritzer, Henry M.	Middlesex	Disbarment By Consent	165 N.J. 520	2000
Tighe, Charles I., III	Burlington	Disbarment By Consent	143 N.J. 298	1996
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	1987
Warhaftig, Arnold M.	Union	Disbarment	106 N.J. 529	1987
Williams, Kenneth H.	Essex	Disbarment By Consent	117 N.J. 686	1989
Wright, William, Jr.	Essex	Disbarment	163 N.J. 133	2000

Figure 24

**CHARACTERISTICS
of the
NEW JERSEY BAR
FOR YEAR 2003**

Chapter Five



“(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)

YEAR ADMITTED TO THE BAR

As of November 16, 2004, the attorney registration database counted a total of 80,827 attorneys. Information on year of admission was available for all 80,827 practitioners. Over sixty-eight percent of all New Jersey attorneys (68.07%) were admitted to practice since 1986, while almost eighty percent (79.39%) were admitted since 1981. Eighty-six percent of all attorneys (86.65%) were admitted since 1976. These figures are graphically shown below and are statistically compiled to the right.

YEAR ADMITTED		
Year	Number	Percent
<50	697	0.86%
1951-1955	589	0.73%
1956-1960	809	1.00%
1961-1965	1,239	1.53%
1966-1970	2,455	3.04%
1971-1975	5,001	6.19%
1976-1980	5,872	7.26%
1981-1985	9,151	11.32%
1986-1990	14,555	18.01%
1991-1995	16,804	20.79%
1996-2000	14,773	18.28%
2001-2005	8,882	10.99%
TOTALS	80,827	100.00%

Year Admitted

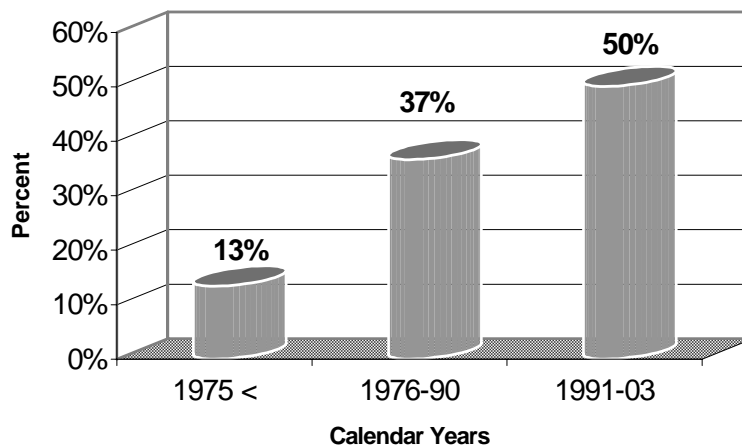


Figure 26

ATTORNEY AGE

Of the 80,827 attorneys for whom some registration information was available, 73,928 (91.46%) provided their date of birth. No response to this question was made by 6,899 attorneys (8.54%). The resultant age distribution of New Jersey attorneys is graphically shown below. The statistical results are set to the right.

AGE GROUPS		
Age	Number	Percent
<25	40	0.05%
25-29	3,060	4.14%
30-34	9,476	12.82%
35-39	13,483	18.24%
40-44	12,567	17.00%
45-49	10,741	14.53%
50-54	8,625	11.67%
55-59	6,856	9.27%
60-64	4,010	5.42%
65-69	1,878	2.54%
70-74	1,372	1.86%
75-80	816	1.10%
>80	1,004	1.36%
TOTALS	73,928	100.00%

Age Distribution

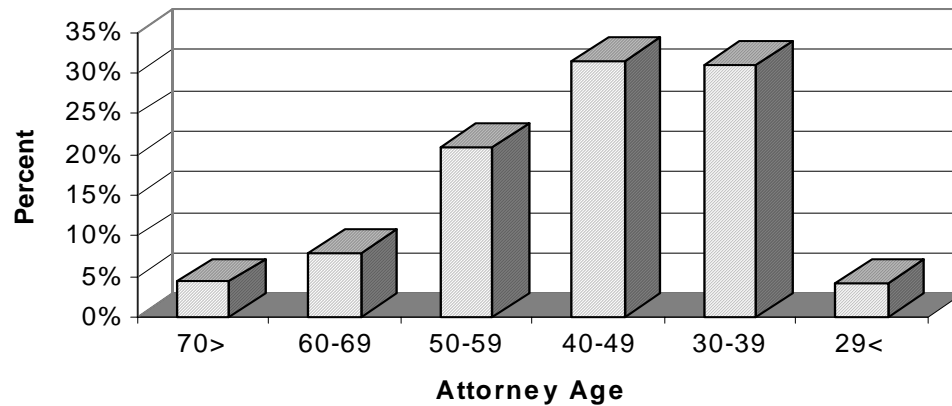


Figure 27

ADMISSIONS IN OTHER JURISDICTIONS

The 80,827 attorneys for whom some registration information was available were admitted to many other jurisdictions. In fact, two-thirds (66.69%) of all attorneys were admitted to the bars of other jurisdictions, while one-third (33.31%) 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		
Admissions	Attorneys	Percent
Only in NJ	26,924	33.31%
Add'l Jurisd.	53,903	66.69%
TOTALS	80,827	100.00%

Admissions in Other Jurisdictions

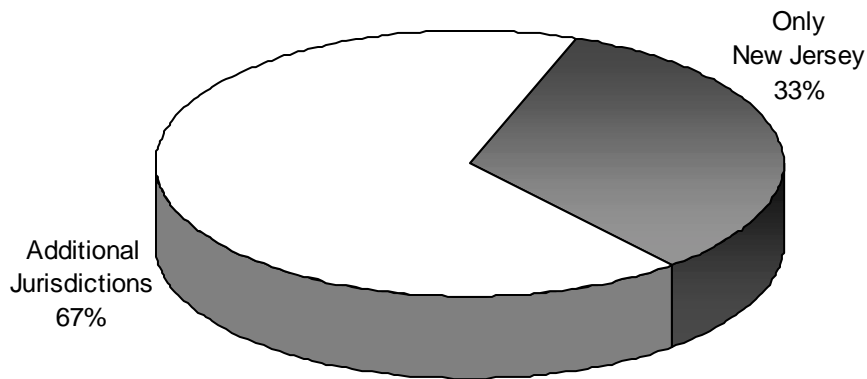


Figure 28

ADMISSIONS IN OTHER JURISDICTIONS

<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>	<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>
New York	30,240	44.06%	New Hampshire	90	0.13%
Pennsylvania	19,250	28.05%	Nevada	77	0.11%
District of Col.	5,571	8.12%	West Virginia	76	0.11%
Florida	2,789	4.06%	South Carolina	68	0.10%
California	1,477	2.15%	Hawaii	64	0.09%
Connecticut	1,236	1.80%	Oregon	61	0.09%
Massachusetts	1,202	1.75%	Rhode Island	59	0.09%
Maryland	966	1.41%	Kentucky	59	0.09%
Virginia	584	0.85%	New Mexico	54	0.08%
Illinois	557	0.81%	Oklahoma	42	0.06%
Texas	473	0.69%	Virgin Islands	42	0.06%
Georgia	396	0.58%	Alabama	40	0.06%
Ohio	380	0.55%	Kansas	40	0.06%
Colorado	377	0.55%	Iowa	35	0.05%
Delaware	364	0.53%	Puerto Rico	33	0.05%
Michigan	255	0.37%	Arkansas	23	0.03%
North Carolina	227	0.33%	Utah	21	0.03%
Arizona	209	0.30%	Alaska	21	0.03%
Washington	135	0.20%	Idaho	18	0.03%
Minnesota	133	0.19%	Mississippi	17	0.02%
Maine	127	0.19%	Montana	14	0.02%
Missouri	122	0.18%	South Dakota	11	0.02%
Louisiana	110	0.16%	North Dakota	8	0.01%
Wisconsin	108	0.16%	Guam	4	0.01%
Vermont	101	0.15%	Nebraska	0	0.00%
Tennessee	98	0.14%	Wyoming	0	0.00%
Indiana	94	0.14%	Invalid Responses	79	0.12%
			Total Admissions	68,637	100.00%

Figure 29

PRIVATE PRACTICE IN NEW JERSEY

Of the 80,827 attorneys on whom some registration information was tabulated, 32,419 indicated they were in private practice here. Some 710 (less than 1%) 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 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		
Response	Number	Percent
NO	48,408	59.89%
YES	32,419	40.11%
Full-time	21,372	
Part-time	6,889	
Occasionally	3,448	
Unspecified	710	
TOTAL	80,827	100.00%

**Attorneys in Private Practice
in New Jersey**

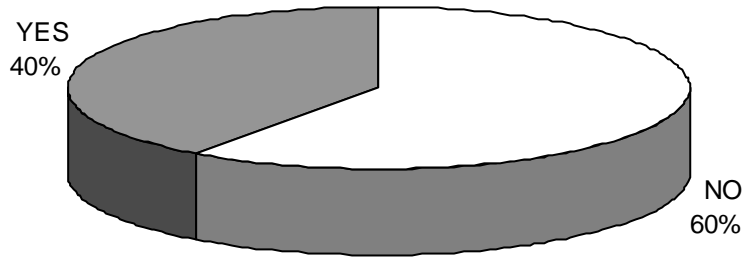


Figure 30

STRUCTURE OF LAW FIRMS

Of the 32,419 attorneys who indicated they were engaged in the private practice of law in New Jersey, 98.51% (31,935) responded to this question. The responses reflect that over one-third (33.4%) practiced in sole proprietorships [sole practitioners plus sole stockholders]. The next largest group was associates (29.70%), followed by partners (24.66%), other than sole stockholders (5.92%), and attorneys who were of counsel (5.31%). Set forth to the right are the supporting statistics, which are graphically shown below.

PRIVATE PRACTICE STRUCTURE

Structure	Number	Percent
Sole Practitioner	10,162	31.82%
Sole Stockholder	824	2.58%
Other Stockholders	1,891	5.92%
Associate	9,486	29.70%
Partner	7,875	24.66%
Of Counsel	1,697	5.31%
TOTALS	31,935	100.00%

**Private Practice Structure
in New Jersey**

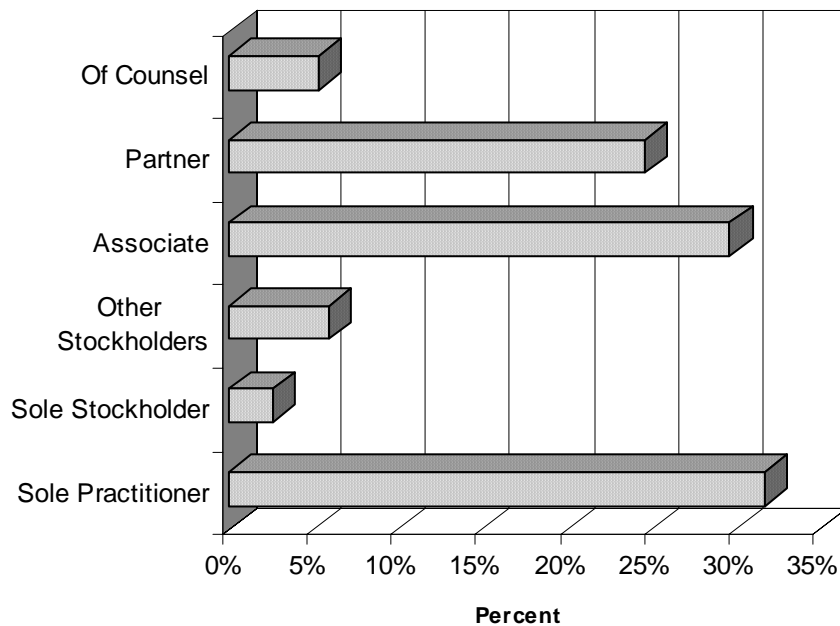


Figure 31

SIZE OF LAW FIRMS

Of the 32,419 attorneys who indicated that they were engaged in the private practice of law in New Jersey, 99.33% (32,202) responded by indicating the size of the law firm of which they were a part. Responses indicated that one-third (33.26%) practiced alone; 10.16% worked in two-person law firms; 16.04% worked in law firms of 3-5 attorneys; 29.67% worked in law firms with 6-49 attorneys and 10.87% 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		
Firm Size	Number	Percent
One	10,711	33.26%
Two	3,271	10.16%
3 to 5	5,166	16.04%
6 to 10	3,527	10.95%
11 to 19	2,592	8.05%
20 to 49	3,436	10.67%
50 >	3,499	10.87%
TOTALS	32,202	100.00%

Law Firm Size

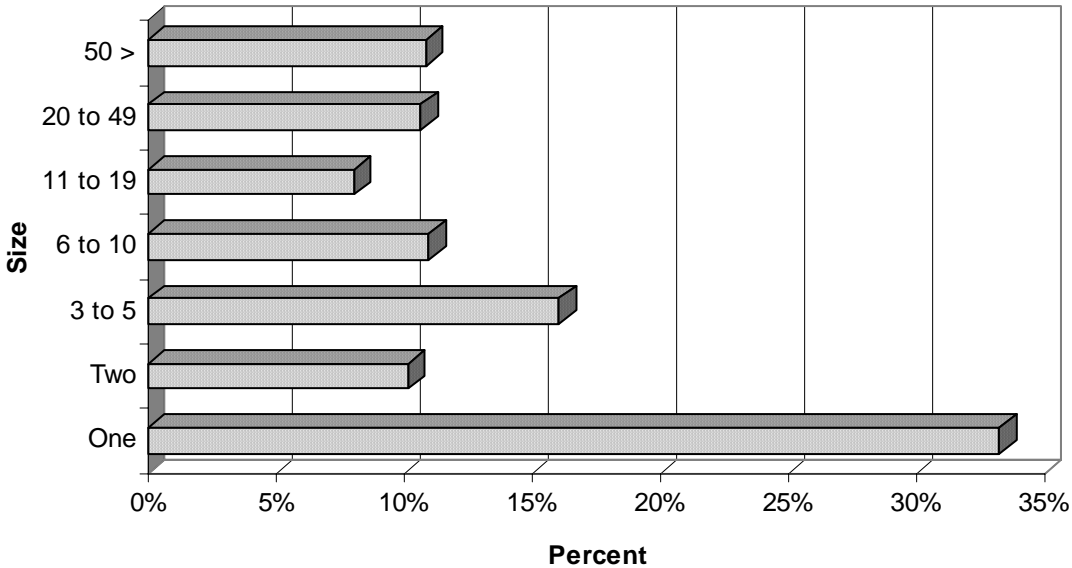


Figure 32

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 32,419 attorneys who indicated they were in private practice. A total of 32,202 (99.33%) 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 (74.28%) were single practice firms. Two person firms represented 11.34% of all private practice firms, while firms of between 3 to 5 comprised 8.96%. Only 5.43% 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

<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	10,711	1	10,711	74.28%
Two	3,271	2	1,636	11.34%
3 to 5	5,166	4	1,292	8.96%
6 to 10	3,527	8	441	3.06%
11 to 19	2,592	15	173	1.20%
20 to 49	3,436	35	98	0.68%
50 >	3,499	50	70	0.49%
TOTALS	32,202		14,420	100.00%

Figure 33

BONA FIDE LAW OFFICES

Of the 32,419 attorneys who indicated they were engaged in the private practice of law in New Jersey, 97.72% (31,680) 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 17.49%. The next largest county was Camden County in South Jersey with 13.52%. Bergen County was third with 12.35%. Morris County came in fourth with 9.42%. The supporting statistics and charts are shown on this and the following page.

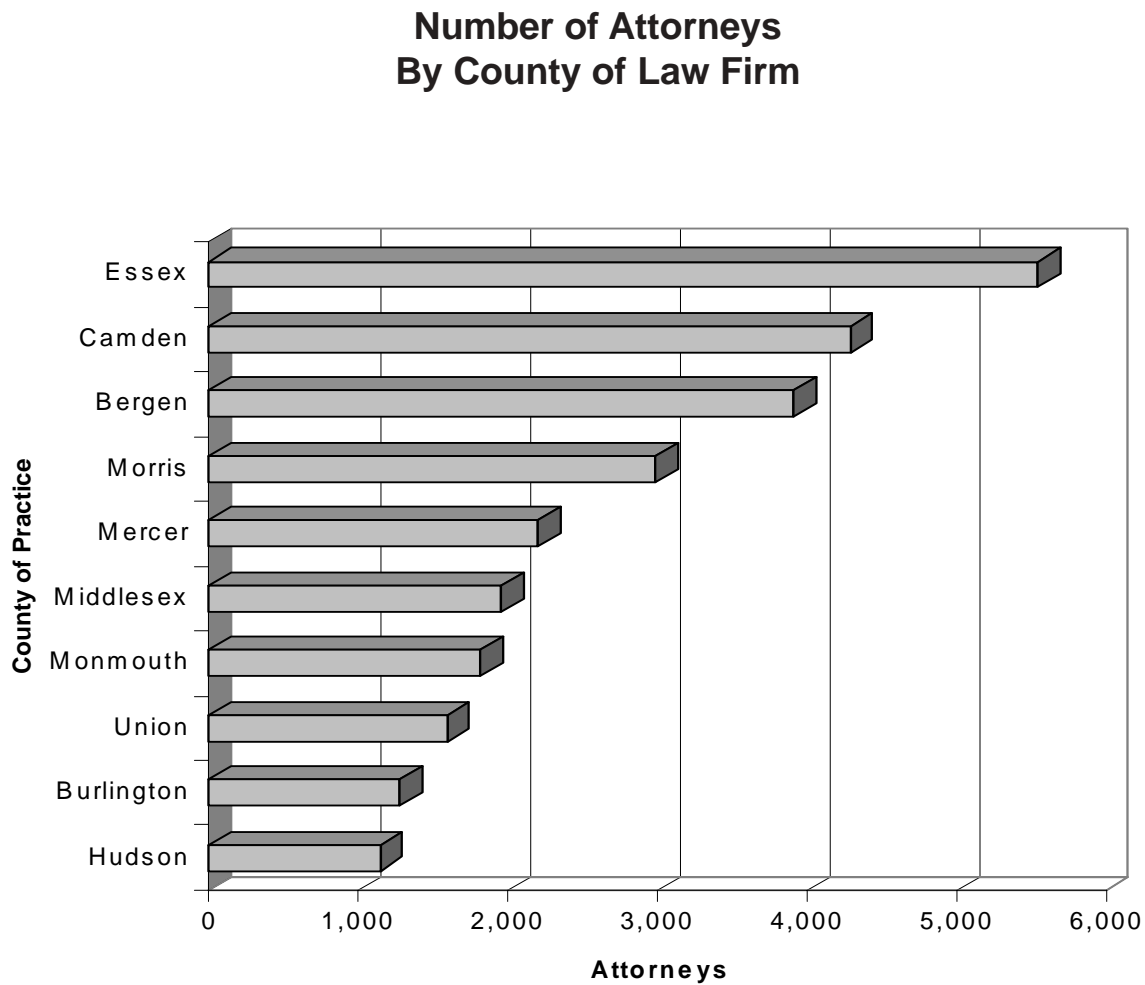


Figure 34

ATTORNEYS WITH BONA FIDE OFFICES

County	Number	Percent	County	Number	Percent
Atlantic	672	2.12%	Middlesex	1,952	6.16%
Bergen	3,912	12.35%	Monmouth	1,814	5.73%
Burlington	1,272	4.02%	Morris	2,983	9.42%
Camden	4,282	13.52%	Ocean	775	2.45%
Cape May	191	0.60%	Passaic	936	2.95%
Cumberland	206	0.65%	Salem	69	0.22%
Essex	5,542	17.49%	Somerset	1,007	3.18%
Gloucester	399	1.26%	Sussex	213	0.67%
Hudson	1,141	3.60%	Union	1,591	5.02%
Hunterdon	328	1.04%	Warren	<u>199</u>	<u>0.63%</u>
Mercer	2,196	6.93%	TOTALS	31,680	100.00%

**Number of Attorneys
By County of Law Office**

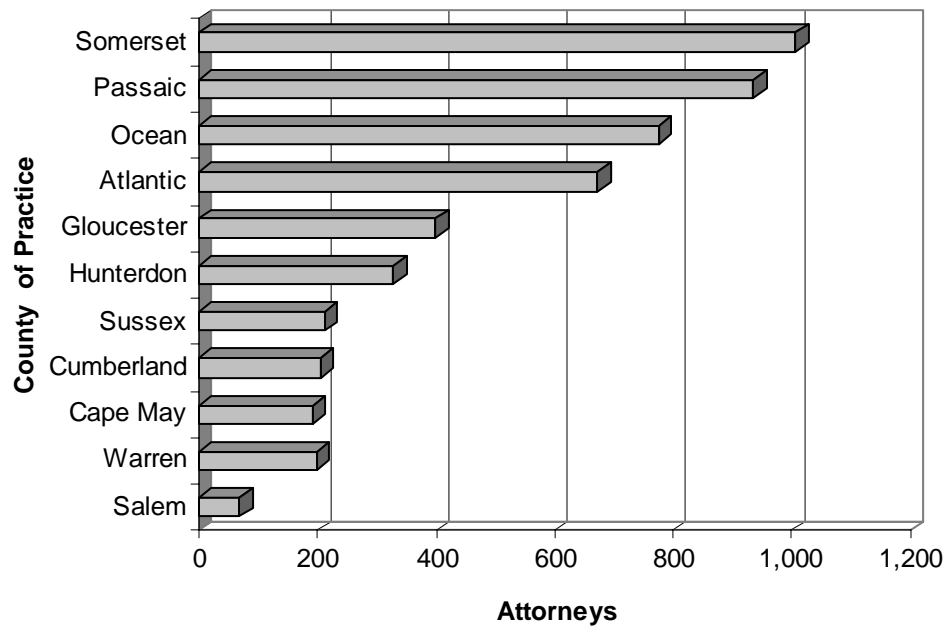


Figure 35

GLOSSARY

**GLOSSARY
OF
ATTORNEY DISCIPLINE TERMS**

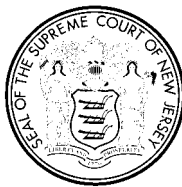
Admonition	a letter or order that admonishes an attorney for unethical conduct. It is the least serious disciplinary sanction that may be imposed.
Agreement in Lieu of Discipline	the vehicle used to accomplish diversion of “disciplinary” matters where an attorney who qualifies for diversionary treatment admits “minor” unethical conduct has been committed. <i>R.1:20-3(i)(2)(B)</i> .
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.
Censure	an order or opinion of the Supreme Court of New Jersey that condemns an attorney for unethical conduct. A censure is more serious than a short suspension from practice.
Complaint	the written document formally charging the respondent with specific violations of unethical conduct. A complaint is issued after completion of an investigation that meets the standard of <i>R.1:20-4(a)</i> .
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. <i>R.1:20-15(g)</i> and <i>R.1:20-16(e)</i> .
Director	the Director of the Office of Attorney Ethics, who administers the Office of Attorney Ethics, District Ethics Committees, District Fee Arbitration Committees, the Random Audit Program, the Annual Attorney Registration Statement and the Trust Overdraft Notification Program.

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. <i>R.1:20-12.</i>
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, except that the Board may issue letters of admonition.
Discipline by Consent	a procedure whereby a respondent may agree with an investigator, presenter or ethics counsel to admit facts constituting unethical conduct 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>
Dismissal	a finding, either after an investigation or hearing, that a respondent did not commit unethical conduct.
District Ethics Committee	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. District secretaries first screen with guidelines approved by the Supreme Court and they docket those that meet the Court’s standards.

District Fee Arbitration Committee	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.
Diversion	a non-disciplinary treatment by consent by attorneys who admit they have committed “minor” unethical conduct 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> .
Ethics Counsel	an attorney of the Office of Attorney Ethics. <i>R.1:20-2(a)</i> .
Fee Arbitration	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.
Grievance	any allegation of unethical conduct made against an attorney. A grievance, if docketed, is assigned for investigation.
Hearing Panel	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.
Inquiry	any written communication to a District Ethics or Fee Committee or the Office of Attorney Ethics. Many inquiries are not grievances, but requests for information; however some inquiries are grievances.
Investigation	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.

<p>Minor Unethical Conduct</p>	<p>refers to those minor types of unethical conduct which, if proved, would not warrant discipline greater than an admonition, the least serious disciplinary sanction. Minor unethical conduct matters are eligible for diversionary treatment. <i>R.1:20-3(i)(2)</i>.</p>
<p>Office of Attorney Ethics</p>	<p>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. See “Director” above for a list of other responsibilities of this office.</p>
<p>Panel Chair</p>	<p>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.</p>
<p>Presenter</p>	<p>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>.</p>
<p>Random Audit Program</p>	<p>a program that randomly selects private practice law firms for audit of their attorney trust and business accounts to insure that these lawyers comply with mandatory record keeping rules and practices required by the Supreme Court of New Jersey.</p>
<p>Reinstatement</p>	<p>an order of the Supreme Court of New Jersey that reinstates a formerly suspended attorney from practicing law. No suspended attorney can begin practicing law until the attorney has applied for and been reinstated by the Supreme Court. Since disbarment is permanent in New Jersey, there is no procedure for disbarred attorneys to seek reinstatement. <i>R.1:20-21</i>.</p>

Reprimand	an order or opinion of the Supreme Court of New Jersey that reproofs an attorney for committing unethical conduct. A reprimand is a more serious sanction than an admonition and less serious than a censure.
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, censure, 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 an indeterminate period (generally 5 years) or for an indefinite period. No suspended attorney can again practice law unless the attorney has first applied for and been reinstated by the Supreme Court.
Trier of Fact	an ethics committee hearing panel or special ethics master who presides at an ethics hearing and decides whether or not unethical conduct has been proved.



Office of Attorney Ethics