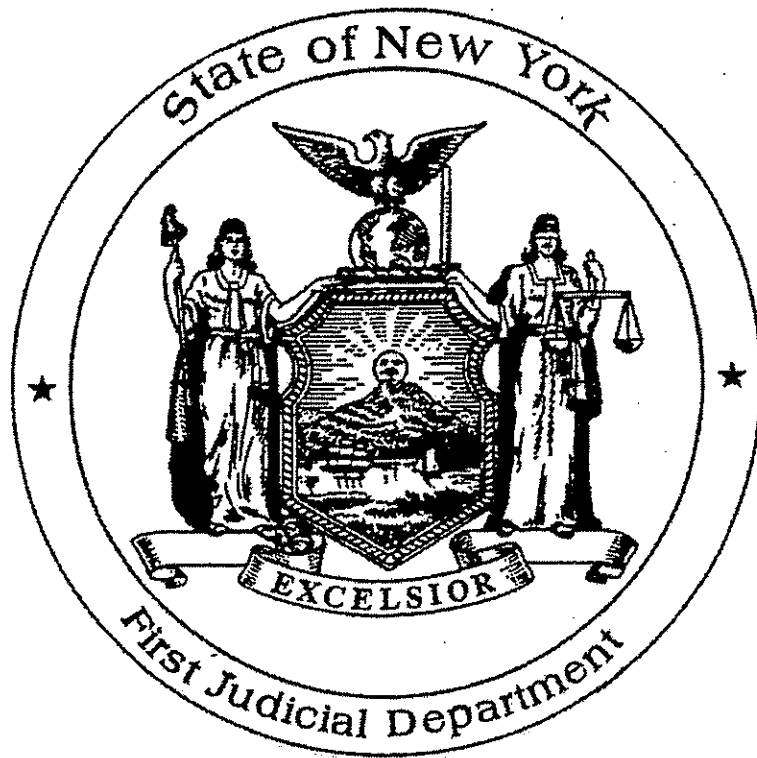


# 2013 ANNUAL REPORT



**The Departmental Disciplinary Committee  
of the Appellate Division of  
the Supreme Court of  
the State of New York,  
First Judicial Department**



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**The Departmental Disciplinary Committee  
of the Appellate Division  
of the Supreme Court  
of the State of New York,  
First Judicial Department**

**Ernest J. Collazo  
Chair**

**Jorge Dopico  
Chief Counsel**



**TABLE OF CONTENTS**

	<u>Page</u>
<b>LETTER FROM ERNEST J. COLLAZO, CHAIR</b> .....	1
<b>CHIEF COUNSEL'S REPORT</b> .....	2
<b>COMMITTEE MEMBERS</b> .....	3
<b>A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS</b> .....	28
Complaints, Investigations and Dismissals .....	28
Admonitions .....	30
Formal Charges .....	30
Serious Crimes .....	31
Applications to the Appellate Division .....	31
<b>REPRESENTATIVE CASES</b> .....	33
<b>SUMMARY OF REPRESENTATIVE CASES</b> .....	48
Interim Suspensions .....	48
Disbarments .....	48
Disciplinary Resignations .....	49
Suspension as Discipline .....	49
Suspension for Medical Disability .....	50
Public Censures .....	50
Reinstatements .....	50
Immigration Complaints .....	51

## APPENDICES

Appendix A: Committee Assignments

Appendix B: Chief Counsel's Office: Attorneys

Appendix C: Chief Counsel's Office: Support Staff

Appendix D: Bar Mediators

Appendix E: Annual Statistical Report to OCA

Appendix F: Budget for Fiscal Year 2013-2014

Appendix G: Complaint Form

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT  
DEPARTMENTAL DISCIPLINARY COMMITTEE

ERNEST J. COLLAZO, ESQ.  
CHAIRMAN

61 BROADWAY  
NEW YORK, N.Y. 10006

November 20, 2014

To the Bar and the Public:

As this Annual Report for 2013 demonstrates, the excellent work of the Committee and its superb Staff as headed by Chief Counsel Jorge Dopico under the guidance and leadership of its stellar Chairman, Roy L. Reardon, is to be highly commended. The Committee, the bar, and the public are all beneficiaries of the excellent stewardship provided by Roy during the six years he has chaired the Committee. We wish Roy the very best as he continues to share his intellect and skills to the many activities that benefit the profession.

I am pleased to report that the Committee's Hearing Panels have been very active during 2013 and their membership, including its non-lawyer members, represent virtually every segment of the practicing bar. We are fortunate to have the volunteer service of dedicated and esteemed Panel members who devote considerable time and effort to the Committee's work to protect the public from the unethical and improper conduct of attorneys.

I am honored and privileged to have been appointed by Presiding Justice Luis A. Gonzalez to succeed Roy as Chairman of the Committee. I pledge to devote my energy, intellect, and experience, in partnership with Chief Counsel Jorge Dopico, to insure that the disciplinary process in the First Department continues to remain second to none in the United States.

The Committee is indebted to Presiding Justice Luis A. Gonzalez and his judicial colleagues, the Court's Liaison Committee with this Committee, as well as Chief Clerk Susanna Molina Rojas, for their support and guidance as we undertake our solemn responsibilities.

Respectfully,



Ernest J. Collazo





## Chief Counsel's Report

The Departmental Disciplinary Committee saw a change of leadership in 2014. The Appellate Division, First Judicial Department appointed, Ernest J. Collazo, as Chairman of the Committee succeeding Roy L. Reardon, who completed his term in December 2013.

Mr. Collazo is a Columbia Law School graduate and managing partner at Collazo, Florentino & Keil. He is a dedicated and highly respected member of the legal community whose involvement with the DDC first began in 2008. His commitment to the public and the legal profession is evident by his membership in numerous professional, civic and international associations.

The Committee welcomed new members into its fold as some members departed. There were approximately 2,900 new cases opened and investigated in 2013, which does not include, the 2,387 cases of attorneys who were automatically suspended by our Court for failing to pay registrations fees.

Although our staff of attorneys, investigators and administrative secretaries is at an all time low due to budgetary issues, we are pulling together to accomplish our goal to protect the public from attorney misconduct and at the same time enforcing The New York Rules of Professional Conduct.

Many thanks to my dedicated staff whose tireless efforts and hard work are helping to restore the public's view of the legal profession while also enforcing the importance and sanctity of the oath lawyers vow to uphold upon their admittance.

I would also like to thank, Presiding Justice, Luis A. Gonzalez; Clerk of the Court, Susanna Molina Rojas; Deputy Clerk of the Court, Margaret Sowah; The Liaison Committee, and all the Justices of the Court for their continued support of the work we do at the DDC.



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Jorge Dopico  
Chief Counsel



## COMMITTEE MEMBERS

Committee members are volunteers appointed by the Court who fulfill both adjudicative and executive functions. Most significantly, they decide, after appropriate investigation by Staff, whether formal charges should be brought against an attorney, whether a private admonition should be issued, or whether the complaint should be dismissed or dismissed with guidance. If formal charges are approved, the Court appoints a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact, conclusions of law and recommended sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent recommendation as to liability and sanction. Thereafter, the Court makes the final determination on both liability and sanction based on its review of the record.

In 2013, 66 Committee members served on 9 different Hearing Panels of approximately seven members each, composed usually of seven lawyers and one non-lawyer.

In 2014, the Court appointed a new Chairman, Ernest J. Collazo, and the following new Committee members:

Robert J. Anello, Esq.  
Michael I. Bernstein, Esq.  
Thomas Birnbaum  
Joyce M. Bove  
Vincent T. Chang, Esq.  
Daniel D. Chu, Esq.  
Richard J. Condon  
John M. Desiderio, Esq.  
Darrell S. Gay, Esq.

Deesha M. Hill, Esq.  
Richard M. Kenny, Esq.  
Daniel F. Murphy, Esq.  
Fredric S. Newman, Esq.  
Pablo Quinones, Esq.  
Abigail T. Reardon, Esq.  
Edward M. Spiro, Esq.  
Sheea T. Sybblis, Esq.

Twelve other members of the Committee, including one non-lawyer, serve on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including possible rule changes, setting priorities and administrative issues. Members of the Policy Committee in 2013 were Roy L. Reardon, Chair, Christopher Chang, Esq., Ernest J. Collazo, Esq., Haliburton Fales, 2d, Esq., Charlotte Moses Fischman, Esq., Martin R. Gold, Esq., Robert L. Haig, Esq., Myron Kirschbaum, Esq., Alan Levine, Esq., Hon. Eugene Nardelli, Mercedes A. Nesfield, Hon. Joseph P. Sullivan, and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession and from law firms of varying sizes. The 12 non-lawyer members include business executives, financial advisers and educators.

Below are brief biographies of all of the Committee members who served, with dedication and energy, in 2013, highlighting their diverse accomplishments:

Roy L. Reardon (Chair)

Mr. Reardon is the Chair of the Committee. He is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association, the New York State Bar Association, and the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers. Mr. Reardon was honored for his lifetime achievements as one of New York's, and the nation's, premier attorneys at the Historical Society of the Courts of the State of New York.

Catherine M. Abate

Ms. Abate is the President and CEO of Community Healthcare Network, a not-for-profit organization dedicated to providing community-based primary care, mental health, and social services to diverse populations in underserved communities. Ms. Abate graduated *cum laude* from Vassar College and received her law degree from Boston University Law School. She began her professional life as an attorney at the Legal Aid Society in New York City. In 1986 Governor Cuomo appointed Ms. Abate to the position of Executive Deputy Commissioner of the New York State Division of Human Rights; and, in 1988 to the position of Chair of the New York State Crime Victims Board. During the Dinkins administration, she served as Commissioner of both the New York City Departments of Correction and Probation. Ms. Abate was elected as a New York State Senator in Manhattan from 1994 to 1998. While in the Senate, she was the ranking Democrat on the Crime Victims, Crime and Correction Committee, as well as Investigations and Government Operations Committee.

James M. Altman

Mr. Altman is a litigation partner at Bryan Cave LLP, where he focuses his practice on complex commercial litigation and issues of professional liability for lawyers. A graduate of Yale Law School, Mr. Altman is a frequent speaker and has written extensively on issues of professional ethics and the law of lawyering, including articles for the *Yale Law Journal*, the *Fordham Law Review*, *Litigation Magazine*, the *State Bar Journal*, and the *New York Law Journal*. Mr. Altman also taught legal ethics as an adjunct professor at the Brooklyn Law School. He has served on the ethics committees of the New York State Bar Association and the City Bar Association, and he is a past Chair of the New York State Bar Association Committee on Attorney Professionalism.

David Arroyo

Mr. Arroyo is Senior Vice President, Legal Affairs for Scripps Networks Interactive, in which capacity he manages the law department's litigation, intellectual property, real estate, and programming functions. He graduated from the University of Michigan Law School, Duke University, and Stuyvesant High School. While at the Law School, he served as an assistant and contributing editor of the *Michigan Law Review*. Following Law School but before joining Scripps, he clerked for a federal judge and was associated with a major global law firm.

Nina Beattie

Ms. Beattie is a partner in the firm of Brune & Richard LLP. Her practice focuses on white collar criminal and regulatory defense and commercial litigation. Ms. Beattie is a graduate of Dartmouth College and Yale Law School. After graduation, she served as a law clerk to the Hon. Kimba M. Wood in the United States District Court of the Southern District of New York. Ms. Beattie is a member of the Board of Directors of the City Bar Justice Center and the Fund for Modern Courts and a former board member of the New York Council of Defense Lawyers. She is also a member of the New York City Bar Association Committee on White Collar Criminal Law and the New York State Bar Association Committee on White Collar Criminal Litigation.

Peter A. Bellacosa

Mr. Bellacosa is a partner at the firm of Kirkland & Ellis LLP, where he practices in the area of complex commercial litigation. He graduated from Georgetown University and received his law degree from St. John's University. He is a member of the New York State Bar Association, the Association of the Bar of the City of New York and the Federalist Society for Law & Public Policy Studies.

George Berger

Mr. Berger is a senior litigation partner at Phillips Nizer LLP, where he has practiced law as a commercial litigator and appellate lawyer for his entire career. He also chairs its insurance practice. He is a graduate of the University College of New York University and of the New York University School of Law, where he served as Associate Managing Editor of its Law Review. He has been designated as a Distinguished Neutral by the Center for Public Resources. He is a member of the American Bar Association and of the Association of the Bar of the City of New York.

Sheila S. Boston

Ms. Boston is a partner in the New York office of Kaye Scholer LLP. Her litigation practice is concentrated in class action and product liability issues. Ms. Boston received her A.B. from the Woodrow Wilson School of Public Policy and International Affairs at Princeton

University in 1990; her minor was African American studies. She received her J.D. from Columbia University School of Law in 1993 and was the Topics Editor for the *Journal of Law and Social Problems*. She is currently the Secretary of the New York City Bar Association; Vice President of the Federal Bar Council; Membership Chair of the Federal Bar Council's American Inn of Court; and a member of the Steering Committee of Defense Research Institute's Drug and Medical Device Committee.

#### David Buksbaum

Mr. Buksbaum is a former vice president of news coverage and operations and director of special events for CBS News. He served as a consultant and advisor to the mayoral campaign of Richard Ravitch. He is a former member of the Directors Guild of America and Writers Guild of America. He is a recipient of the following professional honors: an Emmy, a Peabody, and a Christopher. He also received the United States Navy Meritorious Achievement Award.

#### John M. Callagy

Mr. Callagy is partner at Kelley Drye & Warren LLP where he represents clients on many litigation issues affecting large international enterprises. In 1992, he became the firm's first chairman, a role he held for twenty years. Mr. Callagy has counseled and litigated on behalf of United States and European corporate clients in connection with investigations, securities law issues, complex contract matters, insolvency, unfair competition, intellectual property, ERISA and pension, and labor and personnel matters. Mr. Callagy is a graduate of Georgetown University and New York University School of Law. Mr. Callagy currently serves as a Board Member for the Inner-City Scholarship Fund. He was also on the Character and Fitness Committee for the Supreme Court of New York's Appellate Division, First Department.

#### John F. Cambria

Mr. Cambria is a partner in Alston & Bird's litigation practice group, in the firm's New York City office. After spending some years at Simpson Thacher & Barlett, he became a partner at Christy & Viener and its successor firm, Salans, where he co-chaired the litigation department and held a number of executive management positions. Mr. Cambria joined Alston & Bird in 2004. He has almost 35 years of experience in all aspects of civil, corporate and commercial litigation. Mr. Cambria is a graduate of the College of the Holy Cross (*summa cum laude*) and received his law degree from the University of Pennsylvania Law School. He is admitted to practice before state and federal courts in New York, the Third and Seventh Circuit Courts of Appeal, and the Supreme Court of the United States. Mr. Cambria has also been admitted in numerous state and federal courts throughout the country on a *pro hac vice* basis. He is a member of the Association of the Bar of the City of New York and the Federal Bar Council. At the Association of the Bar, he is a member of the in-house

Counsel/Outside Litigation Counsel Group. Mr. Cambria is also a member of the Board of Directors of the Office of the Appellate Defender, a public interest legal services organization, and is a Board member of the Judges and Lawyers Breast Cancer Alert. He is a member of the College of Holy Cross New York Leadership Council; the Board of Managers of the University of Pennsylvania Law School Alumni Society; and the Historical Society of the Courts of the State of New York. For the past several years, Mr. Cambria has regularly been listed in *The Best Lawyers in America* and *New York Super Lawyers* in the field of commercial litigation.

Nicholas M. Cannella

Mr. Cannella is a partner at Fitzpatrick, Cella, Harper & Scinto. A former law clerk to the Hon. Sol Wachtler of the New York State Court of Appeals, Mr. Cannella's practice is focused on the litigation of intellectual property matters, and he has served as lead trial and appellate counsel for numerous Fortune 500 companies, both domestic and foreign. He has appeared in the federal trial and appellate courts in New York and throughout the country, and is a Fellow of the American College of Trial Lawyers. Mr. Cannella serves as Chairman of his firm's Management Committee. He also is a member of the Board of Directors of the Legal Aid Society. In addition, Mr. Cannella is an Adjunct Professor at St. John's University School of Law, where he is a President-Elect of that school's Alumni Association Board of Directors.

Giorgio Caputo

Mr. Caputo is a member of the investment team of First Eagle Funds and a Portfolio Manager of the firm's Global Income Builder fund. Mr. Caputo is a graduate of Princeton University and Columbia Business School.

John H. Carley

After Rutgers College and military service, John H. Carley graduated from Yale Law School and began his legal career in New York City, becoming a litigation partner at Rogers & Wells. In 1981 he joined the Reagan Administration, serving first as General Counsel of the Federal Trade Commission (1981-85) and then General Counsel of the Office of Management & Budget in the White House (1985-87). Returning to New York City, he joined Donovan, Leisure, Newton & Irvine and in 1994 joined the Guiliani Administration briefly. In December 1994, Mr. Carley was appointed New York State Deputy Attorney General for Public Advocacy. In January 1997 he returned to private life as Executive Vice-President and General Counsel of Avis, Inc. In December 1997 HFS, Inc, the parent of Avis, and CUC, Inc. merged to form Cendant Corporation. In April 1998, Cendant disclosed an accounting fraud at the former CUC resulting in a capital market loss of \$20 billion. Mr. Carley joined Cendant to manage all civil, regulatory and criminal investigations and civil litigations resulting from the fraud in which senior executives were implicated

criminally and civilly. At the time it was the largest civil fraud in corporate history. In September 2007 Mr. Carley resigned from Cendant to accept then-New Jersey United States Attorney Chris Christie's offer to serve as one of five monitors enforcing deferred prosecution agreements with hip and knee replacement public companies following an industry investigation into consulting practices. After completing this task in April, 2009, Mr. Carley pursued an individual practice.

#### Aurora Cassirer

Ms. Cassirer is a well-known and well-respected litigation partner at Troutman Sanders whose varied practice includes many business, banking, bankruptcy, real estate, employment and professional liability matters. She is a graduate of New York University School of Law. Ms. Cassirer has substantial experience acting as a receiver and monitor appointed in connection with SEC proceedings, has served as Receiver for Starr & Co., LLC, and Starr Investment Advisors, LLC in the SEC v. Kenneth Ira Starr matter, and has served as the Chapter 11 Trustee in a complex bankruptcy case, the Estate of David Schick (1996-2004), which generated various litigations and reported decisions. She is currently involved in several attorney general investigations relating to debt collection as well as other consumer-related matters. Ms. Cassirer's publications and speaking engagements include: The Association of the Bar of the City of New York, *Whistleblower Provisions of the Dodd-Frank Act*, May 2011; Brean Murray Growth Conference, Beijing, *The Trend in Securities Litigation in the United States*, June 2011; Credit and Collection News Webinar, *Understanding the CFBP and State Attorney General's Regulatory Issues Relating to Debt Collection*, March 2013. Since 2008, she has been cited annually in *Super Lawyers* as an outstanding business litigator. Ms. Cassirer is on the firm's Executive Committee. She is a member of the New York Bar Association; New York State Women's Bar Association; and the American Bar Association; The National Association of Federal Equity Receivers (NAFER). She is chair of the Advisory Board of Kids in Need of Defense (KIND), and is on the Board of Trustees of Jerusalem College of Technology.

#### Christopher E. Chang (Member of the Policy Committee)

Mr. Chang is in private practice in New York City. His area of practice is commercial and criminal litigation in federal and state courts. A graduate of New York University (B.A. '75) and Cornell Law School (J.D. '78), Mr. Chang was an Assistant District Attorney in the Manhattan District Attorney's Office under Robert M. Morgenthau from 1978 to 1982. Mr. Chang is currently a member of the New York State Judicial Institute on Professionalism in the Law and was formerly a member of the Chief Judge's Committee on Profession and the Courts (Craco Committee) and Commission on Public Access to Court Records, the Franklin H. Williams Commission on Minorities in the Judiciary, and the Board of Directors of The Legal Aid Society in New York City. From 1991 to 2001, Mr. Chang was Chair of the Judiciary Committee of the Asian American Bar Association of New York. Mr. Chang is



a former member of the Cornell University Council. In October 2002, Mr. Chang received the Millennium Award from the Franklin H. Williams Commission on Minorities in the Judiciary for his efforts in promoting diversity in the New York judiciary and court system.

Catherine A. Christian

Ms. Christian, an Assistant District Attorney in the New York County District Attorney's Office is a member of the Executive Staff of the Office of the Special Narcotics Prosecutor for the City of New York where she serves as Counsel to the Trial Division and Chief of the Alternative Sentencing Division. Prior to joining the Special Narcotics Prosecutor's Office she was Supervising Court Attorney for Bronx Criminal Court and Principal Court Attorney to the Honorable Rosalyn Richter; Assistant Counsel at the New York State Commission of Investigation; and, Of Counsel in a Manhattan law firm. Prior to entering private practice she started her legal career as an Assistant District Attorney in the New York County District Attorney's Office under Robert M. Morgenthau. She serves on the Appellate Division First Department's Committee on Character and Fitness. She is a member of the House of Delegates of the American Bar Association and House of Delegates of the New York State Bar Association. Ms. Christian was President of the New York County Lawyers' Association 2007-2008.

Ernest J. Collazo (Member of the Policy Committee)

Mr. Collazo has practiced labor and employment law for more than 35 years. He began his career with the NLRB following his graduation from Columbia Law School. Two years later, he became an associate at Simpson Thacher & Bartlett and, within five years, became a partner. Ten years later, Mr. Collazo left to establish the predecessor firm to Collazo Florentino & Keil LLP, a boutique firm practicing management-side labor and employment law and litigation. Mr. Collazo is a Fellow of the College of Labor and Employment Lawyers, a member of the Council on Foreign Relations and the Advisory Committee to the Rules Committee of the Second Circuit, and a former member of the Advisory Committee to the New York State Ethics Commission. He serves or has served on the boards of the Federal Defenders of New York; the September 11th Fund; the New York Community Trust; and the Washington Office on Latin America. As a City Bar member, he served on the Executive Committee, the Committee on Professional and Judicial Ethics, the Committee on Labor and Employment, the 2011 Nominating Committee, and as its representative to the NYSBA House of Delegates and its 2009 and 2010 Nominating Committees.

Ralph C. Dawson

Mr. Dawson has practiced law for more than 35 years, is a member of the firm of Fulbright & Jaworski LLP, and primarily engages in the practice of labor and employment law and civil litigation. He is a graduate of Yale College and of Columbia University School of Law. He is a member of the American Bar Association, and the New York City Bar where he served

on the Judiciary Committee and the Civil Rights Committee. He also serves on the Screening Panel for Magistrate Judges for the United States District Court for the Southern District of New York.

Leonard F. DeLuca

Mr. DeLuca formed a media strategy firm in October, 2010, Len DeLuca & Associates, LLC, based in New York City. Clients of the firm include the New York Racing Association, IMG College, LLC, and the Tennis Channel. He spent 14 years at ESPN, most recently as Senior Vice President, Programming & Acquisitions. Immediately prior to ESPN, Mr. DeLuca was a Vice President, Programming at CBS Sports, where he had spent 16 years and was responsible for the NCAA Basketball Championships on CBS. Mr. DeLuca earned a B.A. from Boston College, a J.D. from Boston College Law School and is a member of the Massachusetts Bar. He practiced law at White, Inker, Aronson, PC in Boston before joining CBS. He is a member of the Boston College Law School Board of Overseers.

Sheldon H. Elsen

Mr. Elsen is a graduate of Princeton University, was a Woodrow Wilson Fellow and Teaching Fellow at Harvard University, and is a graduate of Harvard Law School. He was a member of Orans Elsen Lupert & Brown LLP and is a neutral arbitrator and mediator at JAMS and is an Adjunct Professor at Columbia Law School. He is a former vice president of the New York City Bar Association, a Fellow of the American College of Trial Lawyers, a former Assistant United States Attorney for the Southern District of New York and a member of the American Law Institute. During the New York fiscal crisis, he served as chief counsel to a Moreland Act Commission appointed by Governor Carey to investigate the default of the Urban Development Corporation on its bonds and the problems of New York's public authorities. Later, he served as Chair of a committee appointed by the New York City Bar Association at the request of Mayor Koch and the New York City Board of Estimate to investigate problems surrounding real estate developers and amenities. Mr. Elsen previously served on the Departmental Disciplinary Committee from 1990-1996, of which the last four years were spent as Chair of a hearing panel, and he has served on the Professional Ethics Committee of the New York City Bar Association.

Haliburton Fales, 2d (Special Counsel to the Policy Committee)

Mr. Fales is a retired partner of the law firm of White & Case. He is a graduate of Columbia Law School, where he was on the Board of Editors of its Law Review. From 1991 to 1996, Mr. Fales was the Chair of the Departmental Disciplinary Committee. In 1983-84 he was President of the New York State Bar Association, and in 1977-78 Vice President of the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

Ms. Fischman is the General Counsel and a litigation partner at Kramer Levin Naftalis & Frankel LLP. She is a graduate of Brandeis University and Columbia Law School, where she was a member of the *Columbia Law Review*. She has served on the boards of the Legal Aid Society, the New York Community Trust, the September 11th Fund, the Mexican American Legal Defense Fund, and was a Commissioner of the Ethics Commission for the Unified Court System. As a member of the Association of the Bar of the City of New York, she served on the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics. For many years she served as President of the National Alliance for the Mentally Ill- NYC Metro (NAMI-Metro) and is currently NAMI-Metro's President Emeritus.

William P. Frank

Mr. Frank has practiced for more than 40 years in the litigation department of the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. He is a member of the Policy Committee of Skadden, Arps. He is a graduate of Georgetown University and Fordham Law School and sits on the boards of those Universities. He is a member of the American Bar Association, the New York State Bar Association, the Association of the Bar of the City of New York and the Federal Bar Council. He is currently the Chair of the Executive Committee of the Practising Law Institute and Chair of the Audit Committee of the Board of Directors of Catholic Charities of the Archdiocese of New York.

Ruth W. Friendly

Ms. Friendly received her B.A. from Smith College and her M.A. from Teachers College, Columbia University. She taught in the Scarsdale Public Schools for 17 years. Currently she is director of Media and Society Seminars at the Columbia Graduate School of Journalism. Until 2012 she served as Vice-president and Senior Editor of Fred Friendly Seminars, a non-profit organization whose programs have appeared on PBS for over 25 years. She is a Commissioner on the State of New York's Commission on Judicial Nomination and has served as a member of the Independent Judicial Election Qualification Commission, First Department, New York State. She also serves on the Boards of Riverdale Neighborhood House and Riverdale Senior Services in the Bronx.

Matthew Gaier

Mr. Gaier is a partner at Kramer, Dillof, Livingston and Moore and is responsible for the firm's appellate practice. He co-authors a regular column on medical malpractice in the *New York Law Journal*. Mr. Gaier was graduated from George Washington University and from New York University School of Law. He is a Fellow of the American Bar Foundation, and on the Board of Directors of the New York State Trial Lawyers Association, where he is

co-chair of the medical malpractice committee. He is also a member of: the American Bar Association, the American Justice Association, the New York State Bar Association, the Association of the Bar of the City of New York, and the New York County Lawyers Association.

David R. Gelfand

Mr. Gelfand is a partner in the firm of Milbank, Tweed, Hadley & McCloy LLP, and served as the practice group leader of Milbank's national litigation department from 2001 through 2009. He is a graduate of Vanderbilt University School of Law. Mr. Gelfand is admitted to practice before the bars of the State of New York and the District of Columbia, the United States Supreme Court, the United States Court of Appeals for the Second, Fifth, Seventh, Tenth and Eleventh Circuits, and the United States District Courts for the Southern and Eastern Districts of New York, and the Eastern District of Wisconsin. He is a member of the Board of Directors of The Fund for Modern Courts, a nonprofit organization committed to improving the administration of justice in New York. Mr. Gelfand is also a member of the American Bar Association and District of Columbia Bar Association, and the Association of the Bar of the City of New York where he served in the Committee on Judicial Administration.

Robert J. Giuffra

Mr. Giuffra is a senior and litigation partner at Dougherty, Ryan, Giuffra, Zambito & Hession. He graduated from St. John's University School of Law and received his Masters of Law from Brooklyn Law School. Mr. Giuffra acts as Appellant/Respondent counsel in cases in the New York Court of Appeals; Appellate Divisions; and United States Court of Appeals, and serves as trial attorney representing litigants in both state and federal courts. His bar admissions include: New York State; United States Supreme Court; United States Court of Appeals for the First, Second and Third Departments and the United States Tax Court. He is a member of the American Bar Association; New York State Bar Association and Maritime Law Association of the United States.

Robert E. Godosky

Mr. Godosky is the managing partner at Godosky & Gentile, P.C. The firm, founded by Richard Godosky and Anthony Gentile, practices primarily in the area of personal injury representing plaintiffs in all types of accident cases. Mr. Godosky graduated from Fordham University School of Law. He is a member of the Board of Directors of the New York State Trial Lawyers Association, a member of the New York County Lawyers Association and the New York State Bar Association.

Martin R. Gold (Special Counsel to the Policy Committee)

Mr. Gold is a Senior litigation partner in the firm of SNR Denton (US) LLP. From 1965 to 1968, he was an Assistant United States Attorney in the Southern District of New York. Mr. Gold has been an adjunct Professor of Law at Cardozo Law School and has served as a member of the boards of the Lawyers' Committee for Civil Rights Under Law and New York Lawyers for the Public Interest. He is a fellow of the American College of Trial Lawyers, and is a member of the American Bar Association, the New York State Bar Association, the New York City Bar Association, the New York County Lawyers' Association and the Federal Bar Council.

John D. Gordan, III

Mr. Gordan, III, was a litigation partner at Morgan, Lewis & Bockius LLP, from which he retired as Senior Counsel in June 2011. A graduate of Harvard Law School, he clerked for Judge Inzer B. Wyatt of the United States District Court for the Southern District of New York from 1969 to 1971. He was an Assistant United States Attorney for the Southern District of New York from 1971 to 1976, serving as Chief Appellate Attorney from 1973 to 1975 and Executive Assistant United States Attorney from 1975 to 1976.

Nicholas A. Gravante, Jr.

Mr. Gravante is a partner at Boies, Schiller & Flexner LLP with extensive trial experience in the areas of complex commercial litigation, business crimes and antitrust litigation. He also serves as the firm's general counsel and sits on its executive committee. Mr. Gravante has consistently been honored as one of the country's top lawyers, having been named among Lawdragon's *500 Leading Lawyers in America* and *New York's Best Lawyers*, and also by *Super Lawyers*. Most recently, he secured a victory in the battle for control of the Arizona Iced Tea empire, successfully defending the company's founder against claims seeking hundreds of millions of dollars. He is also known as counsel to former shareholders of American International Group in litigation arising from the financial crisis, as well as to several hedge funds, the Andy Warhol Foundation and to bondholders litigating over Argentine government debt. Previously, Mr. Gravante was a managing partner at Barrett Gravante Carpinello & Stern LLP. In addition to being a member of the First Department's Disciplinary Committee, Mr. Gravante also sits on the Second Department's Judicial Screening Committee and is a member of the Citizens Crime Commission of New York City. He chairs the Brooklyn Public Library's board of trustees and is a member of the board of trustees for the Community Service Society and ESS Sheltering Arms. He was a member of Mayor Bill de Blasio's Inauguration Committee.

Richard M. Greenberg

Mr. Greenberg is the Attorney-in-Charge of Office of the Appellate Defender, a not-for-profit indigent criminal defense firm, the oldest indigent defense organization in New York

City other than The Legal Aid Society. The Appellate Defender provides high quality, client-centered appellate and post-conviction representation, and trains new lawyers in the practice of appellate advocacy. Mr. Greenberg has been in that position since 1996, and has been involved in the practice of criminal law for nearly 35 years. He currently serves on the Committee on Courts of Appellate Jurisdiction of the New York State Bar Association, and has previously served on the City Bar Association's Council on Criminal Justice, as well as its Judiciary, Professional Responsibility, and Criminal Law Committees. Mr. Greenberg also currently serves on the Appellate Courts Committee of the New York County Lawyers' Association, and is a member of the New York State Defenders Association, the National Legal Aid and Defender Association, and the National Association of Criminal Defense Lawyers.

Maura Barry Grinalds

Ms. Grinalds is a litigation partner at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. She is a graduate of Harvard College and Harvard Law School. Her practice includes securities, corporate and commercial litigation in federal and state courts and domestic and international arbitration proceedings. Ms. Grinalds is active in *pro bono* activities, and serves on the Schools and Scholarships Committee of Harvard College. She co-edited a *New York Legal Ethics Narrative* on the American Legal Ethics Library, [www.law.cornell.edu/ethics](http://www.law.cornell.edu/ethics).

Robert L. Haig (Special Counsel to the Policy Committee)

Mr. Haig is a litigation partner at the law firm of Kelley Drye & Warren LLP. He is a former President of the New York County Lawyers' Association. Mr. Haig has served as the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York and also chaired that Association's Council on Judicial Administration. He has served as a member of the New York State Bar Association's Executive Committee and was the founder and first Chair of that Association's Commercial and Federal Litigation Section. He is a former President of the New York Bar Foundation and a member of the American Law Institute. Mr. Haig was the Co-Chair of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye in 1995 to create and refine the Commercial Division of the New York State Supreme Court. He is now the Chair of the Commercial Division Advisory Council established by Chief Judge Jonathan Lippman in 2013 to advise him on an ongoing basis about all matters involving and surrounding the Commercial Division as well as to keep him apprised of developments in the business world that may affect the court system. On November 16, 2008, he was inducted as an Honorary Charter Member of the American College of Business Court Judges in recognition of his efforts to develop business courts in New York and many other states and countries. Mr. Haig is the Editor-in-Chief of a six-volume treatise, entitled, *Commercial Litigation in New York State Courts*, and of two other multi-volume treatises.

James W. Harbison, Jr.

Mr. Harbison is counsel, and was formerly a partner, with a commercial litigation practice at Morgan Lewis & Bockius LLP. He graduated from Duke University, where he was an Angier Duke Scholar, and from Yale Law School where he was chair of the moot court program. At the New York City Bar he has served as chair of the Committee on Senior Lawyers and served on other committees: Judiciary, Council of Judicial Administration, Antitrust and Trade Regulation, and Young Lawyers. At the New York State Bar, he has served as chair of the Committee on Judicial Administration, and as a member of the Task Force on Court Reorganization, and of the Ad Hoc Committee on the Jury System.

Gerard E. Harper

Mr. Harper is a litigation partner in Paul, Weiss, Rifkind, Wharton & Garrison LLP, where he served four terms on its Management Committee and was its chief in-house counsel from 1991 through 2013. He is an Adjunct Professor of Professional Responsibility at the New York University School of Law and a member of the New York State Committee on Professional Ethics, of its Litigation Section's Committee on Ethics and Professionalism, and of the ABA Business Law Section's Committee on Professional Responsibility. He is a past member of the City Bar's Committees on Professional Ethics and on Professional Discipline, and served four years as Chair of the New York County Lawyers' Association's Committee on Professional Ethics. He concentrates his practice in business and commercial litigation, media law, creditors' rights, and defending lawyers in legal malpractice and related proceedings.

Peter C. Harvey

Mr. Harvey is a member of the firm of Patterson Belknap Webb & Tyler, LLP. He graduated from Morgan State University, with honors, and Columbia Law School. He is a past Attorney General of the State of New Jersey and a former federal prosecutor. Before becoming Attorney General in February 2003, he served as First Assistant Attorney General and the Director of the Division of Criminal Justice. Prior to joining the Attorney General's office he was an Assistant United States Attorney for the District of New Jersey and was in private practice. His professional activities include: Member of the National Association of Attorneys General (NAAG); Representative to the Executive Working Group on Prosecutorial Relations; Chairman, NAAG Subcommittee on Gang Violence; and a member of the National Bar Association and the American Bar Association. He received the *New Jersey Law Journal's* "Lawyer of the Year" award (2003); he was recognized in *Super Lawyers* in the area of Business Litigation, and named to "Top Black Lawyers in America," *Black Enterprise Magazine*.

Brian C. McK. Henderson

Mr. Henderson is the founding partner of Henderson International Advisors, LLC. He has dedicated over forty years to the financial services industry in both investment and commercial banking. His unique expertise includes international client relationships, both corporate and institutional, as well as management and corporate governance experience. Mr. Henderson devoted over 36 years to two major American financial institutions, including 22 years at Merrill Lynch & Co. and 14 years at the Chase Manhattan Bank, N.A. Most of Mr. Henderson's responsibilities at both Merrill Lynch and Chase were in international investment and commercial banking, with his last position at Merrill Lynch & Co. as Senior Vice President and Chairman of Global Public Sector.

Mr. Henderson serves on the following not-for-profit boards: Vice Chairman and Treasurer of The Atlantic Council of the United States; Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University; The Institute for the Study of Diplomacy, School of Foreign Service, Georgetown University; member of Manhattan School of Music International Advisory Council, and Trustee of the Fort Apache Heritage Foundation. Past board service include the Board of Trustees for the National Museum of the American Indian, Smithsonian Institution, and trustee of the American Indian College Fund. Finally, Mr. Henderson currently serves as non-executive Chairman of Augustea Bunge Maritime Ltd., a joint venture between Augustea Holding S.p.A. and the Bunge Group.

Seymour W. James, Jr.

Mr. James is the Attorney-in-Charge of the Criminal Practice at The Legal Aid Society. He is a graduate of Brown University and Boston University Law School. Mr. James is the President of the New York State Bar Association, a former President of the Queens County Bar Association, and a member of the American Bar Association House of Delegates. He serves as a member of the New York State Justice Task Force, the New York State Permanent Sentencing Commission, the Committee on Character and Fitness for the Second Judicial Department, and the Independent Judicial Election Qualification Commission for the 11th Judicial District.

Pamela Jarvis

Ms. Jarvis has been a partner in Joseph Hage Aaronson LLC (formerly Gregory P. Joseph Law Offices LLC) since the firm's formation in 2001. She is a graduate of Barnard College and Boston University School of Law. Following law school, she joined Fried, Frank, Harris, Shriver & Jacobson, where she was a litigation partner from 1985-1991. From 1991-1998, Ms. Jarvis was Vice President, General Counsel and Secretary of NYLCare Health



Plans, Inc., a subsidiary of New York Life Insurance Company. From 1999-2001, she served as Chief of the Health Care Bureau of the New York State Attorney General's Office.

John J. Jerome

Mr. Jerome is of counsel in the firm of Sullivan and Cromwell, LLP, in the Firm's Restructuring and Bankruptcy Group. He joined the Firm in July 2011 with more than 40 years of experience in various legal matters. He is a graduate of St. John's University Law School. Mr. Jerome is admitted to state and federal courts in New York and Pennsylvania, as well as to the United States Supreme Court. He has served as an official mediator for the United States Bankruptcy Court, Southern District of New York. He is a member of the American Bankruptcy Institute, the American Bar Association, the International Insolvency Institute and the New York City Bar Association, where he chaired the Bankruptcy and Reorganization Committee. Mr. Jerome has served as president of the Judd Foundation and as a trustee of the New York State Archives Partnership Trust.

Alfreida B. Kenny

Ms. Kenny of the Law Office of Alfreida B. Kenny concentrates her law practice in the areas of adult guardianships, trusts and estates, and real estate. Ms. Kenny also serves as a mediator. She is a graduate of Columbia Law School.

Carla A. Kerr Stearns

Ms. Kerr Stearns is the principal in the Kerr Law Firm, specializing in commercial and employment litigation. She is a graduate of Stanford University and Stanford Law School. As a litigator at Hughes Hubbard & Reed LLP for 25 years, including 16 years as a partner, she litigated major cases through the federal system, including two constitutional cases resolved by the United States Supreme Court, and served frequently as a media commentator on First Amendment and liberty interest issues.

Myron Kirschbaum (Special Counsel to the Policy Committee)

Mr. Kirschbaum is a Special Counsel in the firm of Kaye Scholer LLP, where he is the longtime co-chair of the firm's Professional Ethics Committee, and is engaged in complex business litigation and provides professional responsibility advice and counseling. He received his law degree from Harvard University where he was Editor of the *Harvard Law Review*. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit.

Alan Levine (Member of the Policy Committee)

Mr. Levine is a litigation partner in Cooley LLP, formerly Kronish Lieb Weiner & Hellman LLP, and a member of its Management Committee. He was graduated from the Wharton School of the University of Pennsylvania and the New York University School of Law where

he was an Editor of the *Law Review*. Following graduation he clerked for the Hon Lee P. Gagliardi in the United States District Court, Southern District of New York and then served for five years as an Assistant United States Attorney in the Southern District of New York. He joined Kronish Lieb in 1980 and was its Managing Partner from 1996 until its merger with Cooley Godward in 2006. Mr. Levine has served in the House of Delegates of the NYSBA and the ABA and as chair of committees of each. He was Chair of the Board of the Legal Aid Society from 2006-2010. He is a Fellow of the American College of Trial Lawyers and has served as Chair of its New York Downstate Committee.

#### Nancy B. Ludmerer

Ms. Ludmerer is counsel in Davis Polk & Wardwell LLP's Litigation Department. She graduated from the University of Pennsylvania and Boalt Hall School of Law (UC-Berkeley). Her practice focuses on complex commercial and securities cases, and she also has an active pro bono practice. In addition to representing indigent clients in matrimonial and immigration matters, most recently she was co-counsel with the Legal Aid Society and other agencies in a landmark lawsuit brought on behalf of prisoners with mental illness throughout the New York State prison system. She serves as a Civil Court Small Claims Arbitrator in Kings County, and has been a mentor in firm-sponsored alliances with New York City public high schools. She is the author of articles on legal topics in the *American Lawyer*, the *Journal of Medical Ethics* (London), and *Vogue Magazine*, and of fiction in the *Kenyon Review*, *Cimarron Review*, and other literary journals. Ms. Ludmerer is a trustee of the SAJ Synagogue.

#### Arthur M. Luxenberg

Mr. Luxenberg, of Weitz & Luxenberg, primarily engages in Asbestos and Toxic Tort litigation. He graduated from Benjamin N. Cardozo School of Law. Mr. Luxenberg has served as First Vice President for the New York State Trial Lawyers Association and he is a member of the Jewish Lawyers Guild, the Association of Trial Lawyers of the City of New York, Trial Lawyers for Public Justice, and the New York State Bar Association. He co-authored the *Practicing Law Institute Course Book*, (1988), was honored in *Who's Who in America Law*, 6<sup>th</sup> ed. (1990-1991), and *Best Lawyers* (2007-2011).

#### William A. Maher

Mr. Maher is a founding member of Wollmuth Maher & Deutsch LLP, where he leads the firm's litigation department. Mr. Maher received his J.D. degree from The University of Virginia School of Law, where he graduated Order of the Coif and was Managing Editor of the *Virginia Law Review*. Following his graduation from law school, Mr. Maher clerked for the Honorable Milton Pollack in the United States District Court for the Southern District of New York. Mr. Maher's law firm practices in the areas of complex commercial litigation

and arbitration, general corporate, transactional and commercial law, and bankruptcy and reorganization.

Roger Juan Maldonado

Mr. Maldonado is a litigation partner at Balber Pickard Maldonado & Van Der Tuin, PC. His practice concentrates on complex civil litigation concerning commercial and real estate transactions, software development disputes, copyright infringement, employment matters and education law. Mr. Maldonado serves as the New York City Bar (NYCB) designated member of the Board of Directors of the New York Community Trust. Chief Judge Jonathan Lippman recently appointed Mr. Maldonado to serve as Co-Chair of the Committee on Non-Lawyers and the Justice Gap; as a member of the Commercial Division Advisory Council; and as a member of the Advisory Group to the New York State and Federal Judicial Council. Mr. Maldonado also serves as a member of the Departmental Disciplinary Committee for the Appellate Division of the New York State Supreme Court, First Department; as a Vice-President and member of the Board of Directors of United Neighborhood Houses of New York; and as a Referee for the New York State Commission on Judicial Conduct. Mr. Maldonado previously served as Chair of the NYCB's Council on Judicial Administration; as Vice-President of the NYCB; as a member of the Mayor's Advisory Committee on the Judiciary; and as Co-Chair of the Real Estate and Probate Litigation Committee of the American Bar Association's Litigation Section. Mr. Maldonado is a graduate of Yale Law School and Yale College.

Emily F. Mandelstam

Ms. Mandelstam serves as president of the board of trustees of Trinity School (an independent, co-educational school in Manhattan for kindergarten through 12th grade) and as a trustee of Bronx Lab School (a public high school in the Bronx). She has worked as a newspaper reporter in New York City and in South Africa. Ms. Mandelstam has also served as a writer, researcher, and policy analyst at various non-profit organizations in New York City and Washington, DC, including the NAACP Legal Defense and Educational Fund and the National Immigration Forum. Ms. Mandelstam holds a B.A. (with honors) from Harvard University; an M.Phil. (in Criminology) from the University of Cambridge (England); and an M.Sci. (in Journalism) from Columbia University.

Robert P. McGreevy

Mr. McGreevy is engaged primarily in commercial and appellate litigation as a sole practitioner and as counsel to Kellner Herlihy Getty & Friedman LLP. He is a graduate of Queens College and received his Juris Doctor degree from St. John's University School of Law. Following graduation, he served as Senior Law Clerk to Judge Harold A. Stevens of the Court of Appeals and later as Law Secretary to Presiding Justice Stevens; Special Administrative Assistant to Presiding Justice Francis T. Murphy, Jr.; and Law Secretary to

Associate Justices Theodore R. Kupferman and Richard T. Andrias of the Appellate Division, First Department. Mr. McGreevy was the elected Town Supervisor of the Town of Lewisboro, Westchester County from 1996 to 1998, and currently serves on the Town's Board of Ethics. He is a member of the Denis McNerney NYCLA Inn of Court.

Maria D. Melendez

Ms. Melendez is a litigation partner at Sidley Austin LLP. Her practice focuses primarily on complex commercial litigation, products liability, and securities litigation representing global public companies, financial institutions, pharmaceutical companies, and individuals in federal and state courts, and in arbitrations. She is the New York chair of Sidley's Diversity Committee and a member of Sidley's Hiring Committee. Ms. Melendez is active in *pro bono* and community activities. She is a member of the Board of Directors of Latino Justice PRLDEF, which has won landmark civil rights cases. She handled cases for, and served on the Board of Directors of, inMotion, Inc., a public service organization that provides free legal assistance in matrimonial, family, and immigration law to low-income women in New York City. She is a member of the Federal Bar Council, the American Bar Association, the Hispanic National Bar Association, and the Puerto Rican Bar Association. She is a graduate of Syracuse University and was graduated *cum laude* from Albany Law School of Union University where she was an Associate Editor of the *Albany Law Review*.

Hon. Eugene Nardelli (Member of the Policy Committee)

Judge Nardelli is a graduate of Fordham University LLB. He served as Associate Justice of the Appellate Division, First Department, from 1993 to 2011. He previously served as Justice of the Supreme Court of the State of New York, First Department, and Judge of the Civil Court. Governor Andrew Cuomo appointed him Director of the IOLA Fund. He is a Director of the Italian Language Foundation, a Director of the American Society of the Italian Legion of Merit, and a Director of the Columbus Citizens Foundation, and was appointed Special Master of the Appellate Division's Pre-Argument Conference Program.

Mercedes A. Nesfield (Member of the Policy Committee)

Ms. Nesfield is the retired Director of the Office of Equal Opportunity of the New York City Board of Education. She holds a B.A. from Brooklyn College and a Masters Degree in Educational Administration from Baruch College. She has served as the Executive Assistant to the President of the Board of Education of the City of New York and as Executive Director and Executive Assistant to the Chair of the New York City Commission on Human Rights.

Jacob Pultman

Mr. Pultman is a partner at Allen & Overy LLP, where he practices in the area of commercial litigation and regulatory investigations. He is a graduate of Brooklyn College of the City University of New York and received his J.D. from Yale Law School. He is a member of the New York State Bar Association and the New York State Trial Lawyers Association.

Roland G. Riopelle

Mr. Riopelle is a partner in the firm of Sercarz & Riopelle, LLP, where he litigates primarily criminal cases and the occasional complex civil case. He is a graduate of the Boalt Hall School of Law. After law school, Mr. Riopelle clerked for a Federal District Judge and later served as an Assistant United States Attorney in the Southern District of New York from 1992 to 1998. He is a member of the American College of Trial Lawyers. He is a member of the executive board of the New York Council of Defense Lawyers, and serves as the Vice-President of that organization. He is also a member of the National Association of Criminal Defense Lawyers. He is an active member of the New York State Bar Association and the Association of the Bar of the City of New York, where he has chaired the Criminal Advocacy Committee, served on the Criminal Courts and Judiciary Committees, and chaired or participated in various Continuing Legal Education programs.

Robin Stratton Rivera

A video producer specializing in projects for not-for-profits, Ms. Rivera is a principal of Digital Laundry, a digital archiving and video production services company located in Manhattan. She is a graduate of Stanford University (M.S. Mechanical Engineering) and the University of Southern California School of Urban and Regional Planning (Master of Planning). Prior to launching her business, she was a producer and programming executive for ABC Sports and spent several years with the International Olympic Committee in Lausanne, Switzerland. She has served on the boards of several charitable organizations and as Vice President of the New York Junior League.

Barbara K. Rothschild

Ms. Rothschild earned a B.A. in English Literature from Boston University. She recently retired from a second career in medical office management. Prior to that experience, Ms. Rothschild was Assistant Director of Public Relations for the Johns Hopkins Medical Institutions, Director of Public Relations for The Maryland Institute College of Art and president of her own public relations firm in Baltimore, Maryland. She has been a volunteer in a variety of schools and community organizations throughout her professional life.

David M. Rubin

Mr. Rubin is a partner at Golenbock Eiseman Assor Bell & Peskoe LLP, a general practice law firm in Manhattan, and practices primarily in real estate and real estate litigation. Mr.

Rubin is a long standing, active neutral arbitrator with the American Arbitration Association and was a member of the Committee on Standards of Attorney Conduct of the New York State Bar Association that drafted the New York Rules of Professional Conduct enacted in 2009. Mr. Rubin is also a recipient of the City Bar Justice Center's 2010 Jeremy G. Epstein Award for *pro bono* service. Mr. Rubin is a member of the Board of Safe Space NYC, LLC and Episcopal Social Services NYC and a graduate of the University of Michigan Law School, *cum laude*.

William T. Russell, Jr.

Mr. Russell is a partner at Simpson Thacher & Bartlett LLP in the firm's Litigation Department. He is a member of the American Law Institute, former Chair of the New York City Bar Association's Committee on Pro Bono and Legal Services and member of its delegation to the New York State Bar Association House of Delegates, former Chairman of the Board of Manhattan Legal Services, a member of the Advisory Board of Legal Outreach, Inc., the Board of Legal Services New York City and the Board of the National Center for Access to Justice, a member of the New York State Bar Association's President's Committee on Access to Justice and a member of Court of Appeals Chief Judge Jonathan Lippman's Attorney Emeritus Council. He is a graduate of Princeton University and New York University School of Law and is admitted to practice before the Southern, Eastern and Northern District Courts of New York, the United States District of Arizona, the United States Court of Appeals for the Second and Fourth Circuits, and the United States Supreme Court.

Barbara A. Ryan

Ms. Ryan is a partner at the law firm of Aaronson, Rappaport, Feinstein & Deutsch, LLP, where her area of practice focuses on health care law and medical malpractice defense. She is a member of the Board of Directors of the Association of Healthcare Risk Management of New York, which is the local chapter of the American Society for Healthcare Risk Management (ASHRM). Ms. Ryan is a Past-President of the New York Women's Bar Association and the Judges And Lawyers Breast Cancer Alert. Before practicing law, Ms. Ryan was a Nurse Manager at the New York Hospital-Cornell University Medical Center (now New York Presbyterian Hospital). She is a 1989 graduate of Seton Hall University School of Law. Ms. Ryan frequently lectures on professional licensure, risk management and medical malpractice issues. She has also taught courses in Healthcare Risk Management and Elder Law, as an Adjunct Assistant Professor at the New York University School of Continuing and Professional Studies and as an adjunct lecturer at New York Medical College, Valhalla, New York.

Karla G. Sanchez

Ms. Sanchez is the Executive Deputy Attorney General for Economic Justice at the New York Attorney General's Office. She was formerly a partner at Patterson Belknap Webb & Tyler LLP, concentrating her practice in commercial and intellectual property litigation (including patents, trade dress and false advertising). She graduated *cum laude* from Fordham University School of Law where she was a member of the Order of the Coif, an Editor of the *Fordham Intellectual Property, Media & Entertainment Law Journal*, President of the Latin American Law Students Association and a member of the National Trial Advocacy Team. Her undergraduate degree is from Columbia College. Prior to joining Patterson Belknap, Ms. Sanchez served as a law clerk to the Honorable Deborah A. Batts, United States District Court, Southern District of New York. Ms. Sanchez was named on of the *40 under Forty* by Crain's New York Business and listed on Hispanic Business's *100 Most Influential Hispanics*.

Kathleen M. Scanlon

Ms. Scanlon is an experienced litigator and advocate representing clients in a broad-range of business disputes, insurance coverage matters and professional responsibility issues. Ms. Scanlon possesses unique experience and expertise in arbitration, mediation and court-related proceedings. Prior to founding her own law firm, Ms. Scanlon was Special Counsel at Heller Ehrman where she co-founded the International Arbitration and ADR practice area. Ms. Scanlon received her early training in the Litigation Group at Simpson Thacher & Bartlett where she represented clients in all phases of complex commercial litigation. Ms. Scanlon clerked for the Honorable Louis L. Stanton in the United States District Court for the Southern District of New York.

Karen Patton Seymour

Ms. Seymour is a partner of Sullivan & Cromwell LLP, where she is the Co-Managing Partner of the firm's litigation group. Her practice focuses on white collar criminal defense and internal investigations. She represents individuals, corporations, and financial institutions in the context of allegations of securities fraud, insider trading, healthcare fraud, antitrust violations, Foreign Corrupt Practices Act violations, and other violations. Prior to joining Sullivan & Cromwell, Ms. Seymour served as Chief of the Criminal Division of the United States Attorney's Office for the Southern District of New York from February 2002 through November 2004. Ms. Seymour also served in the United States Attorney's Office from 1990-1996. Ms. Seymour is on the boards of various organizations including Legal Services New York City and the Vera Institute of Justice, and serves as a member of the Attorney Grievance Committee for the United States Court of Appeals for the Second Circuit.

Eugene P. Souther

Mr. Souther is senior counsel to the firm of Seward & Kissel. He received an LL.B. from Fordham University School of Law. Mr. Souther is a Fellow of the American College of Trial Lawyers and served on the New York Downstate Committee of the College; was president of the New York County Lawyers' Association; served in the House of Delegates of the New York State Bar Association; was a delegate to the House of Delegates of the American Bar Association; and served as Vice Chairman of the International Bar Association.

Lawrence S. Spiegel

Mr. Spiegel is a partner at Skadden, Arps, Slate, Meagher & Flom LLP. He has more than two decades of experience advising individuals and corporations in complex criminal and civil matters. He has represented corporations, their directors, officers and employees in cases involving allegations of mail and wire fraud, securities fraud, tax fraud, government program and procurement fraud, bank fraud, consumer fraud and money laundering. He represents clients in connection with federal and state grand jury investigations, in inquiries by regulatory agencies, including the Securities and Exchange Commission, and at trial. He has successfully defended many clients in high-profile criminal investigations and indictments and on appeal. Mr. Spiegel has particular experience advising clients in the context of concurrent criminal proceedings and civil litigation. In addition, he has led many corporate internal investigations, and has advised boards of directors and management of public and private companies on compliance issues and programs, including those related to the Foreign Corrupt Practices Act. Mr. Spiegel serves as the Skadden's general counsel and co-chairs the firm's Ethics Committee. He is also a member of the firm's Client Engagement and Risk Committees and participates on the firm's Policy Committee (*ex officio*). Mr. Spiegel repeatedly has been listed in the *Best Lawyers in America*. He frequently lectures and writes about developments in criminal law and in legal ethics. Mr. Spiegel is an adjunct professor and guest lecturer in law schools. In 2009, he received the Burton Award for Legal Achievement, which recognizes excellence in legal scholarship.

William St. Louis

Mr. St. Louis is a Regional Chief Counsel in the Enforcement Department of the Financial Industry Regulatory Authority (FINRA) where he manages a team of attorneys in FINRA's New Jersey, Boston, and Philadelphia district offices. Previously he was a Deputy Regional Chief Counsel in FINRA's New York office and a law clerk to a Justice of the New York State Supreme Court, New York County, Commercial Division. A graduate of New York University Law School, he has served on the New York State CLE Board, on committees at the New York City Bar Association, and on the board of an New York University Law School alumni association. He is a member of the Metropolitan Black Bar Association.



Hon. Joseph P. Sullivan (Member of the Policy Committee)

Judge Sullivan is of counsel at the firm of Holland & Knight LLP. He graduated from St. John's University LL.B and the University of Virginia, School of Law, LL.M. Prior to joining Holland & Knight LLP, Judge Sullivan served as Associate Justice of the Appellate Division, First Judicial Department – January 1, 1978 to February 15, 2000; January 1, 2002 to December 31, 2007, and served as Presiding Justice of the Appellate Division, First Judicial Department – February 16, 2000 to December 31, 2001. He also served as Justice of the Supreme Court of the State of New York, First Judicial Department, and Judge of the Civil Court of the City of New York. He was nominated ten times by the Commission on Judicial Nomination for appointment to the Court of Appeals, including twice for the office of Chief Judge.

Ronald J. Sylvestri, Jr.

Mr. Sylvestri is Founder and President of Quail Ridge Asset Management, a premier boutique investment consulting and advisory firm providing marketing and fund-raising services for alternative asset managers and advisory services to small and mid-sized companies. Before forming Quail Ridge Asset Management in 2006, Mr. Sylvestri was a partner at Diamond Edge Capital Partners, where he played a key role in the firm's worldwide private equity business. Prior to joining Diamond Edge Capital Partners, Mr. Sylvestri spent seven years at Morgan Stanley, where he had investment, portfolio, and strategic responsibilities at various investment units. At Morgan Stanley, Mr. Sylvestri was primarily involved in the Sales and Marketing of equity research and equity/debt structure products. Mr. Sylvestri is an active investor in venture and start up companies. Most recently he was named Senior Partner of a New York based financial PR firm. Residing in Manhattan, Mr. Sylvestri has been heavily involved in several charitable organizations: The Children's Aid Society, New York University School of Medicine MIPC, the Alzheimer's Association, and Arthritis Foundation and Friends of Saint Dominic. Mr. Sylvestri earned a Bachelor of Science degree in 1996 from Babson College in Wellesley, Massachusetts, where he majored in Investments and Economics.

Natica von Althann

Ms. von Althann is a founding partner of C&A Advisors, a consulting firm focusing on strategy and risk management for government and select financial institutions. She retired in June 2008 as the Senior Credit Risk Management Executive for Bank of America and Chief Credit Risk Officer of United States Trust, an investment management company. Previously, she spent 26 years at Citigroup, including in a number of senior management roles. She serves as a director of TD Bank, N.A., where she is a member of the Board Risk and Wealth Management Committees. In 2009, Ms. von Althann was appointed to the board of PPL Corporation where she is a member of the Board Audit Committee and Chair of the Finance

Committee. She also serves as vice-chair of the Board of Neighbors Link, a non-profit organization in Mt. Kisco, New York.

John L. Warden

Mr. Warden is Of Counsel to the firm of Sullivan & Cromwell LLP where he was a Partner until 2009 and for many years a member of the firm's Executive Committee and head of its Litigation Group. He also serves as an arbitrator and mediator. He is a graduate of Harvard College and University of Virginia Law School. He is a Life Member of the American Law Institute and a Fellow of the American College of Trial Lawyers. He has served on the Committee for many years.

Stephen L. Weiner (Special Counsel to the Policy Committee)

Mr. Weiner is in private practice in his own firm specializing in complex commercial litigation and white collar investigations. He is a graduate of Columbia College and also received his *cum laude* law degree from Columbia University School of Law. He has been a member of the Disciplinary Committee since 1986 and the Policy Committee since 1989. He was Chair of the New York State Commission of Investigation for over eight years. He is a member of the Association of the Bar of the City of New York and has been Chair of its Criminal Justice Council and its Committee on Criminal Justice operations and Budget; the American Bar Association; and a former member of the Board of Directors of the Legal Aid Society.

Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as a Second Language in East Harlem. Later, she was a paralegal and administrator at the law firms of Stroock Stroock & Lavan, Reid & Priest, and Cravath Swaine & Moore. She currently donates much of her time to a variety of civic, cultural and charitable organizations. She has been a longtime member of the Committee and, as a panel member, has participated in many disciplinary hearings. For the past eight years, Ms. Welsher has devoted a lot of her time to visiting her three grandchildren who live in northern New England.

Milton L. Williams, Jr.

Mr. Williams is a partner at the law firm of Vladeck, Waldman, Elias & Engelhard, which is a plaintiff's employment law firm. Prior to joining the Vladeck firm in January of 2009, he was a Deputy General Counsel and the Chief Compliance Officer at Time Inc. He had been at Time Inc. since 1997. Before coming to Time, Mr. Williams was in private practice and served as Assistant United States Attorney in the United States Attorney's Office for the Southern District of New York and was an Assistant District Attorney in the New York

County District Attorney's Office. He is a graduate of Amherst College and the University of Michigan Law School in Ann Arbor.

Frank H. Wohl

Mr. Wohl is a partner of Lankler Siffert & Wohl LLP. His practice focuses on civil and white collar criminal litigation, as well as financial regulatory matters. He is a graduate of Dartmouth College and the University of Chicago Law School. He served in the United States Attorney's Office for the Southern District of New York where he was Chief of the Civil Division and Deputy Chief of the Criminal Division. He is a Fellow of the American College of Trial Lawyers. He is the President of the Federal Bar Council.

Richard R. Zayas

Mr. Zayas is a partner in the Law Offices of Richard R. Zayas & Associates and a principal in the business development firm Triascent Group. His practice concentrations are business, healthcare, not-for-profit law and litigation. He is a graduate of Yale Law School and Fordham University. He is also an Interfaith Minister and the founder of the not-for-profit organization, Wind Beneath My Wings.

Gonzalo S. Zeballos

Mr. Zeballos is a partner at the law firm of Baker & Hostetler LLP, where he is a member of the litigation department. His practice focuses on complex commercial litigation with a specialization in international dispute resolution and arbitration. He is a graduate of Columbia Law School, where he was a senior editor of the *Columbia Law Review*. Mr. Zeballos also holds advanced degrees in History and Latin American Studies from the University of Chicago."

Sarah E. Zgliniec

Ms. Zgliniec is a partner at the law firm of Patterson Belknap Webb & Tyler LLP, with a concentration in complex commercial disputes, including areas of intellectual property and international arbitration. She is a graduate of Dartmouth College and New York University School of Law. After graduation, she served as a law clerk to the Honorable Reena Raggi in the United States District Court for the Eastern District of New York. She is a member of the New York State Bar Association and the American Bar Association.



## A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

### Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a "respondent." Some 5320 matters were opened in 2013 (includes 2387 attorneys suspended for nonpayment of registration fees), primarily based on complaints from clients, but also from other attorneys and members of the public at large. The Committee also opened *sua sponte* investigations based on information which appeared in judicial opinions, professional journals, referrals from the judiciary, dishonored check notifications from the Lawyers' Fund for Client Protection, newspaper accounts and other sources.

Complaints are date-stamped, numbered and entered into the Committee's computer system, which generates a printout of the respondent's disciplinary history with the Committee, as well as current information from the respondent's registration with the Office of Court Administration. The complaint is then screened by a staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, or whether the complaint should be referred to another public agency or disciplinary committee. If it appears that there is no substantial misconduct, but there has been a breakdown of communication between the lawyer and the client, staff may refer the matter for mediation by the mediation panel of the New York County Lawyers' Association, the Association of the Bar of the City of New York, or the Bronx County Bar Association.

The screening attorney may also recommend rejection of a complaint for any one of several reasons, *e.g.*, the complaint seeks legal advice, is an attempt to collect a debt, or involves a fee dispute. In 2002, a mandatory mediation/arbitration program was instituted to deal with fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of more than \$1,000 and less than \$50,000.

If the complaint involves the same substantial and material allegations that will be decided in pending litigation, the Committee may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. Staff's recommendation to close a matter pending resolution of an ongoing litigation must be approved by a lawyer member of the Committee. In such cases, the Committee will independently monitor the progress of the litigation with a view to reopening the complaint upon resolution of the litigation. If it otherwise appears that the complaint has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

If it appears from the complaint that a respondent may have engaged in serious professional misconduct, the “first screening attorney” brings the matter to the attention of the Chief Counsel for direct assignment to a staff attorney. If the misconduct appears to be very serious, *e.g.*, conversion of escrow funds, the Chief Counsel instructs the assigned attorney to expedite it. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

If a matter is not closed following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who is required to file an answer to the complaint, and from the complainant who is sent a copy of the respondent’s answer for a reply. The paralegal then writes a summary of the allegations and defenses and refers the file to the initial or “first screening attorney” who performs a “second screening” or further evaluation of the complaint, answer and reply. The staff attorney may also recommend referral to mediation/arbitration at this point. If the staff attorney recommends dismissal, a lawyer member of the Committee reviews that written recommendation together with the file, and a draft letter to the complainant explaining why the case is being closed. A matter that warrants additional investigation is forwarded to the Chief Counsel for review and assignment to a staff attorney.

The staff attorney who is assigned to a matter may obtain further documentation, using subpoenas when necessary, may interview witnesses, including the complainant, and may question the respondent on the record and under oath (examination under oath, deposition).

When the investigation is complete, the staff attorney recommends dismissal<sup>1</sup>, an admonition (which is private discipline), or formal charges. The Chief Counsel reviews all staff attorney recommendations to dismiss a matter from their assigned caseload before the recommendation is reviewed by a Committee member. A lawyer member of the Committee must approve each recommendation for dismissal. When matters are dismissed on the merits, the closing letter to the complainant indicates the complainant’s right to request reconsideration of the dismissal within 30 days.

The Committee’s investigations are confidential pursuant to Judiciary Law 90(10) unless the Court orders otherwise.

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<sup>1</sup>Staff may also recommend a “dismissal with guidance” (DWG) which is aimed at educating and warning an attorney of conduct that is questionable but does not quite warrant discipline. DWG is the same as virtually any other dismissal in that it is not “discipline” and will never disadvantage the respondent in subsequent disciplinary proceedings.

### Admonitions

The Committee issues a Letter of Admonition (admonition) when an investigation reveals that a respondent has violated the New York Rules of Professional Conduct (Rules), but not seriously enough to warrant a public sanction. For example, an admonition might be issued if a respondent neglected only one legal matter and there were mitigating factors.

The Rules which became effective April 1, 2009, were promulgated by a Joint Order of the Appellate Divisions of the State of New York, dated December 30, 2008, and signed by the Presiding Justice of each of the four departments. These Rules replaced the Lawyer's Code of Professional Responsibility, previously referred to as the "Disciplinary Rules."

Although it is private and remains confidential, an admonition is a finding of professional misconduct and becomes a part of the respondent's permanent disciplinary record. The admonition will be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct against a respondent (*see* 22 NYCRR 605.5[b]). A staff attorney's recommendation to issue an admonition is reviewed by a Deputy Chief Counsel and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible and substantial proof of misconduct. If a respondent refuses to accept an admonition, he or she may request that the Committee file formal charges instead and proceed to a hearing. In that case, staff must be able to prove the misconduct, by a preponderance of the evidence, before a Referee; or, the respondent may ask for reconsideration of the admonition by the Chair. In that case the Chair sustains, or vacates the admonition. In 2013, the Committee issued 71 Letters of Admonition. An admonition may be based on more than one complaint against a respondent. Usually, respondents accept the admonition, or request reconsideration from the Chair. Rarely do respondents request a hearing.

### Formal Charges

A staff attorney's recommendation that formal charges be filed must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, a Deputy Chief Counsel, and approved by the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, to be represented by counsel, to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two separate parts, liability hearing and sanction (mitigation and aggravation evidence) hearing. A Referee cannot proceed with a sanction hearing until he or she indicates that at least one charge will be sustained. A Referee should make a finding on the charges shortly after the end of the liability hearing. The Referee almost always asks the

parties to submit memoranda regarding liability and sanction. When the hearing, liability and sanction, is concluded, the Referee must file a written Report and Recommendation within 60 days containing findings of facts, conclusions of law and, charges sustained or dismissed, and recommendation as to sanction (Report).

The Chair then refers the Referee's Report to a Hearing Panel, usually consisting of at least six lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews the full record of the proceedings as well as the Referee's Report. It then convenes to hear oral argument to determine whether to confirm, disaffirm, or modify the findings of fact, conclusions of law and sanction in the Referee's Report. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue a Hearing Panel Determination in writing (Determination) within 40 days of the argument or 10 days from the submission of briefs, whichever is shorter.

A formal hearing may result in a recommendation of disbarment, suspension, public censure, private reprimand, or dismissal. The first three, which are public discipline, are imposed only by the Court. A private reprimand may be imposed by the Committee on its own or by referral from the Court. The Chair issues the private reprimand. (*see* 22 NYCRR 605.5[a][4]).

### Serious Crimes

In cases where the Court, on the Committee's motion, has determined that a lawyer has been convicted of a crime which is not a felony, but is a "serious crime" under New York's Judiciary Law 90(4)(d), the Court may assign the case to a Referee or directly to a Hearing Panel on the sole issue of sanction. In the latter case, the Hearing Panel, as the trier of fact, conducts a hearing which is transcribed, and then renders a recommendation as to what action should be taken by the Court. Serious crime cases may result in the same range of sanctions imposed in charges cases. The Court assigns most serious crimes cases directly to a hearing panel.

### Applications to the Appellate Division

Public discipline requires an order of the Court. The Committee applies to the Court by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court decides to impose a public sanction, it issues an order and a written opinion which is almost always published in the *New York Law Journal* and is otherwise public. In matters involving a hearing on charges, the Committee files a petition, reviewed and signed by the Chair, with the Court to confirm a Hearing Panel's Determination; or, the Chief Counsel files a motion to disaffirm a Hearing Panel's Determination.



Rather than formal charges, the Committee may seek a Court order in an appropriate case applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Rules solely on the basis of prior civil or criminal court decisions without a further hearing. The petition may be granted where the findings and issues in the prior action are identical to the disciplinary issues against a respondent and where a respondent has had a full and fair opportunity to litigate in the prior proceeding. In such cases, a hearing will be held before a Referee/Hearing Panel on the issue of sanction only. Mostly, the Court assigns collateral estoppel cases directly to a Hearing Panel.

Certain other matters are also filed directly with the Court. For example, when a respondent fails to cooperate with a Committee investigation and the respondent's conduct otherwise poses an immediate threat to the public, the Committee may file a motion for an interim suspension, pending a hearing under 22 NYCRR 603.4(e). If the Committee obtains uncontroverted evidence that the attorney has continued to engage in the practice of law during the period of suspension, the Committee will petition the Court to disbar the attorney for violating its order.

The Committee also files a petition directly with the Court when an attorney has been convicted of a felony in New York, or the equivalent of a New York felony in another jurisdiction (*see* Judiciary Law 90[4]). The Committee files similar applications if an attorney has been found guilty of an ethical violation in another jurisdiction and "reciprocal discipline" is warranted (*see* 22 NYCRR 603.3); if an attorney has violated a court-ordered suspension; or, has become incapacitated due to a mental or physical infirmity (*see* 22 NYCRR 603.16).

Hearings before Referees and Hearing Panels are normally closed to the public, except in rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials, taking testimony and receiving exhibits in accordance with the rules of evidence. The Referees have broad discretion as to what is considered relevant and admissible evidence. A transcript is made of the entire proceeding. If the Court imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness located at 41 Madison Avenue, 26<sup>th</sup> Floor, New York, New York 10010.



## REPRESENTATIVE PUBLIC DISCIPLINE CASES

In 2013, the Appellate Division, First Judicial Department, publicly disciplined 86 lawyers as follows: 29 disbarments, 7 resignations by attorneys facing charges (equivalent to disbarment), 34 suspensions and 16 public censures. Several cases prosecuted by Committee staff attorneys that have become a matter of public record in 2013 are reviewed below:

### Matter of Edward R. Adams, 114 AD3d 1 (1st Dept 2013)

Adams pled guilty in the United States District Court for the Southern District of New York, to conspiracy to commit wire fraud in violation of 18 USC 371 and 1343, a federal felony. Specifically, Adams and a co-conspirator negotiated with a real estate investment company to solicit investors for a condominium project purportedly in development. Adams served as the escrow agent for the investor funds accounts containing over \$4.7 million, released these funds to the co-conspirator when he knew he was not authorized to do so, and concealed the improper withdrawals by withholding an accounting from investors and making false and misleading statements in emails. No work had been performed on the purported real estate project and no money had been returned to the investors. The Court found that Adams' federal conviction was analogous to the New York felony conviction of scheme to defraud in the first degree and ordered him disbarred. (Staff Counsel Kevin P. Culley)

### Matter of Patrick J. Maruggi, 112 AD3d 180 (1st Dept 2013)

Maruggi acted as an originator of private mortgage loans to real estate investors for the purchase and rehabilitation of distressed properties in and around Philadelphia, Pennsylvania. After a mortgage on one of the properties defaulted, Maruggi conveyed title to the investor without its knowledge by deed pre-executed by the defaulting borrower, then sold it to an entity owned by his partner's mother, and falsely signed his name to the deed as president of the investor entity. He also converted and misappropriated to his own use \$37,000 in escrow from another investor that was supposed to be used for rehabilitation work on the same property. Maruggi failed to cooperate with the Committee's investigation and defaulted in answering formal charges and appearing before the Referee and Hearing Panel. Finding that Maruggi's conversion of client funds, fraudulent transfer of real estate and failure to cooperate with the Committee each provided a sufficient independent ground for disbarment, the Court ordered him disbarred. (Staff Counsel Kevin P. Culley)

### Matter of Ralph E. Lerner, 112 AD3d 144 (1st Dept 2013)

In this formal charges matter, Ralph E. Lerner, while a partner with Sidley Austin, LLP, improperly charged firm clients for personal car service rides totaling approximately \$50,000 taken by him and his immediate family members over a ten-year period, which he knew were unrelated to any legal work performed on behalf of the firm's clients. The Court disaffirmed the respective sanctions of nine months and six months as recommended by the

Referee and the Hearing Panel, and ordered Lerner suspended for one year, as recommended by staff. The Court also rejected the Panel's assertion that a suspension in excess of six months would effectively be "doubled" by the Court's reinstatement procedures, and found that Lerner's significant professional accomplishments and character evidence were outweighed by the repeated and protracted nature of his misconduct. (Staff Counsel Kevin P. Culley)

Matter of Emani P. Taylor, 113 AD3d 56 (1st Dept 2013)

In an order dated November 21, 2013, the Court disbarred Taylor after a hearing pursuant to the doctrine of collateral estoppel. The order was based upon Justice Michael Ambrosio's findings in a guardianship proceeding in Supreme Court, Kings County, that Taylor's misconduct as a former interim successor guardian was so egregious that she had to be surcharged for misappropriating counsel fees that she paid herself from the guardianship funds. The Court discussed that Taylor's misconduct, which included the intentional conversion of guardianship funds, required her disbarment. The Court also discussed that Taylor's grossly inadequate record keeping and cash withdrawals were serious misconduct which further supported disbarment. The Court noted that Taylor's misconduct was further compounded by the fact that she had not repaid Judge Phillip's estate any of the \$403,148.86 in surcharges and held fast to her claim to being entitled to \$700,000 in legal fees based on quantum meruit, notwithstanding Justice Ambrosio's decision to the contrary. The Court struck Taylor from the roll of attorneys effective immediately. (Staff Counsel Paul L. Friman)

Matter of Brian W. Guillorn, 114 AD3d 134 (1st Dept 2013)

In an order dated December 17, 2013, the Court publicly censured Guillorn based on his nonvenal misappropriation of escrow funds; improper record keeping and cash withdrawals from his IOLA account; and prior letter of admonition issued by the Committee related to similar escrow violations. The Court discussed Guillorn's equivocal expression of remorse. (Staff Counsel Paul L. Friman)

Matter of Jacqueline K. Hollander, 109 AD3d 239 (1st Dept 2013)

In an order dated July 16, 2013, the Court granted the Committee's motion to accept Hollander's affidavit of resignation based on her acknowledgment that she could not successfully defend herself on the merits against charges related to a dozen complaints. The Court discussed the charges against her which alleged, among other things, professional misconduct in connection with the operation of her law practice and related bank accounts. The Court struck Hollander from the roll of attorneys *nunc pro tunc* to April 24, 2013. (Staff Counsel Paul L. Friman)

Matter of Milton L. Meyers, 108 AD3d 158 (1st Dept 2013)

Meyers, an immigration attorney, seriously neglected three separate matters involving clients seeking permanent residency through their employment, misrepresented to the clients the status of their cases and, in two of the cases, provided the clients with false filing numbers to convince them that the New York State Department of Labor or the United States Customs and Immigration Service (USCIS) had received their respective applications. In one case, he admitted to the client that he had done nothing, promised an immediate refund of the retainer, then delayed repayment for months and only did so after the client had filed his complaint with the Committee. In aggravation, Meyers had previously been admonished for the identical misconduct: neglecting two immigration matters and then providing the clients with false filing numbers to make them believe that their cases had been properly filed. The Court found that Meyers neglected client matters, misrepresented the status of cases to clients, failed to promptly refund an unearned retainer and engaged in conduct adversely reflecting on his fitness, and ordered a two year suspension. Meyers then filed a motion for leave to appeal to the Court of Appeals which was denied by order of the Appellate Division, First Judicial Department on September 17, 2013. (Special Trial Counsel Jeremy S. Garber)

Matter of Bruce G. Pritikin, 105 AD3d 8 (1st Dept 2013)

Pritikin was an accountant and a lawyer who had largely practiced accounting for the past thirty years. His accounting firm was retained by the entertainment entrepreneur Damon Dash to manage his complicated financial affairs and sort out his serious tax liabilities. Dash told Pritikin that the IRS had frozen his regular bank accounts, so Pritikin opened an attorney trust account to enable Dash to deposit income from his various business ventures and pay his personal and business obligations without interference from the IRS. The funds in the attorney trust account were not deposited and disbursed "incident to the practice of law," as required by the Code and the Rules but purely as a business accommodation to the client. The Court found that Pritikin engaged in deceptive conduct when, aware of a tax lien against Dash's bank account, he opened an attorney trust account to shield the client's funds. The Court found further that by depositing client funds into his trust account to help the client avoid legitimate tax liens and judgments, Pritikin had engaged in conduct prejudicial to the administration of justice. The Court also found that in depositing a client's personal and business funds into a trust account for purposes unrelated to the practice of law, he violated DR 9-102(B)(1) of the Code. Noting that this case was similar to those where attorneys use their escrow accounts to shield their own funds from tax liens, the Court suspended Pritikin for two years. (Former Staff Attorney Scott D. Smith and Special Trial Counsel Jeremy S. Garber)

Matter of Bruce Eric Baldinger, 109 AD3d 322 (1st Dept 2013)

Baldinger was publicly reprimanded by the Supreme Court of New Jersey for engaging in a business transaction with two clients that gave rise to a serious conflict of interest.

Baldinger, who was going through a contentious divorce and had to relocate, had asked his clients, who were in the construction and home renovation business, to purchase in their own name and renovate a house while he was living there. He offered to pay the mortgage and taxes while the renovations were ongoing and then purchase the property from them outright upon completion of the project. Despite the fact that the clients bore all the risks in this arrangement, Baldinger did not reduce the agreement to writing. There were complications in the renovation process and Baldinger moved out, ceased paying the mortgage and taxes, and did not purchase the home. The clients could not find another buyer and the house was eventually lost to foreclosure. The Supreme Court of New Jersey found that Baldinger had engaged in an impermissible business transaction with clients in which he had a personal interest that was not reduced to writing and for which he had not advised them to seek independent counsel. The Committee filed a petition for reciprocal discipline and the Court issued a public censure. (Staff Counsel Roberta N. Kolar and Special Trial Counsel Jeremy S. Garber)

Matter of John B. Todorovich, 111 AD3d 71 (1st Dept 2013)

Todorovich had failed to cooperate with the Committee by failing to produce six months of bank records for the IOLA account from which he had bounced a check. In addition, staff subpoenaed bank records that showed that he had converted third party real estate deposits. Furthermore, he had misappropriated about \$300,000 from an estate where he was co-executor, whereupon the other executor secured a judgment against him in that amount, which he had then failed to pay. Todorovich was, therefore, suspended on the three grounds of failure to co-operate, uncontested evidence of misconduct and willful failure to pay a judgment obtained by a client. (Special Trial Counsel Jeremy S. Garber)

Matter of Scott M. Gibson, 114 AD3d 182 (1st Dept 2013)

The Court had suspended Gibson on February 7, 2013 based on his admission that he had converted client funds and based also on bank records showing his commingling. The Committee served Gibson with formal charges alleging that he had intentionally converted client funds in his possession as escrow agent for several real estate transactions. While charges were pending, Gibson submitted an affidavit of resignation to the Court admitting that he could not defend himself on the merits against the charges. The Court accepted his resignation. (Special Trial Counsel Jeremy S. Garber)

Matter of Thomas F. Liotti, 111 AD3d 98 (1st Dept 2013)

Liotti is a Second Department lawyer, but by order dated November 20, 2009, the Second Department transferred jurisdiction over all complaints against him to the First Department. On September 26, 2013, our Court publicly censured Liotti when it granted the Committee's petition for reciprocal discipline which the Committee filed on the basis of the December 2, 2011 order of the United States Court of Appeals for the Fourth Circuit publicly

admonishing him in connection with a criminal appeal. Briefly, the Fourth Circuit found that Liotti: improperly joined unrelated quotations in a brief to create support for one of his arguments; falsely accused the trial judge, in his opening brief, of suppressing evidence; misrepresented as fact that his client had admitted post-trial was a lie; and, made false accusations about Secret Service agents involved in the investigation of his client. In October 2013, Liotti moved in the First Department to renew and reargue. When his motion was denied he moved in the Court of Appeals for leave to appeal the First Department denial of his application. When that did not work, he moved in the Court of Appeals for leave to appeal the reciprocal order. The Court of Appeals denied that motion in May 2014. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Philip M. Manger, 110 AD3d 150 (1st Dept 2013)

Manger co-founded and operated an entity which purported to offer debt relief services and legal assistance to consumers in connection with credit card debt and collection matters. In March 2011, the United States District Court in Northern Illinois found that Manger engaged in unfair and fraudulent practices in his business. Also in March 2011, and also in connection with his purported debt relief business, Manger was found to have engaged in the unauthorized practice of law in West Virginia. The Committee moved to accord collateral estoppel effect to the adverse findings. Upon receipt of the Committee's papers, Manger proffered an affidavit of resignation in compliance with 22 NYCRR 603.11 in which he acknowledged that he was aware of the allegations in the Committee's collateral estoppel petition and that he could not defend himself against the allegations. The Court accepted his resignation and struck his name from the roll of attorneys. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Scott A. Stern, 108 AD3d 126 (1st Dept 2013)

In January 2010, Stern pleaded guilty to three counts of aggravated harassment and two counts of stalking in connection with his mailing a box cutter and threatening letter to sitting judges and threatening e-mails to counsel for his landlord who had evicted him from his apartment for non-payment. As a condition of his plea and no jail time, Stern was required to resign from the bar. When the Court returned the affidavit because it was not notarized, Stern then submitted a new notarized affidavit but from which he deleted the required acknowledgment that he could not defend himself on the merits with respect to the misconduct being investigated by the Committee. The Court rejected the affidavit as deficient and referred the matter to the Committee for further proceedings including the issue of Stern's mental capacity. On remand, the Committee examined him under oath and admitted that he sent a box cutter to the judges and admitted making threats of bodily harm to opposing counsel. He also agreed to be examined by a psychiatrist for evaluation. Thereafter, over the course of a year and a half, Stern failed to comply with the Committee's numerous demands to make himself available for the psychiatric evaluation. In May 2013,

the Court interimly suspended him on the basis of his admissions under oath and failure to cooperate under the provisions of 22 NYCRR 603.4(e)(1)(i) and (ii). (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Joseph I. Rosenzweig, 105 AD3d 108 (1st Dept 2013)

Rosenzweig was suspended for six months for entering into a bigamous marriage with his paramour in violation of the laws of Jamaica. Rosenzweig was found to have violated DR 1-102(A)(3), (4), and (7) of the New York Lawyer's Code of Professional Responsibility for his misconduct. (Deputy Chief Counsel Vitaly Lipkansky)

Matter of Jose A. Muniz, 108 AD3d 44 (1st Dept 2013)

Muniz resigned from the practice of law, admitting that he would be unable to successfully defend himself against charges that he intentionally misappropriated client settlement funds and used the funds for his own purposes. (Deputy Chief Counsel Vitaly Lipkansky)

Matter of Victor Gomelsky, 107 AD3d 964 (1st Dept 2013)

Gomelsky resigned from the practice of law, admitting that he would be unable to successfully defend himself against charges that he failed to notice that his bookkeeper misappropriated the funds of a client, and that he did not make the client whole. Gomelsky further admitted that he would be unable to successfully defend himself against charges that he assisted a client in concealing settlement funds to protect against her disqualification from various benefits. (Deputy Chief Counsel Vitaly Lipkansky)

Matter of Tabber B. Benedict, 109 AD3d 317 (1st Dept 2013)

Benedict was disbarred and his name was stricken from the roll of attorneys based on his felony convictions in connection with a motor vehicle accident in which Benedict was driving while intoxicated and struck a bicyclist, causing the latter to suffer serious physical injuries. (Deputy Chief Counsel Vitaly Lipkansky)

Matter of Jacqueline S. Linder, 112 AD3d 152 (1st Dept 2013)

Linder was suspended on an interim basis pursuant to 22 NYCRR 603.4(e)(1)(i) (failure to cooperate with the Committee's investigation), and (iii) (uncontested evidence of professional misconduct). Linder failed to comply with the Committee's investigative requests, and there was uncontested evidence that she intentionally converted and/or misappropriated client funds. (Deputy Chief Counsel Vitaly Lipkansky)

Matter of Nathaniel H. Weisel, 108 AD 3d 39 (1st Dept 2013)

Weisel was ordered suspended for six months, ordered to take the ethics portion of the bar exam and "appropriately address his pathological behavior" prior to his reinstatement. Weisel had fabricated legal documents and admitted he was "addicted to lying". In 2009, a



client asked Weisel to start a civil action, which he did not do. To assure the client that the matter was being addressed, Weisel created a fraudulent settlement agreement, fictional index number, caption and settlement amount. He randomly chose an opposing counsel and forged his signature on the document. The fabrication was not filed in court. Before the client discovered the settlement had been fabricated, Weisel filed a valid Small Claims action. After the purportedly opposing counsel learned his signature had been forged, Weisel wrote him an apology and said he acted to give himself more time to properly file the action. In suspending Weisel for nine months, the Court found that Weisel “not only neglected a legal matter and then created a fictitious document with a forged signature of an innocent attorney in order to conceal the neglect for his client, but also failed to mitigate his troubling history of sanctions, warnings and decertification.” (Staff Counsel Norma I. Lopez)

Matter of Michael S. Samuel, 103 AD3d 134 (1st Dept 2013)

Samuel was publically censured for violating a New York County Supreme Court civil forfeiture order, which froze the assets and income of one of Samuel's investors, by making cash payments to his investor from his investor's earnings despite being aware of the forfeiture order, and continued to reinvest the investor's profits in his debt collection business. Samuel pleaded guilty to one count of Criminal Contempt in the Second Degree (PL § 215.50 [3]), an A misdemeanor. Samuel was sentenced to three years probation, was ordered to forfeit \$60,000 and directed to pay \$53,000 to his investor. The Court granted the Committee's petition declaring that the crime of which Samuel was convicted constituted a "serious crime", pursuant to Judiciary Law 90(4)(d) and 22 NYCRR 603.12(b). The Court confirmed the Hearing Panel's findings of fact and conclusions of law. The Court found that Samuel committed the crime alleged under a "misapprehension of the law", and given the absence of any aggravating circumstances and the existence of several mitigating circumstances, agreed with the Panel's recommended sanction of public censure. (Staff Counsel Norma I. Melendez)

Matter of Daniel H. Levy and Shane O. Rios, 109 AD3d 164 (1st Dept 2013)

Levy and Rios were suspended for nine months for engaging in conduct that violated the Code of Professional Responsibility in that they intentionally concealed information regarding their client's case from the attorney they retained as trial counsel in violation of rule 8.4(c); had interviewed their client in such a manner as to improperly suggest that she tailor her version of the accident at issue in support of a meritorious theory of liability in violation of rule 8.4 (h); and had failed to ascertain the precise location of their client's accident in violation of rule 1.1(a). (Staff Counsel Norma I. Melendez)

Matter of Frank R. Liu, 113 AD3d 85 (1st Dept 2013)

On November 26, 2013, the Court imposed reciprocal discipline to Liu for engaging in a pattern of filing deficient and untimely briefs in federal court. The United States Court of

Appeals for the Second Circuit publicly censured Liu on May 27, 2008. In imposing reciprocal discipline, the Court found that Liu was sufficiently afforded due process and that the finding of misconduct was amply supported by the record before the Second Circuit. (Staff Counsel Norma I. Melendez)

Matter of Peter F. Davey, 111 AD3d 207 (1st Dept 2013)

Davey, who filed a series of meritless lawsuits in two jurisdictions in a decade-long campaign of harassment against his ex-wife and other family members, her attorneys, and the judge presiding in a divorce action instituted by his ex-wife, and who repeatedly violated prohibitory court orders for which he was held in contempt and sanctioned, was guilty of professional misconduct (Code of Professional Responsibility DR 1-102[A][5], [7] [22 NYCRR 1200.3(a)(5), (7)]; DR 7-102 [A][1], [2] [22 NYCRR 1200.33 (a) (1), (2)]) based upon application of the doctrine of collateral estoppel. Under the totality of circumstances, including the seriousness of Davey's misconduct, his denial of wrongdoing, his utter lack of respect for the judicial process and for the administration of justice, his lack of remorse, and failure to pay sanctions, and notwithstanding Davey's lack of prior disciplinary history and claimed participation in religious counseling and services, Davey was suspended from the practice of law for a period of two years with reinstatement conditioned on his satisfaction of the fines and sanctions imposed on him in prior orders, in addition to complying with the rules for reinstatement promulgated by the Appellate Division. (Staff Counsel Elisabeth A. Palladino)

Matter of Joseph J. Mainiero, 109 AD3d 133 (1st Dept 2013)

Mainiero attorney was interimsly suspended for failure to cooperate with Committee's investigation of multiple complaints of misconduct. After six months had elapsed following his suspension, and Mainiero had failed to seek a hearing or reinstatement, upon motion by the Committee, he was disbarred pursuant to 22 NYCRR 603.4(g). (Staff Counsel Elisabeth A. Palladino)

Matter of Jorge Sorote, 110 AD3d 259 (1st Dept 2013)

Sorote was guilty of professional misconduct based upon his neglect of a legal matter entrusted to him, by failing to appear for two previously scheduled compliance conferences, and by failing to provide discovery in compliance with an order of the court and his handling of that same matter without adequate preparation by submitting a motion for restoration of the action that omitted an attempt to demonstrate that the client possessed a meritorious cause of action (Code of Professional Responsibility DR 601[A][3], [2] [22 NYCRR 1200.30(a)(3), (2)]). Under the totality of circumstances, including Sorote's extensive disciplinary history, which consisted of a three-year suspension from the practice of law and four admonitions, the fact that he appeared to have fully recovered from the alcoholism that contributed to his prior disciplinary history, the fact that the current misconduct was confined to one matter and

did not involve misrepresentation or deceit, his remorse and his acceptance of full responsibility for the misconduct, Sorote was suspended from the practice of law for a period of three months. (Staff Counsel Elisabeth A. Palladino)

Matter of Eugene C. Anyikwa, 109 AD3d 76 (1st Dept 2013)

The Committee commenced an investigation into the Anyikwa's conduct after receiving three disciplinary complaints from clients who alleged that he had neglected their legal matters and failed to communicate with them. The Committee made a series of attempts to contact him. However, Anyikwa did not reply to the Committee with respect to the pending complaints or otherwise contact the Committee. The Court found, *inter alia*, that given Anyikwa's inaccessibility, his failure to answer the complaints and his failure to answer the current motion, Anyikwa wilfully failed to cooperate with the Committee's investigation and demonstrated a complete disregard for his duties and obligations as an attorney. Moreover, his failure to keep his attorney registration current violated Judiciary Law 468-a(2). Such conduct warranted his immediate suspension from the practice of law in accordance with 22 NYCRR 603.4(e)(1)(i). (Staff Counsel Elisabeth A. Palladino)

Matter of Kevin J. McGraw, 107 AD3d 83 (1st Dept 2013)

McGraw was intermily suspended for failure to cooperate with the Committee's investigation of a complaint of misconduct. After six months had elapsed following his suspension, and he had failed to seek a hearing or reinstatement, upon motion by the Committee, McGraw was disbarred pursuant to 22 NYCRR 603.4(g). (Staff Counsel Elisabeth A. Palladino)

Matter of David Katz, 109 AD3d 143 (1st Dept 2013)

Katz was guilty of professional misconduct based upon his commingling of personal funds and client funds, his intentional conversion and misappropriation of client funds and his failure to keep required escrow account records (Code of Professional Responsibility DR 9-102 [22 NYCRR 1200.46]). Under the totality of circumstances, and notwithstanding the lack of financial loss to respondent's clients, his lack of previous disciplinary history, and his cooperation with the Committee, Katz was disbarred. The Federal Bureau of Investigation's seizure of some of the escrow funds in question did not constitute extremely unusual mitigating evidence that bore the requisite causal relationship to his misconduct sufficient to overcome his venal intent. (Staff Counsel Elisabeth A. Palladino)

Matter of Shigetaka Ogihara, 111 AD3d 186 (1st Dept 2013)

Ogihara was intermily suspended based on uncontested evidence that he converted \$1.8 million from his client. Ogihara's client deposited funds into respondent's escrow account in anticipation of purchasing an apartment in New York City. Ogihara invested the entire \$1.8 million in an energy fund without his client's knowledge or permission. Later, when the client sought return of her money, he admitted that he invested her funds without her prior

authorization, and had no means of returning her money. Ogihara urged the client not to pursue any criminal or civil remedies and would continue to work as her attorney as a form of repayment. Before the Committee, he claimed that he was authorized by his client to invest her funds. Ogihara, however, could not produce any records to substantiate that claim, and delayed his appearance for an examination under oath. Therefore, he failed to meaningfully controvert evidence of misconduct against him. The Court found that Ogihara's bank records, client's sworn affidavit denying authorization, and his note constituted substantial uncontested evidence of misappropriation and/or intentional conversion. Ogihara also did not oppose and consented to the interim suspension.

(\*\*Note: During the course of the Committee's investigation, Ogihara was also facing the indictment of Grand Larceny in the First Degree, a class B felony. The New York County District Attorney's Office applied for a sharing order, which was granted by our Court. Ogihara had argued in his criminal case in Supreme Court, Criminal Term, that his answer to the Committee should be suppressed under Fifth Amendment grounds and that the People's application for a sharing order should be scrutinized by the Supreme Court like a search warrant or an eavesdropping warrant. The Supreme Court rejected his arguments and denied his request for a hearing to determine the admissibility of all confidential information obtained from the Committee pursuant to the sharing order. Ogihara pled guilty to the sole count of Grand Larceny in the First Degree on April 7, 2014) (Staff Counsel Kathy W. Parrino)

Matter of Andrew M. Jacobs, 109 AD3d 330 (1st Dept 2013)

The Committee was investigating Jacobs for failing to comply with the rules pertaining to the maintenance of escrow accounts, neglecting and misrepresenting the status of two civil cases to his former clients, law partners and the courts, filing papers in court containing false information, and failing to cooperate with the Committee's investigations. As a result of the Committee's investigation, Jacobs agreed to resign from the practice of law in New York. (Staff Counsel Kathy W. Parrino)

Matter of Oritseweyimi O. Ayu, 113 AD3d 196 (1st Dept 2013)

Ayu was interimly suspended based on substantial admissions made under oath and uncontested evidence of professional misconduct. Specifically, Ayu engaged in and was convicted of multiple acts of masturbating in public in Maryland between 1999 and 2010. Ayu was examined under oath (deposition) twice during the course of the Committee's investigation. In the second deposition, he admitted that he was not truthful in the first deposition, in his law school application, and in his New York State Bar application. Ayu's misconduct also included impersonating another attorney in Maryland and engaging in the unauthorized practice of law in various states where he is not admitted. (Staff Counsel Kathy W. Parrino)

Matter of John P. Harris, 109 AD3d 136 (1st Dept 2013)

The Appellate Division struck Harris's name from the roll of attorneys pursuant to Judiciary Law 90(4)(b) based on his automatic disbarment by virtue of his conviction, upon his guilty plea, of the class D felony of grand larceny in the third degree. (Staff Counsel Orlando Reyes)

Matter of Diane Serafin Blank, 110 AD3d 112 (1st Dept 2013)

The Appellate Division disbarred Blank based on her failure to contest charges, which were amply supported by evidence, that she had, *inter alia*, neglected client matters and engaged in deceit to conceal one of her neglects. (Staff Counsel Orlando Reyes)

Matter of Sean Serpe, 106 AD3d 112 (1st Dept 2013)

The Appellate Division suspended Serpe pursuant to 22 NYCRR 603.16(b) based on evidence that established that Serpe, who had neglected clients' legal matters, was incapable of practicing law due to severe depression. (Staff Counsel Orlando Reyes)

Matter of Jason V. Obten, 110 AD3d 255 (1st Dept 2013)

The Appellate Division immediately suspended Obten pursuant to: (1) 22 NYCRR 603.4(e)(1)(i), based on his failure to cooperate with the Committee's investigation into allegations of misconduct against him, and his failure to timely notify the Office of Court administration of changes to his address and telephone number; and (2) 22 NYCRR 603.4(e)(1)(iii), based on his failure to timely notify the Office of Court Administration of changes to his address and telephone number and his delinquent registration status, conduct which threatened the public interest. (Staff Counsel Orlando Reyes)

Matter of Peter S. Koenig, 104 AD3d 221 (1st Dept 2013)

The Second Circuit issued a public reprimand based on Koenig's neglect of legal matters before that Court in nine separate matters. Specifically, Koenig violated various scheduling orders, failed to file briefs and failed to perfect the appeals of his clients in immigration cases. Koenig also practiced before the Second Circuit without having sought admission to that Court. In a reciprocal proceeding, a Hearing Panel of the Committee recommended that Koenig be suspended for three months. The Court confirmed this recommendation, noting that he had been issued three prior Letters of Admonition, his cavalier approach to his practice before the Second Circuit and his evasiveness in responding to the Panel's questions at the hearing. (Deputy Chief Counsel Raymond Vallejo)

Matter of Martin E. Weisberg, 104 AD3d 83 (1st Dept 2013)

Weisberg pleaded guilty in federal court to the felony of conspiracy to commit securities fraud. Specifically, he admitted that he intentionally filed falsified documents with the Securities and Exchange Commission by not accurately describing certain securities

transactions, known as private investment in public equity, or PIPE transactions. The Court found this crime to be analogous to the New York State felony of Offering a False Statement for Filing and ordered Weisberg disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Stephen C. Jackson, 103 AD3d 10 (1st Dept 2013)

Pursuant to the Committee's investigation, Jackson submitted purported copies of his escrow account bank statements which appeared to reflect that he was holding sufficient funds in his account on his client's behalf. The Committee subpoenaed from Citibank these bank statements for the same period of time which revealed discrepancies between the balance in the purported statement and the record provided by Citibank. Jackson was subsequently indicted for, among other things, altering the bank statements he provided to the Committee and perjury. The Committee's motion for Jackson's immediate suspension was granted on the grounds that clear and unrefuted evidence of his conversion and/or misappropriation of client funds had been established. He has subsequently pleaded guilty to the felonies of grand larceny, perjury and tampering with evidence which results in automatic disbarment. (Deputy Chief Counsel Raymond Vallejo)

Matter of David J. Loglisci, 102 AD3d 174 (1st Dept 2013)

Loglisci, the former chief investment officer of New York State's pension fund, which was managed by then NYS Comptroller Alan Hevesi, pleaded guilty to the felony of securities fraud, in violation of New York's General Business Law. Loglisci admitted that he helped steer pension money to investments to those who either made contributions to Hevesi's campaign or who agreed to pay fees to Henry Morris, the former political advisor of Alan Hevesi, or his associates, and punished those who did not. The Court ordered him automatically disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Matthew H. Kluger, 102 AD3d 168 (1st Dept 2013)

Kluger pleaded guilty, in the United States District Court for the District of New Jersey, to conspiracy to commit securities fraud, securities fraud, conspiracy to commit money laundering and obstruction of justice. He admitted participating in an insider trading scheme in which he stole confidential nonpublic information related to approximately 30 corporate mergers and acquisitions being handled by the law firms that employed him. Kluger also destroyed a computer and an iPhone upon learning that the authorities had searched the home of one of his cohorts and that he himself was under criminal investigation. Kluger was sentenced to 60 months incarceration. The Court found that his securities fraud conviction was analogous to New York's felony of Insider Trading under the General Business Law and that his conviction for obstruction of justice was analogous to the New York felony of Tampering with Physical Evidence. The Court ordered him disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Tung H. Lam, 104 AD3d 80 (1st Dept 2013)

Lam pleaded guilty, in the United States District Court for the Southern District of New York, to the felony of conspiracy to encourage and induce aliens to illegally enter and reside in the United States. Lam was sentenced to 21 months incarceration, 3 years of supervised release and a forfeiture of \$750,000. The Court deemed this a “serious crime” and ordered that he be immediately suspended on the grounds that he had been convicted of a felony and was serving a term of imprisonment. The Court also ordered that a hearing on the issue of sanction be held following his release from prison. (Deputy Chief Counsel Raymond Vallejo)

Matter of Adam M. Wright, 104 AD3d 167 (1st Dept 2013)

Wright pleaded guilty, in the United States District Court for the Southern District of New York, to aiding and abetting other individuals in making false statements on applications to the United States Citizenship & Immigration Services, a federal felony, for which he was sentenced to 18 months probation, 500 hours of community service and a forfeiture of \$7,200. The Court found that Wright’s immigration fraud conviction was analogous to the New York State felony of Offering a false Instrument and ordered him automatically disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Paul S. Block, 105 AD3d 70 (1st Dept 2013)

Block pleaded guilty, in New York County Supreme Court, to the felony of Grand Larceny in the Second Degree. He admitted that while employed at his law firm, he issued checks from the firm’s escrow account to which he was not entitled in an amount in excess of \$300,000. Block requested that he be permitted to resign from the bar. The Court, however, rejected his request to resign in light of his automatic disbarment upon his felony conviction. The Court also explained that although Block had not yet been sentenced, the Committee’s petition was timely since a felony conviction calls for automatic disbarment at the time of the guilty plea. (Deputy Chief Counsel Raymond Vallejo)

Matter of Jonathan S. Dickstein, 105 AD3d 77 (1st Dept 2013)

Dickstein pleaded guilty, in Superior Court of California, to 30 felony counts, including: grand theft, forgery, presenting a false or fraudulent claim and making fraudulent claims for health care benefits, for which he was disbarred in California. He was sentenced to 1 year incarceration, 5 years probation and \$400,000 in restitution. In ordering him disbarred in New York, the Court found that his grand theft conviction was analogous to the New York felony of Grand Larceny in the Fourth degree. (Deputy Chief Counsel Raymond Vallejo)

Matter of Douglas R. Arnsten, 106 AD3d 17 (1st Dept 2013)

Arnsten pleaded guilty, in New York County Supreme Court, to 3 counts of Grand Larceny in the First Degree and 1 count of Scheme to Defraud in the First Degree. This matter arose

from his theft of over \$10 million over a two-year period from two corporate clients. Arntsen admitted transferring funds belonging to these clients out of escrow accounts and into bank accounts he personally controlled. Arntsen, who was sentenced to 4-12 years incarceration and ordered to pay \$10.7 million in restitution, was automatically disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Jed M. Philwin, 108 AD3d 129 (1st Dept 2013)

Philwin pleaded guilty, in the United States District Court for the Southern District of New York, to the federal felony of conspiracy to commit immigration fraud. He admitted submitting thousands of fraudulent petitions and applications with the United States Department of Labor in an effort to deceive the government into adjusting the immigration status of his clients. In disbaring Philwin, the Court found that his conviction was analogous to the New York felony of Offering a False Instrument for Filing in the First Degree. (Deputy Chief Counsel Raymond Vallejo)

Matter of James M. Schoenecker, 107 AD3d 113 (2013)

Schoenecker pleaded guilty, in the Wisconsin Circuit Court, to the felony of Identity Theft and to Misdemeanor Theft, for which he was sentenced to 2 years probation and restitution. The cases arose out of his illegal use of personal information of his former fiancée, without her consent. He also forged two checks from her business account made payable to himself and he also created a computer-generated check for \$1,750 from this same account, which he unsuccessfully attempted to cash. In disbaring Schoenecker, the Court found that his Wisconsin conviction was analogous to the New York felony of Identity Theft in the Second Degree. (Deputy Chief Counsel Raymond Vallejo)

Matter of Theodore L. Freedman, 109 AD3d 151 (1st Dept 2013)

Freedman pleaded guilty, in the United States District Court for the Southern District of New York, to 4 counts of the federal felony of Making and Subscribing False United States Income Tax Returns. Freedman attorney admitted underreporting the full amount of his K-1 income when he filed his federal income tax returns for the years 2001 through 2004 (approximately \$2 million across 4 years). He was ordered to make restitution of \$671,219 to the IRS and \$169,308 to New York State. The Court deemed this conviction a “serious crime” and ordered him immediately suspended. (Deputy Chief Counsel Raymond Vallejo)

Matter of Desmond J. Connell, 110 AD3d 252 (1st Dept 2013)

Connell pleaded guilty, in Bronx County Supreme Court, to the felonies of Grand Larceny in the Third Degree and Scheme to Defraud. Connell acted in concert with others operating a scheme to defraud insurance carriers by filing no-fault insurance claims for reimbursement under fraudulent and false pretenses and by using a network of attorneys that relied on steering activities which caused a loss to numerous insurance carriers. Connell, who was



sentenced to 3 years probation and ordered to make restitution of \$75,000, was disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of John C. Lin, 110 AD3d 186 (1st Dept 2013)

Lin pleaded guilty, in the United States District Court for the Southern District of New York, to the federal felony of conspiracy to commit immigration fraud. He admitted that, from 2006 through 2012, he conspired with others to submit immigration applications containing false information to gain benefits from the federal government. The Court found that his federal conviction was analogous to the New York felony of Offering a False Instrument for Filing in the First Degree. In disbaring Lin, the Court explained that although he was not yet sentenced, the Committee's application was timely because the date of the plea is the date of conviction that triggers disbarment. (Deputy Chief Counsel Raymond Vallejo)

Matter of Kevin G. McLean, 113 AD3d 89 (2013)

McLean pleaded guilty, in New York County Supreme Court, to the felony of Burglary in the Third Degree, for which he was sentenced to one year incarceration. McLean violated a criminal trespass act that was issued against him by entering a Best Buy electronics store with the intent to commit larceny. The Court ordered him automatically disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Henry A. O. Banji, 106 AD3d 73 (1st Dept 2013)

Banji was suspended pursuant to 22 NYCRR 603.4(e)(1)(i) for failing to cooperate with the Committee's investigation of allegations of professional misconduct, which threatens the public interest. Additionally, Banji failed to register with the Office of Court Administration and pay his biennial registration fee. (Staff Counsel Kaylin L. Whittingham)

Matter of Stephen A. Bruschi, 105 AD3d 124 (1st Dept 2013)

The Supreme Court of the Virgin Islands disbarred Bruschi for misappropriating funds belonging to two of his clients, in the amounts of \$10,000 and \$37,654.98. The Court granted the Committee's petition for reciprocal discipline and disbarred Bruschi. (Staff Counsel Kaylin L. Whittingham)

Matter of Julia E. Dimick, 105 AD3d 30 (1st Dept 2013)

Dimick was publicly censured in Indiana for engaging in conduct that is prejudicial to the administration of justice. Specifically, Dimick threatened to report another attorney to the Indiana Grievance Committee if he did not initiate settlement negotiations with her client. The Court granted the Committee's petition for reciprocal discipline and issued a public censure. (Staff Counsel Kaylin L. Whittingham)



## SUMMARY OF REPRESENTATIVE CASES

Although it may appear that the Committee should be engaged mainly in bringing formal charges of misconduct and conducting hearings on those charges, those obviously important functions of the Committee are only a part of the picture. A significant portion of what the Committee does in a confidential manner eventually does become public when the Court acts on motions made by the Committee.

### Interim Suspensions

The Court's rules provide that an attorney may be suspended from the practice of law pending consideration of charges against the attorney for: (1) a default in responding to pending charges of professional misconduct or failure to comply with lawful demands made in connection with an investigation; (2) a substantial admission under oath that the attorney has committed an act of professional misconduct; (3) other uncontested evidence of professional misconduct; or (4) willful failure to pay money owed to a client evidenced by a judgment or other clear and convincing evidence.

The most serious misconduct that the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The Court has repeatedly stated that the intentional conversion of money held as a fiduciary or for a client requires disbarment, except when there are exceptional mitigating circumstances which are rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff attorneys will seek an immediate suspension for such misconduct if there is sufficient evidence to justify the motion. In addition, the Committee's staff will seek the suspension of an attorney who fails to cooperate in answering a complaint or does not comply with lawful demands for information on records. In 2013, the Court suspended 16 attorneys on an interim basis pending resolution of the charges against them in the following cases: Matter of Stephen C. Jackson, 103 AD3d 10; Matter of Tung H. Lam, 104 AD3d 80; Matter of Henry A. O. Banji, 106 AD3d 73; Matter of Scott A. Stern, 108 AD3d 126; Matter of Eugene C. Anyikwa, 109 AD3d 76; Matter of Theodore L. Freedman, 109 AD3d 151; Matter of James C. Jones, 110 AD3d 126; Matter of Jason V. Obten, 110 AD3d 255; Matter of John B. Todorovich, 111 AD3d 71; Matter of Jason S. Ciccone, 111 AD3d 115; Matter of Shigetaka Ogihara, 111 AD3d 186; Matter of Ingrid L. Seaborn, 111 AD3d 215; Matter of Jacqueline S. Linder, 112 AD3d 152; Matter of Joel L. Getreu, 113 AD3d 148; Matter of Oritseweyimi O. Ayu, 113 AD3d 196; Matter of Scott M. Gibson, 114 AD3d 182.

### Disbarments

The First Department disbarred six attorneys (three following formal charges, two following petitions for reciprocal discipline and one following a petition for collateral estoppel):

Matter of Stephen A. Bruschi, 105 AD3d 124; Matter of David Katz, 109 AD3d 143; Matter of Diane S. Blank, 110 AD3d 112; Matter of Patrick J. Maruggi, 112 AD3d 180; Matter of Emani P. Taylor, 113 AD3d 56; Matter of Alan Frank, 113 AD3d 92.

The Court also has a rule unique to the First Department (see 22 NYCRR 603.4[g]), whereby a motion to suspend may also include a notice to the attorney that the attorney may be disbarred if the attorney is suspended and fails to apply in writing to the Committee or Court requesting a hearing, or reinstatement within six months. In 2013, the First Department invoked 22 NYCRR 603.4(g) to disbar eight attorneys: Matter of Jenee M. Gadsden, 103 AD3d 1; Matter of Brian H. Reis, 105 AD3d 62; Matter of Kevin J. McGraw, 107 AD3d 83; Matter of Gideon J. Karlick, 108 AD3d 81; Matter of Joseph J. Mainiero, 109 AD3d 133; Matter of Nikia L. Way, 109 AD3d 148; Matter of Marc A. Bruzdziak, 111 AD3d 118; Matter of James J. Harrington, 112 AD3d 201.

In 2013, the First Department granted fifteen petitions to strike the names of attorneys convicted of felonies: Matter of David J. Loglisci, 102 AD3d 174; Matter of Martin E. Weisberg, 104 AD3d 83; Matter of Adam M. Wright, 104 AD3d 167; Matter of Paul S. Block, 105 AD3d 70; Matter of Jonathan S. Dickstein, 105 AD3d 77; Matter of Douglas R. Arntsen, 106 AD3d 17; Matter of James M. Schoenecker, 107 AD3d 113; Matter of Jed Mathew D. Philwin, 108 AD3d 129; Matter of Soma Sengupta, 109 AD3d 131; Matter of John P. Harris, 109 AD3d 136; Matter of Tabber B. Benedict, 109 AD3d 317; Matter of John C. Lin, 110 AD3d 186; Matter of Desmond J. Connell, 110 AD3d 252; Matter of Kevin G. McLean, 113 AD3d 89; Matter of Edwards R. Adams, 114 AD3d 1.

#### Disciplinary Resignations

The Court may permit an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR 603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending charges is the equivalent of disbarment. In 2013, the First Department accepted resignations under 22 NYCRR 603.11 from seven attorneys and ordered their names stricken from the roll of attorneys: Matter of Victor Gomelsky, 107 AD3d 964; Matter of Jose A. Muniz, 108 AD3d 44; Matter of Warren A. Kirshenbaum, 109 AD3d 97; Matter of Jacqueline K. Hollander, 109 AD3d 239; Matter of Andrew M. Jacobs, 109 AD3d 330; Matter of Philip M. Manger, 110 AD3d 150; Matter of Yves Merry Telemaque, 110 AD3d 210.

#### Suspension as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public. The Court imposes suspension for conviction of “serious crimes,” as defined in the Judiciary Law 90(4)(d), for reciprocal discipline and for misconduct. In 2013, the Court imposed

suspensions for misconduct on sixteen attorneys for periods ranging from three months to four years: Matter of William E. Melendez, 104 AD3d 134; Matter of Peter S. Koenig, 104 AD3d 221; Matter of Bruce G. Pritikin, 105 AD3d 8; Matter of Joseph I. Rosenzweig, 105 AD3d 108; Matter of Nathaniel H. Weisel, 108 AD 3d 39; Matter of Milton L. Meyers, 108 AD3d 158; Matter of Patrice M. Davis, 109 AD3d 154; Matter of Daniel H. Levy, 109 AD3d 164; Matter of Shane O. Rios, 109 AD3d 164; Matter of Scott B. Gilly, 110 AD3d 164; Matter of Jorge Sorote, 110 AD3d 259; Matter of Jeffrey M. Sondel, 111 AD3d 168; Matter of Peter F. Davey, 111 AD3d 207; Matter of Ralph E. Lerner, 112 AD3d 144; Matter of Gregory N. Filosa, 112 AD3d 162.

#### Suspension for Medical Disability

The Court's rules provide that an attorney may be suspended if judicially declared incompetent or the Court concludes that the attorney is incapacitated from continuing to practice law. Pursuant to 22 NYCRR 603.16, any pending disciplinary proceedings against the attorney shall be held in abeyance until the Court makes a determination of the attorney's capacity to continue the practice of law. In 2013, the Court suspended three attorneys pursuant to 22 NYCRR 603.16: Matter of Judith D. Segreti, 105 AD3d 49; Matter of Sean C. Serpe, 106 AD3d 112; Matter of Stoddard D. Platt, 113 AD3d 68.

#### Public Censures

The least severe form of public discipline that the Court may impose is a censure (see 22 NYCRR 605.5[a][3]). In 2013, the First Department issued public censures in sixteen cases, all based on professional misconduct in violation of the Lawyer's Code of Professional Responsibility: Matter of Michael S. Samuel, 103 AD3d 134; Matter of Bruce H. Kaplan, 103 AD3d 184; Matter of Allen Y. Hsu, 104 AD3d 138; Matter of Julia E. Dimick, 105 AD3d 30; Matter of Roman Leonov, 107 AD3d 78; Matter of Marc A. Deitch, 109 AD3d 1; Matter of Fengling Liu, 109 AD3d 84; Matter of Peter J. Knudsen, 109 AD3d 94; Matter of Neal H. Rosenberg, 109 AD3d 225; Matter of Bruce E. Baldinger, 109 AD3d 322; Matter of Thomas F. Liotti, 111 AD3d 98; Matter of Theresa A. Markham, 111 AD3d 108; Matter of John J. Hession, 111 AD3d 137; Matter of Frank R. Liu, 113 AD3d 85; Matter of Visuvanathan Rudrakumaran, 113 AD3d 107; Matter of Brian W. Guillorn, 114 AD3d 134.

#### Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR 603.14 permit attorneys to apply for reinstatement to the practice of law after a period of suspension, or seven years after disbarment. Attorneys who are suspended for six months, or less, may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's Office an affidavit stating that the attorney has met certain requirements (see 22 NYCRR 603.14). An attorney who has been suspended for a period of more than six months may petition the Court for reinstatement upon the expiration of the period of suspension (*id.*).

An attorney who has been disbarred, or stricken from the roll of attorneys, may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (id.). In such cases, the Court may refer the matter for a hearing before a Referee, or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2013, the Court granted seventeen petitions for reinstatement and denied five.

#### Immigration Complaints

Staff Attorney Jun Hwa Lee handles the initial screening of all immigration matters. Lee also coordinates our efforts with many other agencies and prosecutors who target immigration fraud. Further, Lee supervises the Committee's use of immigration Special Counsel approved by the Court to assist the Committee. Lee often speaks before various groups, including federal judges interested, or involved, in immigration matters.

2013

Appendix A: Committee Assignments

Roy L. Reardon, Chair  
Policy Committee

Christopher E. Chang  
Ernest J. Collazo  
Haliburton Fales, 2d (Special Counsel)  
Charlotte Moses Fischman (Special Counsel)  
Martin R. Gold (Special Counsel)  
Robert L. Haig (Special Counsel)  
Myron Kirschbaum (Special Counsel)  
Alan Levine  
Hon. Eugene Nardelli  
Mercedes A. Nesfield\*  
Hon. Joseph P. Sullivan  
Stephen L. Weiner (Special Counsel)

Hearing Panel Members

Panel I

Milton L. Williams, Jr., Chair  
Catherine A. Christian  
Matthew Gaier  
David R. Gelfand  
Robert J. Giuffra  
Robin Stratton Rivera\*  
William T. Russell, Jr.

Panel II

Nicholas M. Cannella, Chair  
Sheldon Elsen  
Ruth W. Friendly\*  
Nancy B. Ludmerer  
Jacob Pultman  
Roland G. Riopelle  
Barbara K. Rothschild\*

Panel III

Eugene P. Souther, Chair  
Peter A. Bellacosa  
Giorgio Caputo\*  
Maura Barry Grinalds  
Carla A. Kerr Stearns  
Maria D. Melendez  
Natica von Althann\*

Panel IV

John F. Cambria, Chair  
Catherine M. Abate  
Robert E. Godosky  
Kathleen M. Scanlon  
William St. Louis  
Ronald J. Sylvestri, Jr.\*  
Gonzalo S. Zeballos

Panel V

Ralph C. Dawson, Chair  
William P. Frank  
Peter C. Harvey  
Brian C. McK. Henderson\*  
Roger Juan Maldonado  
Robert P. McGreevy  
Sarah E. Zgliniec

Panel VII

Nina Beattie, Chair  
John M. Callagy  
John H. Carley  
Aurora Cassirer  
Leonard F. DeLuca\*  
Pamela Jarvis  
Arthur M. Luxenberg  
Susan Welsher\*

Panel IX

John D. Gordan, III, Chair  
James W. Harbison, Jr.  
Gerard E. Harper  
Alfreida B. Kenny  
William A. Maher  
Barbara A. Ryan  
Karla G. Sanchez  
John L. Warden

Panel VI

Seymour W. James, Jr., Chair  
David Buksbaum\*  
Nicholas A. Gravante, Jr.  
Emily F. Mandelstam\*  
David M. Rubin  
Karen Patton Seymour  
Frank H. Wohl  
Richard R. Zayas

Panel VIII

Richard M. Greenberg, Chair  
James M. Altman  
David Arroyo  
George Berger  
Sheila S. Boston  
John J. Jerome  
Lawrence S. Spiegel

\*Public Member



2013

Appendix B: Office of the Chief Counsel: Attorneys

Jorge Dopico  
Chief Counsel

Deputy Chief Counsel

Angela Christmas  
Naomi F. Goldstein  
Vitaly Lipkansky  
Raymond Vallejo

Special Trial Counsel

Jeremy S. Garber

Staff Attorneys

Nicole Corrado  
Kevin P. Culley  
Kevin Doyle  
Paul Friman  
Roberta N. Kolar  
Jun Hwa Lee  
Norma I. Lopez  
Norma I. Melendez  
Kevin E. F. O'Sullivan  
Elizabeth A. Palladino  
Orlando Reyes  
Eileen J. Shields  
Kathy Wu  
Kaylin L. Whittingham



2013

Appendix C: Office of the Chief Counsel: Staff

Investigators

John Puglise, Chief  
George Cebisch  
Leonard Zarrillo  
Anthony Rodriguez

Paralegals

Rebeca V. Taub  
Donna Killian  
Joel Peterson  
Nancy K. DeLeon (Assistant  
Office Manager)

Accountant

Martin Schwinger

Office Manager

Marcy Sterling

Clerk

Virgil Cruz

Computer Personnel

Michelle Y. Wang, LAN Administrator  
Charles A. Sauer

Administrative Assistants

Eartha Hobot  
Monique Hudson  
Tennille Millhouse  
Tina Nardelli  
Celina Nelson  
Gloria Rodriguez



2013

Appendix D: Bar Mediators

Association of the Bar of the City of New York

Mark S. Arisohn, Esq.  
Vivian O. Berger, Esq.  
David M. Brodsky, Esq.  
Paul G. Huk, Esq.  
Chris Stern Hyman, Esq.  
Andrew D. Kaiser, Esq.

Hal R. Lieberman, Esq.  
John Madden, Jr., Esq.  
Morton Newburgh, Esq.  
Michele A. Peters, Esq.  
Briscoe R. Smith, Esq.  
Harvey A. Strickon, Esq.

Bronx County Bar Association

Daniel Chavez, Esq.

Richard M. Copeland, Esq.

New York County Lawyers' Association

David N. Brainin, Esq.  
John A. Cannistraci, Esq.  
Faith Colish, Esq.  
Klaus Eppler, Esq.  
Alan J. Goldberg, Esq.

M. Robert Goldstein, Esq.  
Hon. Millard L. Midonick  
Edward E. Morris, Jr., Esq.  
Joseph B. Russell, Esq.



**Appendix E: Annual Statistical Report to OCA****ATTORNEY DISCIPLINE ACTIVITIES**PERIOD COVERED: ANNUAL 2013

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

**I. MATTERS PROCESSED:**

A. Matters Pending at Start of Period	<u>914</u>	
B. New Matters During Period	<u>5320*</u>	
C. Closed Matters Reactivated During Period	<u>79</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>6313*</u>
E. Total Matters Disposed of During Period		<u>5265*</u>
F. Matters Pending at End of Period		<u>1048</u>

**II. MATTERS DISPOSED OF BY COMMITTEE:**

	Cases <sup>②</sup>	Matters
A. Rejected as Failing to State a Complaint	<u>318</u>	<u>331</u>
B. Referred to Other Disciplinary Committees	<u>346</u>	<u>356</u>
C. Referred to Other Agencies	<u>125</u>	<u>131</u>
D. Dismissed or Withdrawn	<u>1632</u>	<u>1719</u>
E. Dismissed through Mediation	<u>51</u>	<u>66</u>
F. Letter of Caution	n/a	n/a
G. Letter of Admonition	<u>66</u>	<u>71</u>
H. Reprimand (after hearing)	<u>0</u>	<u>0</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>129</u>	<u>177</u>
Total Disposed of During Period (same as I.E above.)	<u>2667</u>	<u>2851</u>

**III. CASES PROCESSED IN ALL COURTS:**

A. Cases Pending at Start of Period		<u>47</u>
1. Disciplinary Proceedings	<u>39</u>	
2. Other	<u>8</u>	
B. Cases Received During Period		<u>298</u>
1. Disciplinary Proceedings	<u>95</u>	
2. Other	<u>203</u>	
C. Total to be Processed During Period		<u>345</u>

\*Includes 2387 attorneys suspended for nonpayment of registration fees.

**ATTORNEY DISCIPLINE ACTIVITIES** (01/13-12/13)

D.	Cases Closed		
	1. Disbarred	29	
	2. <b>Disciplinary Resignations</b>	7	
	3. Suspended <sup>③</sup>	35	
	4. Censured	16	
	5. Privately Censured <sup>④</sup>	0	
	6. Remanded to Disciplinary Committee	9	
	7. Discontinued	4	
	8. Dismissed	0	
	9. Reinstatements Granted <sup>⑤</sup>	114	
	10. Reinstatements Denied	6	
	11. <b>Non-Disciplinary Resignations</b>	58	
	12. All Other Dispositions	35	
	13. Total Closed		313
E.	Total Cases Pending at End of Period		30
	1. Disciplinary Proceedings	19	
	2. Other	11	

① "Matter" includes complaints, inquiries (excluding telephone inquiries) and Sua Sponte investigations.

② Cases refers to the number of respondent/attorneys. As some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.

③ Includes (16) definite, (16)interim and (3) indefinite suspensions.

④ Reported as "Privately Reprimanded" in the 1<sup>st</sup> Department.

⑤ Includes (17) disciplinary reinstatements and (95) 468-a reinstatements.



**Appendix F: Budget for Fiscal Year 2013-2014**

**Departmental Disciplinary Committee Budget  
Fiscal Year April, 2013 - March, 2014**

	<u>Allocation</u>
<b>Personal Service Total:</b>	<b>\$ 3,988,566.00</b>
<b><u>Non-Personal Service:</u></b>	
Office Supplies	31,695.00
EDP	1,074.00
Legal Reference - General	11,310.00
Miscellaneous Supplies and Materials	7,733.00
Travel General	465.00
Rentals of Equipment	27,864.00
Repairs of Equipment	4,342.00
Repairs of Structure	-
Real Estate Rentals	-
Conferences/Training	-
Postage and Shipping	10,022.00
Printing General	3,937.00
Telephones	3,863.00
EDP Telecommunication Charges	-
Information Technology Services	-
Building and Property Services	4,399.00
Subscriptions	
Other General Services	6,771.00
Records Management Services	23,970.00
Professional Services - Expert Witnesses	250.00
Professional Services - Interpreters	-
Transcript Costs-- General	64,383.00
Computer Assisted Legal Research	-
Other Court Services	18,678.00
Professional Services Per Diem Court Reporters	-
Equipment - New/Replacement	-
<b>Non-Personal Service Total:</b>	<b>\$ 220,756.00</b>
<b>TOTAL BUDGET FISCAL YEAR 2013-2014</b>	<b>\$ 4,209,322.00</b>



Appendix G: Sample Complaint Form  
**SUPREME COURT, APPELLATE DIVISION**  
**FIRST JUDICIAL DEPARTMENT**  
**DEPARTMENTAL DISCIPLINARY COMMITTEE**  
**61 BROADWAY, 2<sup>ND</sup> FLOOR**  
**NEW YORK, NEW YORK 10006**  
**(212) 401-0800**

**Jorge Dopico**  
**Chief Counsel**

DATE: \_\_\_\_\_

Complainant(s):

Mr.( ) Ms.( ) Mrs.( ) \_\_\_\_\_  
Last First Initial

Address: \_\_\_\_\_ Apt. No. \_\_\_\_\_

\_\_\_\_\_ City State Zip Code

Telephone: Home: ( ) \_\_\_\_\_ Business: ( ) \_\_\_\_\_

Attorney Complained of:

Mr.( ) Ms.( ) Mrs.( ) \_\_\_\_\_  
Last First Initial

Address: \_\_\_\_\_ Apt. No. \_\_\_\_\_

\_\_\_\_\_ City State Zip Code

Telephone: Home: ( ) \_\_\_\_\_ Business: ( ) \_\_\_\_\_

\*\*\*\*\*

Complaints to other agencies:

Have you filed a complaint concerning this matter with another Bar Association, District Attorney's Office or any other agency:

If so, name of agency: \_\_\_\_\_

Action taken by agency: \_\_\_\_\_

\*\*\*\*\*

Court action against attorney complained of:

Have you brought a civil or criminal action against this attorney? \_\_\_\_\_

If so, name of court: \_\_\_\_\_ Index No. \_\_\_\_\_

\*\*\*\*\*

1. Please send **AN ORIGINAL AND ONE COPY** of your complaint with enclosures. Please do not send original documents in your enclosures because we will not return them.
2. You may copy the enclosed form as many times as you wish, or you may find it online. Our website is: [www.nycourts.gov](http://www.nycourts.gov). Go to the search bar and enter "disciplinary committee." Click on the link which says, "Departmental Disciplinary Committee."
3. You may also state your allegations in a letter. We request separate complaint forms/letters for each attorney in question.

