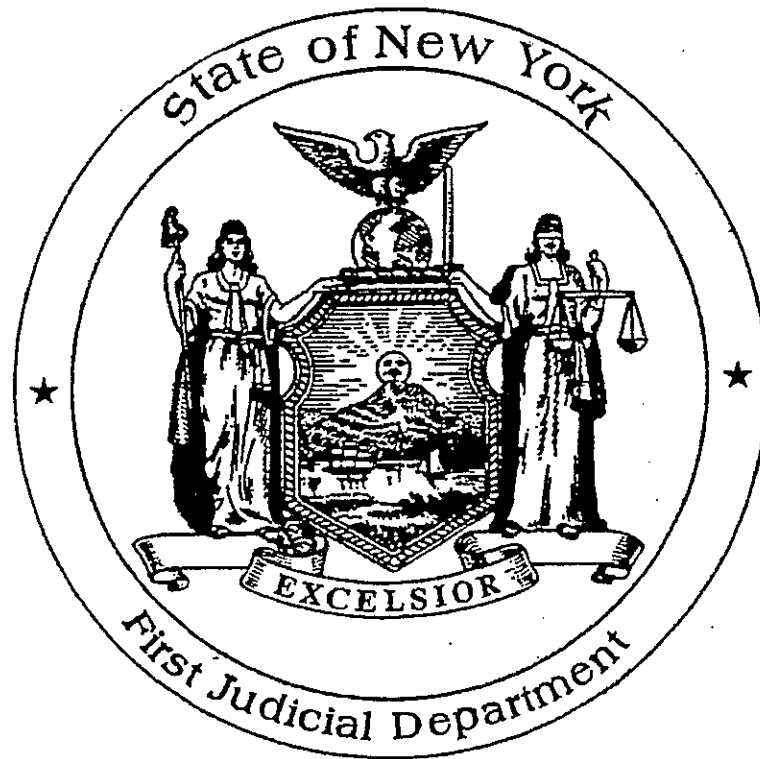


2007 ANNUAL REPORT



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

2007 ANNUAL REPORT

The Departmental Disciplinary Committee

of the Appellate Division

of the Supreme Court

of the State of New York,

First Judicial Department

TABLE OF CONTENTS

	<u>Page</u>
LETTER FROM THE CHAIRMAN	1
CHIEF COUNSEL'S REPORT	2
COMMITTEE MEMBERS	4
A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS	35
Complaints, Investigations and Dismissals	35
Dispositions	38
Admonitions	38
Proceedings on Formal Charges	39
Serious Crimes	40
Applications to the Appellate Division	40
REPRESENTATIVE CASES	43
SUMMARY OF OTHER REPRESENTATIVE CASES	57
Interim Suspensions	57
Felony Disbarments	59
Disciplinary Resignations	59
Suspension as Discipline	60
Public Censures	61
Admonitions/Reprimands	61
Reinstatements	62
Registration Project	63

APPENDICES

Appendix A: Committee Assignments

Appendix B: Chief Counsel's Office: Attorneys

Appendix C: Chief Counsel's Office: Staff

Appendix D: Bar Mediators

Appendix E: Annual Statistical Report to OCA

Appendix F: Budget for Fiscal Year 2007-2008

Appendix G: Complaint Form

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

ROY L. REARDON, ESQ.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

May 22, 2008

To the Bar and the Public

This annual report for 2007 reflects the good work during the year of the Staff headed by Chief Counsel, Thomas J. Cahill under the overall leadership of Paul J. Curran, Esq., Chairman. Tom and Paul have provided for many years great skill and leadership in guiding the Disciplinary Committee in fulfilling its vital purpose to protect the public from the improper and unethical conduct of lawyers. We are all indebted to them for their great efforts and the positive results they have achieved over the years and wish them well in all their future endeavors.

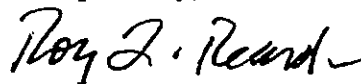
The Committee's Hearing Panels continue to be fully staffed, and its membership, which also includes non-lawyers, represents virtually every segment of the practicing bar. The Panel members, who are appointed by the Court, serve without pay and devote significant time to the Committee's work. They continue to serve diligently and effectively.

The new Chief Counsel, Alan W. Friedberg, wisely chosen by the Court under the new leadership of Presiding Justice Jonathan Lippman, brings great experiences to guide him in the challenging task before him, as well as enormous enthusiasm to continue to keep the Committee as the top-ranked lawyer disciplinary organization in the United States. I am privileged to serve as Chairman to work with Alan and our able Staff and pledge to do everything in my power to maintain our recognized stature in the complex world of lawyer discipline.

The Committee is grateful to Justice John T. Buckley, the Court's Presiding Justice in 2007, and his judicial colleagues, the Court's Liaison Committee with this Committee as well as Chief Clerk Catherine O'Hagan Wolfe and her staff. All contributed significantly to the Committee's work in 2007. We wish Ms. Wolfe, who so ably served as Chief Clerk of the Court for years, great success in her new role as Clerk of the Court at the U.S. Court of Appeals for the 2d Circuit.

We also look forward to working with the new Chief Clerk in the Appellate Division, John W. McConnell, Esq.

Respectfully,



Roy L. Reardon

CHIEF COUNSEL'S REPORT

I am delighted to have joined the Committee on January 2, 2008. Although I was not personally involved with the work of the Committee in 2007, I am pleased to report that in 2007, as in the previous five years, the Committee resolved more cases than it received and, as a result, reduced its caseload. In addition to ensuring the quality of the staff's work, the Chairman and the Policy Committee have been concerned about the length of time employed to resolve matters. Reducing the time period in which matters are resolved in a fair and comprehensive manner is our common goal.

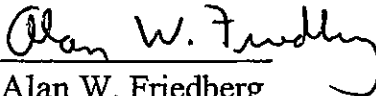
I would like to thank the attorney members of the Committee, who reviewed the dismissal of more than 2000 matters in 2007 and reviewed approximately 300 requests for reconsideration, as well as our staff attorneys and support staff. All of the Committee members deserve thanks for their valuable service on hearing panels.

I also would like to thank the former Chairman, Paul J. Curran, and the Policy Committee for their expeditious review of staff petitions to the Court and recommendations for approval for private admonitions and formal charges.

On a more personal note, I want to particularly thank the new Chairman, Roy L. Reardon, members of the Policy Committee and the Clerk of the Court, John W. McConnell, for assisting my transition into the Chief Counsel position.

We continue to be very fortunate that the Court, in imposing public discipline on attorneys, issues decisions that provide members of the Bar with details of each matter. Because of these thorough decisions, the attorneys of this Department and the public are educated of the disciplinary rules, the Committee's procedures, and, most importantly, the consequences of misconduct. The education of the Bar greatly assists the Committee in carrying out its duties. I am grateful for that effort and wish to acknowledge the support of the Court, particularly the Presiding Justice Jonathan Lippman and Associate Justices who during 2007 served on the Liaison Committee.

Finally, I would be remiss if I failed to recognize the efforts of Thomas J. Cahill, Esq. who served as Chief Counsel from June 1998 to October 2007 and contributed greatly to the work of the office.


Alan W. Friedberg
Chief Counsel

COMMITTEE MEMBERS

Committee members are unpaid 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. If it is decided to charge formally an attorney with misconduct, the Court appoints a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact and conclusions of law and a recommendation for sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent determination to the Court as to liability and sanction. Thereafter, the Court makes the final determination on both liability and sanction.

In 2007, 52 Committee members served on 10 different Hearing Panels of approximately 5 members each, composed usually of 4 lawyers and 1 non-lawyer.*

*In early 2008, the Court appointed the following new Committee members:

Catherine M. Abate, Esq.	John D. Gordan, III, Esq.
Nina Beattie, Esq.	Richard M. Greenberg, Esq.
Peter A. Bellacosa, Esq.	Maura Barry Grinalds, Esq.
George Berger, Esq.	Seymour W. James, Jr., Esq.
Aurora Cassirer, Esq.	Nancy B. Ludmerer, Esq.
Ernest J. Collazo, Esq.	Mercedes A. Nesfield
Ralph C. Dawson, Esq.	Jacob Pultman, Esq.
David R. Gelfand, Esq.	Hon. Joseph P. Sullivan, Esq.
Robert J. Giuffra, Esq.	Milton L. Williams, Jr., Esq.
Robert E. Godosky, Esq.	

Eleven other members of the Committee, including 2 non-lawyers, served 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. Included on the Policy Committee, as Special Counsel appointed by the Court, were Haliburton Fales, 2d, Esq., Charlotte Moses Fischman, Esq., Martin R. Gold, Esq., William Francis Kuntz, II, Esq., Roy L. Reardon, Esq., and Stephen L. Weiner, Esq. Mr. Reardon was appointed Chairman commencing January 2008.

The lawyers of the Committee are drawn from all areas of the profession and law firms of varying sizes, plus 13 non-lawyer members. The latter group, including business executives, engineers, a psychotherapist, a writer, and former educator serve the Committee with dedication and energy. Below are brief biographies of all Committee members who served in 2007, highlighting their diverse accomplishments:

Paul J. Curran (Chairman)

Mr. Curran is Special Counsel with the firm of Kaye Scholer LLP. He graduated from Georgetown University and Fordham University Law School (LL.B.). He has an honorary LL.D. from New York Law School. He has served as United States Attorney, Southern District of New York; Special Counsel, U.S. Department of Justice; Chairman,

Mayor's Advisory Committee on the Judiciary; and is a Fellow of the American College of Trial Lawyers.

Mr. Curran completed his term as Chairman and member of the Committee at the end of December, 2007.

Roy L. Reardon (Special Counsel to the Policy Committee)

Mr. Reardon 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. Roy L. Reardon was appointed new Chairman commencing January 1, 2008.

Dominic F. Amorosa

Mr. Amorosa is a sole practitioner primarily involved in defense of white collar criminal matters. He graduated from Seton Hall University and Rutgers Camden Law School. Following graduation he served two years as Assistant United States Attorney in the District of New Jersey and in 1974 became an Assistant United States Attorney in the Southern District of New York where he served as Chief of the Narcotics Unit from 1979 to 1980 and Chief of the Organized Crime Unit from 1980 to 1981.

Eugene F. Bannigan

Mr. Bannigan graduated from Brooklyn Law School. He is counsel to the firm of Nixon Peabody LLP. Mr. Bannigan served as an Assistant United States Attorney, Southern District of New York and Chief of the Narcotics and Dangerous Drugs Section. Mr. Bannigan's practice concentrates on complex business litigation and securities and insurance law. He is a member of the Association of the Bar of the City of New York and the American Bar Association.

Patrick H. Barth

Mr. Barth is a sole practitioner engaged in trial and appellate litigation with an emphasis on commercial litigation and personal injury matters. He is a graduate of Brooklyn College and New York University Law School where he served as Managing Editor of the New York University Law Review. Following his graduation he served as law clerk to Judge Harry E. Kalodner, United States Circuit Judge for the United States Court of Appeals for the Third Circuit, and as an Associate at Simpson Thacher & Bartlett. In 1975 he was appointed an Assistant United States Attorney for the Southern District of New York where he represented the government in civil litigation until 1977, when he was an appointed Chief Appellate Attorney and in 1980, appointed Chief of the Civil Division. In 1981, he formed a law firm with another former Assistant United States Attorney until 1986. He serves on the Mediation Panel for the United States

District Court for the Southern District of New York and on the Arbitration Panel for the United States District Court for the Eastern District of New York.

Jane Eisner Bram, Ph.D.

Dr. Bram is in private practice as a psychoanalytic psychotherapist, specializing in adults and couples. She is a graduate of New York University and received her doctorate from the New York University School of Social Work. She serves on the New York University Board of Trustees and is an executive of the Alumni Council.

Douglas W. Brandrup

Mr. Brandrup is a senior partner in the firm of Griggs, Baldwin & Baldwin. He graduated from Boston University Law School. He has served on private charitable organizations, such as The Baldwin Foundation and is the current president of the Metropolitan Club of New York. Mr. Brandrup is a member of the American and New York State Bar Associations.

Christopher E. Chang

Mr. Chang is in private practice in his own firm. He was an Assistant District Attorney in New York County from 1978 to 1982. He is a graduate of New York University and Cornell Law School. He served as a member of the Chief Judge's

Committee on the Profession and the Courts (“The Craco Commission”) from 1993 through 1995. He is a member of the Board of Directors of the Legal Aid Society, the New York County Lawyers’ Association and the New York State Bar Association.

Ann J. Charters

Ms. Charters is an economic and political writer. She graduated from the University of Illinois (M.A. Political Science Major). Her areas of expertise involve covering presidential elections, major economic policy shifts, political upheavals and corporate activities. Ms. Charters served as Venezuelan correspondent for the international edition of Business Week, and as correspondent for Financial Times, among others.

Lisa D. Correll

Ms. Correll is a graduate of Tulane University and received a Masters Degree in Education from New York University. She served as the administrator, office manager and paralegal for the Law Offices of P. Kent Correll from 1993 to 2004. Prior to that position, she worked as a teacher at Montessori Schools.

Denis F. Cronin

Mr. Cronin is a partner with the firm of Vinson & Elkins, LLP. He graduated from Fordham University School of Law. Mr. Cronin is a past member of Colgate University's Board of Trustees (1999-2008); Chairman, Board of Trustees, Buckley Country Day School (1996-2000); President (2002-2004) of Fordham Law Alumni Association; and Director of Fordham Law School Alumni Association (1986-present). (Updated 7/8/08)

Cheryl Davis

Ms. Davis is Vice President and Counsel to AXA Financial Inc. She is a graduate of Bard College and of Yale Law School. She serves on the New York State Bar Association Committee on Lawyer Alcoholism and Substance Abuse and on the Committee on Lawyer Alcoholism for the Association of the Bar of the City of New York.

Jean E. Davis

Ms. Davis is a graduate of Hunter College (B.S., Nursing), and received a Master's Degree from Teachers College, Columbia University and a Juris Doctor from the University of Wisconsin Law School. After a multifaceted career in nursing, she served as counsel for interpretations and advice in the Office of the Solicitor/Civil Rights Division, U.S. Department of Labor; Advisor to the President, Drexel University;

Director of Affirmative Action, and later, Chief of Staff to the President at Brooklyn College, City University of New York (CUNY); and as Special Assistant to the Chief Operating Officer at City College, CUNY. Retired from her dual careers, she currently engages in a number of volunteer activities including serving as a volunteer officer of the Harlem Hospital Center Community Advisory Board.

Paul F. Doyle

Mr. Doyle is a graduate of the College of the Holy Cross and New York University School of Law. He is a member of the firm of Kelley Drye & Warren. He is an instructor for the National Institute of Trial Advocacy; a Master of the New York County Lawyers' Association American Inn of Court; a member of the President's Council of the College of the Holy Cross; and former referee for the Departmental Disciplinary Committee.

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 the Law Review. From 1991 to 1996, Mr. Fales was Chairman 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.

Patricia Farren

Ms. Farren is a member of the firm of Cahill Gordon & Reindel. She graduated from Fordham University School of Law, where she was Editor of the Fordham Law Review. She is a member of the Board of Directors, the Legal Aid Society of New York; member, Executive Board, New York County Lawyers' Association; and American Inn of Court.

Rosalind S. Fink

Ms. Fink practices employment law as counsel to the firm of Brill & Meisel. She is a graduate of Barnard College and Yale Law School. She served as an Assistant Attorney General in New York and was the Director of the Office of Equal Opportunity and Affirmative Action at Columbia University and an associate professor of political science at Barnard College. She is a long-term member of the House of Delegates of the New York State Bar Association and has been an active member of the New York County Lawyers' Association for over 35 years, serving as its first woman President in 1997-98. Ms. Fink also chairs the ABA's Back to Business project, aimed at assisting women who have taken time off mid-career to raise families or for other personal

reasons. Ms. Fink also was one of the founding members and serves on the executive committee of the New York American Inn of Court, which is affiliated with the New York City Bar Association.

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

Ms. Fischman is 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. She is currently President of the National Alliance for the Mentally Ill - NYC Metro. As an active member of the Association of the Bar of the City of New York, she has been a member of 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 and is presently on its Board of Visitors. She is a member of the American Law Institute.

Thomas Fitzpatrick

Mr. Fitzpatrick is in private practice in his own firm, engaging in white collar criminal defense. He is a graduate of Fordham Law School. He served as an Assistant

United States Attorney in the Southern District of New York and as Chief of its Criminal Division. He is a member of the New York Council of Defense Lawyers and a Fellow of the American College of Trial Lawyers.

William L. Freeman

Mr. Freeman is Vice President of Marketing & New Business Development for Crystal McKenzie, Inc., a corporate communications firm. Mr. Freeman received a B.A. in History and Economics at Fisk University and a Masters of Arts degree, as well as a Masters of Business Administration from Boston College.

Paul G. Gardephe

Mr. Gardephe is a member of the firm of Patterson, Belknap, Webb & Tyler, LLP, with a focus on white collar criminal defense, internal corporate investigations, and appeals. Previously, he served as Vice President and Deputy General Counsel of Time, Inc. He is a graduate of the University of Pennsylvania and Columbia University School of Law where he was a Harlan Fiske Stone Scholar. He served as an Assistant United States Attorney in the Southern District of New York, where he was Chief of the Appeals Unit of the Criminal Division. He has also served as Special Counsel to the Department of Justice on sensitive investigations.

Joseph Steven Genova

Mr. Genova has been litigation partner of Milbank, Tweed, Hadley & McCloy LLP since 1986 and serves as the firm's Director of Public Service (pro bono programs). He is a graduate of Dartmouth College and Yale Law School. He has served and chaired numerous committees of the Association of the Bar of the City of New York, New York State Bar Association and Federal Bar Council. That service includes the City Bar's Judiciary Committee (1988-1991, Vice Chair 1990-1991); the State Bar President's Committee on Access to Justice (Co-Chair 1990-2000); and the Federal Bar Council Public Service Committee (1991 to present, Chair 1994-2000). He has been a mediator in the Eastern District of New York since 1986, and an arbitrator in the Southern District of New York since 1992. Mr. Genova has also written and lectured on ethical issues involving attorney trust accounts.

Alfred G. Gerosa (A member of the Policy Committee)

Mr. Gerosa earned a Bachelor's degree in Civil Engineering from the University of Virginia. He is Chairman of the New York College of Podiatric Medicine and the Executive Committee of the Building Trades Employers' Association. Mr. Gerosa also serves on the following trust funds as employer representative: Local 780 Cement Masons; Local No. 46 Metal Furring and Lathing; the Cement & Concrete Workers, and

the Operating Engineers Local 14. He is President of the New York Concrete Construction Institute, Inc. and the Concrete Alliance.

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

Mr. Gold is a partner in the firm of Sonnenschein Nath & Rosenthal. 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 is a member of the boards of the Lawyers' Committee for Civil Rights Under Law and New York Lawyers for the Public Interest.

Robert L. Haig (A member of the Policy Committee)

Mr. Haig is a partner at the law firm of Kelley Drye & Warren LLP. He was the President of the New York County Lawyers' Association from 1992 to 1994. Mr. Haig was the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York from 1989 to 1992 and also chaired that Association's Council on Judicial Administration from 1996 to 1999. He was a member of the New York State Bar Association's Executive Committee from 1991 to 1994; was the founder and first Chair of that Association's Commercial and Federal Litigation Section; and also chaired its Committee on Federal Courts. He was the President of the New York Bar Foundation from 2003 to 2006. Mr. Haig is the Co-Chair of the Commercial Courts Task Force

established by Chief Judge Judith S. Kaye to create and refine the Commercial Division of the New York State Supreme Court. He has also been active in efforts to create business courts in many other states and countries. Mr. Haig is the Editor in Chief of a five-volume treatise, entitled Commercial Litigation in New York State Courts, and of two other multi-volume treatises.

William E. Hammond

Mr. Hammond is with the firm of Kudman Trachten Aloe LLP, where he is engaged in corporate law. He is a graduate of Yale University, Columbia University Business School, and the Benjamin N. Cardozo School of Law. He is a member of the Association of the Bar of the City of New York where he serves as Chairman of the Committee on Alcoholism and Substance Abuse and is a member of the New York State Bar Association Committee on Lawyer Alcoholism and Drug Abuse.

Patricia Handal

Mrs. Handal has a B.A. from Barat College in Lake Forest, Illinois. She has taught in both Ohio and New York. Mrs. Handal has been active in a variety of community organizations involving children, the homeless, the elderly and the New York Catholic Archdiocese. She is currently the coordinator of the Cause of Canonization for Terence Cardinal Cooke, the late Archbishop of New York. She serves on the Board of Catholic

Charities of New York and is a member of the Board of The American Visionary Art Museum in Baltimore, Maryland.

Patricia Hatry

Ms. Hatry, a partner in the law firm of Davis & Gilbert, is a graduate of Wellesley College and Columbia Law School. She has served as a Civil Court Small Claims Arbitrator on various committees of the Association of the Bar of the City of New York, and as a member of the boards of various charitable organizations.

Patricia M. Hynes

Ms. Hynes is a member of the firm of Allen & Overy, LLP, where she is involved in commercial litigation. She received her law degree from Fordham Law School where she was a member of the Law Review. Ms. Hynes served as law clerk to Joseph C. Zavatt, Chief Judge of the United States District Court for the Eastern District of New York, and was an Assistant United States Attorney in the Southern District of New York from 1967 to 1982, where she held several executive positions, including Executive Assistant United States Attorney.

A Fellow of the American College of Trial Lawyers, Ms. Hynes has been included in the list of Best Lawyers in America since 1993 and also in the National Law Journal's

Profile of America's Top 50 Women Litigators (December 17, 2001), and its Survey of The Fifty Most Influential Women Lawyers in America (March 30, 1988).

Ms. Hynes currently chairs the Merit Selection Panel for Magistrate Judges for the Southern District of New York, and since December 2003, has been Chair of the Board of Directors of the Legal Aid Society. Ms. Hynes also has served as Chair of the American Bar Association's Standing Committee on the Federal Judiciary from July 2000 to August 2001, having previously served as the Second Circuit Representative on that Committee from 1995 to June 2000.

Alan R. Kaufman

Mr. Kaufman is a partner in the firm of Kelley Drye & Warren LLP where he is principally engaged in white collar criminal defense work and represents clients who are under investigation by the Securities and Exchange Commission. He is a graduate of Lehigh University and New York University School of Law. Following his graduation he served as a law clerk for Judge Paul Weick of the United States Court of Appeals for the Sixth Circuit. He joined the United States Attorney's Office in the Southern District of New York in 1973, where he served as Chief of the Official Corruption Unit and Chief of the Organized Crime Strike Force Unit. In 1980, he and Don Buchwald left the U.S. Attorney's Office and formed Buchwald & Kaufman. In 1999 he returned to the United

States Attorney's Office as Chief of the Criminal Division where he served until 2002, and then rejoined his firm, which merged with Kelley Drye in June 2007.

Stephen E. Kaufman

Mr. Kaufman is in private practice in his own firm, engaging in general civil and criminal litigation. Having received his law degree from Columbia University, he served as an Assistant United States Attorney, Southern District of New York, where he later became Chief of the Criminal Division. He is a member of the Association of the Bar of the City of New York, American Bar Association, and Fellow, American College of Trial Lawyers.

John J. Kenney

Mr. Kenney is a graduate of Fordham University School of Law and is a partner with the firm of Hoguet, Newman, Regal & Kenney. He served as an Assistant United States Attorney, Southern District of New York and as Executive Assistant United States Attorney. He is a member of the Association of the Bar of the City of New York, New York State and the American Bar Associations, and the New York County Lawyers' Association.

David G. Keyko

Mr. Keyko is a partner in the firm of Pillsbury Winthrop Shaw Pittman, where he practices in the areas of antitrust law and related litigation. He is a graduate of Yale University and received his law degree from New York University. He is a member of the board of directors of MFY Legal Services, Inc.

Myron Kirschbaum (A member of the Policy Committee)

Mr. Kirschbaum is a partner in the firm of Kaye Scholer, LLP, where he is engaged in complex business litigation and securities and insurance law. 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.

William Francis Kuntz, II (Special Counsel to the Policy Committee)

Dr. Kuntz is a member of the firm of Baker & Hostetler LLP. He is a graduate of Harvard Law School and holds a Ph.D. in History from Harvard, as well. He is a member of the Executive Committee of the Association of the Bar of the City of New York; a member of the New York County Lawyers' Association; the New York State Bar Association; the American Bar Association; the Metropolitan Black Bar Association; and the Brooklyn Bar Association. He is a Commissioner and past Chairman of the Civilian

Complaint Review Board of the City of New York. He is involved in pro bono activities, as a member of the Board of Directors of the Legal Aid Society of the City of New York, and the Brooklyn Hospital Corporation and Advisory Committee on Civil Practice in the State of New York. He is director of the Federal Bar Foundation for the Second Circuit, and a trustee of the Practising Law Institute.

Andrew M. Lawler

Mr. Lawler has his own law firm which specializes in white collar criminal defense work, as well as corporate internal investigations. He is a graduate of Fordham College and Fordham Law School. He clerked for a District Judge in the Southern District of New York and served as an Assistant United States Attorney in the same district. He is a Fellow of the American College of Trial Lawyers, a former president of the New York Counsel of Defense Lawyers and a member of the National Association of Defense Lawyers, the Federal Bar Council, the American Bar Association, and the Association of the Bar of the City of New York.

Marvin Leffler (A member of the Policy Committee)

Mr. Leffler has been president of Town Hall Foundation for the past 20 years. His principal activities and positions include: trustee associate, New York University; member of Mayor's Midtown Citizens Committee; Panelist, American Arbitration

Association; President (retired), Flexible Fabricators, Inc.; member, New York Regional Board Anti-Defamation League; former Chairman of the Board, National Council of Sales Organizations; past Co-Chair and Director, NYU Alumni Association; author of Sales Books published by Prentice Hall and Lecturer; listed in Who's Who in the East.

Hon. Alfred D. Lerner (A member of the Policy Committee)

Judge Lerner is formerly the Presiding Justice of the Appellate Division, First Department, where he also served as an Associate Justice. He became counsel to the firm of Phillips Nizer, LLP where he concentrates his practice on appellate matters. Judge Lerner attended the City University of New York, Hunter College, and received his law degree from New York Law School.

Frank J. Loverro

Mr. Loverro is in private practice with a focus on criminal and housing law. He is a graduate of Bernard Baruch College and New York Law School. He is currently the Chairman of the Board of the Bronx County Bar Association where he is Chairman of the Housing Committee and a member of the Criminal Courts Committee. He is also a member of the Columbian Lawyers, Black Bar Association of Bronx County, and Metropolitan Women's Bar Association.

Mary B. Maguire

Ms. Maguire is a partner in the firm of Ebusinessware, Inc. She is a graduate of Yale University and St. John's University, M.B.A. (Finance), and has also received honorary degrees from St. John's University and Marymount University. Ms. Maguire is a member of the Vatican Delegation to the United Nations; the Financial Advisory Committee, Carmelite Sisters Healthcare Network; Ireland-American Economic Advisory Board; and Trustee, St. John's University.

Charles C. Marino

Mr. Marino is a licensed professional engineer and president and owner of AMCC Corporation, which is involved in large public works construction projects. He has a Civil Engineering degree from Lehigh University and an M.A. from the University of Missouri.

Douglass B. Maynard

Mr. Maynard is a graduate of Yale University and New York University Law School. He is a partner in the firm of Akin Gump Strauss Hauer & Feld. His practice focuses on libel and media cases, complex civil litigation and white collar defense matters. He served as Assistant United States Attorney, United States Attorney's office, Southern District of New York.

John W. McConnell

John W. McConnell is a graduate of Harvard College and Harvard Law School. He served as an assistant in the Office of the Secretary of the Governor of New York; as an Assistant Attorney General and Deputy Solicitor General in the Office of the New York State Attorney General, and as an Executive Assistant to the Presiding Justice of the Appellate Division, First Department. He was a partner in his own firm, primarily engaged in commercial litigation and appellate practice. He is a member of the Association of the Bar of the City of New York. In October, 2007, Mr. McConnell was appointed as the Chief Clerk for the Appellate Division, First Department.

Lawrence D. McGovern

Mr. McGovern is an administrative law judge with the City of New York and a securities arbitrator. He graduated from Fordham University School of Law, LL.B. and New York University School of Law, LL.M. He is a member of the Board of Governors of the New York State Attorney-Client Fee Dispute Resolution Program and a member of the Association of the Bar of the City of New York where he served on the Administrative Law and the Alternative Dispute Resolution Committees.

Harold F. McGuire, Jr.

Mr. McGuire is a member of the firm of Entwistle & Cappucci. He graduated from Princeton University (A.B.), and received his law degree from Columbia University. He served as Assistant U.S. Attorney, Southern District of New York, and as Special Agent to Report to U. S. District Court, District of Columbia, on International Systems and Controls Corporation. He is a member of the Association of the Bar of the City of New York; New York State and the American Bar Associations, and Federal Bar Council.

Robert J. McGuire

Robert J. McGuire is a graduate of Iona College and St. John's University Law School where he was Editor in Chief of the Law Review. He also has a LL.M. from New York University Law School. He served as an Assistant United States Attorney in the Southern District of New York from 1962 to 1966. He subsequently became a partner in his own firm, McGuire and Lawler, with an emphasis on white collar investigations and defense. In 1978 he was appointed Police Commissioner of the City of New York and served until 1983. Thereafter, he served as Chairman and Chief Executive of Pinkerton's Inc., and subsequently, President of Kroll Associates, an international investigation firm. He has served on many Boards and Commissions and is currently the President of the Police Athletic League.

Fitzgerald Miller

Mr. Miller is a financial adviser with the firm of Merrill Lynch. He holds a B.A. from Bernard Baruch College. He has served as a financial consultant at AXA Advisors, LLC, and Prudential Securities and as principal of Fitzgerald Miller, DBA Global Visions, where he developed business and marketing plans to help small businesses raise funding and improve operations. He also authored and independently published, Your Complete and Comprehensive Guide to the SBA Guaranteed Loan Program.

Charles G. Moerdler

Mr. Moerdler is a member of the firm of Stroock & Stroock & Lavan, LLP. He graduated from Fordham University Law School where he was an Editor of the Law Review. He is a member and former Chairman of the Committee on Character and Fitness in the First Department. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the American Bar Association.

Mathias E. Mone

Mr. Mone is a graduate of Villanova University and Fordham Law School. He is senior counsel in the firm of Cahill Gordon & Reindel. His practice was devoted almost entirely to civil litigation in both the state and federal courts. Since taking senior counsel status, he acts as volunteer arbitrator with the National Association of Security Dealers.

Lynn K. Neuner

Ms. Neuner is a member of the firm of Simpson Thacher & Bartlett LLP. She practices in the areas of insurance coverage, securities, false advertising and complex commercial litigation. She graduated from Yale Law School, where she is a member of the Board of Directors of the Yale Law School Alumni Fund. She is a member of the Association of the Bar of the City of New York, where she is a member of the Federal Courts Committee, the New York State Bar Association, and the American Bar Association, where she is Co-Chair of the Property Insurance Sub-Committee of the Insurance Coverage Litigation Committee.

Frederic S. Newman

Mr. Newman is a founding partner of the firm of Hoguet Newman Regal & Kenney where he is engaged in commercial litigation and business counseling. He is a graduate of Harvard College and received his law degree from Columbia Law School. Before founding his present firm, he worked as a litigation associate at White & Case and served as Assistant General Counsel, Vice President, and General Counsel of Philip Morris, USA. Mr. Newman has served on various boards of civic and non-profit institutions and currently serves on ad hoc committees on the future of thoroughbred racing in New York State.

Jane W. Parver

Ms. Parver is a partner at the law firm of Kaye Scholer LLP. She has served as an Assistant United States Attorney for the Southern District of New York; member, New York City Conflicts of Interest Board, appointed by former Mayor Rudolph W. Giuliani; and Referee, New York State Commission on Judicial Conduct. She established and now oversees the Susan Price Carr Scholarship Committee, and serves on the New York Council of Defense Lawyers, and Federal Bar Council.

Anthony M. Radice

Mr. Radice is a senior counsel of the firm of Morrison & Foerster LLP, where he practices litigation in the area of intellectual property, securities, antitrust, employment and legal ethics. He has been an officer or trustee of the Federal Bar Council since 1985; is on the City Bar's Ethics Committee; the SDNY mediation panel, lectures on Trial Practice, Deposition Skills and Legal Ethics, and is an Adjunct Professor of Law at Cornell Law School. He is a graduate of Cornell University (A.B. 1966) and Cornell Law School (J.D. 1969) and was Articles Editor of The Law Review.

Timothy G. Reynolds

Mr. Reynolds is a partner in the firm of Skadden Arps Slate Meagher & Flom LLP. He graduated from Fordham University School of Law. His practice includes matters

involving insurance, insurance litigation, reinsurance, and arbitration. Additionally, Mr. Reynolds has worked on the successful constitutional challenge in the United States Supreme Court to the Connecticut and New Mexico beer price regulations and statutes. He has also written many articles which include “The Speedy Trial Acts, An Empirical Study,” Fordham Law Review; and “Punitive Damages in Florida Product Liability Action: A Reexamination,” Florida Trial Advocate Quarterly.

Martin S. Rothman

Mr. Rothman is a graduate of Cornell University and received his J.D. degree from New York University. He is a partner in the firm of Seligson, Rothman & Rothman. He has lectured on New York practice, appellate practice and tort law. He is a member of the New York State Bar Association and the New York State Trial Lawyers Association.

Reuben Samuel

Mr. Samuel, a graduate of City College and Brooklyn Law School, is a partner in the firm of Levine Samuel, LLP. His area of practice is real estate law. Mr. Samuel has served as a member of the Committee previously, as a lecturer in real estate licensing, as chairperson of the New York County Lawyers Association Family Law Committee and member of New York State Bar Association Real Property Law Section, Co-op & Condo

Committee. Mr. Samuel has also chaired and been a member of several Appellate Division, First Department committees related to family law, as well as being a member of the New York State Task Force on Foster Care. In addition to his law practice, Mr. Samuel is General Counsel to Sumitomo Real Estate Sales (N.Y.), Inc.

Augustin J. San Filippo

Mr. San Filippo, a 1948 graduate of New York University School of Law, has recently retired from the active practice of law and now confines his activities to pro bono assignments, consultations and Committee services. During his 50 years as a litigator he has served as Chair, Joint Conference Committee on Court Congestion and Related Problems, by appointment of the Presiding Justices of the First and Second Department, Medical Malpractice Panel, First Department, New York State Bar Association Judicial Administration Committee, several committees of the City Bar, CLE Lecturer and Moot Court Judge.

Samuel W. Seymour

Mr. Seymour is a partner in the firm of Sullivan & Cromwell where he practices in the area of complex litigation. He received his law degree from Columbia University and served as an Assistant United States Attorney in the Southern District of New York.

John S. Siffert

Mr. Siffert graduated from Amherst College, cum laude, and Columbia Law School. Mr. Siffert was law clerk to Hon. Murray I. Gurfein, United States District Judge for the Southern District of New York, and served as an Assistant United States Attorney in the Southern District of New York. He is a Fellow of the American College of Trial Lawyers and is on the Board of Regents. He is on the Executive Committee of the Association of the Bar of the City of New York. He is currently Chair to the New York Lawyers for Public Interest. He is a mediator for the United States District Court for the Southern District of New York and a Special Master for the First Department. Mr. Siffert has been on the adjunct faculty of New York University Law School since 1979 and currently holds the academic appointment of Adjunct Professor. Mr. Siffert has co-authored Business Crime (Matthew Bender 1981), Modern Federal Jury Instructions – Criminal (Matthew Bender), and Modern Federal Jury Instructions – Civil (Matthew Bender).

Marian E. Silber

Ms. Silber is a member of the firm of Gordon & Silber, P.C. focusing on issues of professional liability, construction law product liability and toxic torts. A graduate of Connecticut College, she received her law degree from Fordham University School of

Law. She is a member of the Association of the Bar of the City of New York, as well as other bar associations.

Eugene P. Souther

Mr. Souther is senior counsel to the firm 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; a delegate to the House of Delegates of the American Bar Association; and Vice Chairman of the International Bar Association.

Christine Collins Tomas

Ms. Tomas is a vice president of Goldman Sachs & Co. where she is engaged in U.S. international equity sales. She graduated from Harvard University in 1992, and received a Masters of Business Administration in 1997 from the MIT Sloan School of Management.

John L. Warden

Mr. Warden is a member of the firm of Sullivan & Cromwell. He is a graduate of Harvard College and the University of Virginia Law School. He is a member of the American Law Institute and a Fellow of the American College of Trial Lawyers.

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

Mr. Weiner is in private practice in his own firm. He is a graduate of Columbia College and also received his law degree from Columbia University. He was formerly Chairman of the New York State Commission of Investigation. He is a member of the Association of the Bar of the City of New York; New York State Bar Association; the American Bar Association; and a 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 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.

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 3517 matters were opened in 2007, primarily from clients, but also from other attorneys, and members of the public at large. In relatively few cases, the Committee opened sua sponte investigations based on information which appeared in judicial opinions, professional journals, and referrals from the judiciary or other sources.

Each complaint is 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 it 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 fails to allege a violation of the Lawyer’s Code of Professional Responsibility; the complaint seeks legal advice; is an attempt to collect a

debt; or involves a fee dispute. In 2002, a mandatory mediation 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 allegations which will be decided in pending litigation, the Committee may, but need not, defer the matter pending resolution of the litigation. Because the allegations may be decided in the litigation and a judgment may be binding on the respondent, the Committee may decide to close the matter, without prejudice to reopening it later, after resolution of the underlying litigation. That decision must be approved by a lawyer member of the Committee. Similarly, if it appears that the complaint on its face has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

If it appears from the complaint that serious professional misconduct has occurred, the screening attorney brings the matter to the attention of the Chief Counsel or the First Deputy Chief Counsel for direct assignment to a staff attorney for expedited action. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

Following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who files 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 a

senior staff attorney who performs a "second screening" or further evaluation of the complaint, answer and reply. The second screener may also recommend referral to mediation at this point. If the second screener recommends dismissal, a lawyer member of the Committee reviews that recommendation together with the paralegal's written summary 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 the matter may obtain further documentation, using subpoenas when necessary, interview witnesses, including the complainant, and may question the respondent on the record and under oath.

When the investigation is complete, the staff attorney recommends dismissal, an admonition (which is private discipline), or formal charges. Again, all dismissal recommendations are independently considered by a Committee member, who must approve the recommendation before it is implemented. Commencing in 2008, the Chief Counsel reviews all staff attorney recommendations to dismiss a matter, before the recommendation is reviewed by a Committee member. The closing letter to the complainant indicates the right to request reconsideration of the dismissal within 30 days.

Dispositions

Admonitions

The Committee issues a Letter of Admonition when an investigation reveals that a lawyer has violated the Code of Professional Responsibility, but not seriously enough to warrant a more severe sanction. For example, an admonition might be issued if a lawyer neglected one legal matter but the client was not seriously injured.

Although it is private and remains confidential, an admonition is a finding of misconduct and becomes a part of the lawyer's permanent disciplinary record, and may be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct (see, 22 NYCRR §605.5[b]). A staff lawyer's recommendation to issue an admonition is reviewed by a supervisor and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible proof of misconduct because if an attorney refuses to accept the admonition, he or she may request that formal charges be brought. In that case, staff must be able to prove the misconduct before a Referee and a Hearing Panel. In 2007, the Committee issued 69 Letters of Admonition, covering 85 separate complaints. (An admonition may be based on more than one complaint against a respondent.)

Proceedings on Formal Charges

A staff lawyer's recommendation that formal charges be filed must be based on a demonstration of misconduct and approved by the staff lawyer's supervisor, 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, the right to counsel, the right 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 parts, liability and sanction. Most cases also involve liability and sanction briefs. When the hearing is concluded, the Referee must file a written report within 60 days containing findings of facts, conclusions of law and, if a charge has been sustained, a recommendation as to sanction.

The Chairman of the Committee then refers the Referee's Report to a Hearing Panel, usually consisting of four 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 and Recommendation. It then convenes to hear oral argument to determine whether to confirm, disaffirm, or modify the findings of fact and conclusions of law in the Referee's Report and Recommendation. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue its report

containing its written “Determination” within 10 days after the argument or the submission of briefs, whichever is later.

A formal hearing can 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 (see, 22 NYCRR §605.5[a][4]).

Serious Crimes

In cases where the Court 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, 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 itself takes testimony which is transcribed, and then renders a recommendation as to what action should be taken by the Court.

Applications to the Appellate Division

In all disciplinary matters requiring action by the Court, the Committee applies to the Appellate Division in a petition which includes the record before the Referee, describes the prior proceedings in the matter, and the Court action requested. When the Court decides the matter, it issues an order and a written opinion which is usually published in the New York Law Journal. The Committee files a petition with the Court to

confirm a Hearing Panel's Determination as to the Referee's Report and Recommendation. Staff, with permission of the Chairman, may also file a motion to disaffirm a Hearing Panel's Determination. In addition, the Committee, in certain cases, files petitions with the Court to initiate disciplinary action, rather than to confirm or disaffirm action taken by Referees and Hearing Panels. For example, the Committee may seek a court order applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Code on the basis of prior civil or criminal court decisions. The petition may be granted where the issues in the prior action and the disciplinary matter are identical to the potential charges against a respondent who has had a full and fair opportunity to litigate in the prior proceeding.

Certain other matters are also filed directly with the Court. For example, when a lawyer fails to cooperate with a Committee investigation or when a lawyer's conduct poses an immediate threat to the public, the Committee may file a request for an interim suspension, pending a hearing under 22 NYCRR §603.4(e). And, if an attorney who has been suspended from the practice of law continues to engage in the practice of law, the Committee will petition the Court to disbar the attorney for violating its order.

In addition, the Committee 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]). Similar Committee applications are made if an attorney has been convicted of a "serious crime" as defined in §90(4)(d) of the

Judiciary Law (see, 22 NYCRR §603.12); 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 those rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials in that testimony is taken and exhibits are received in accordance with the rules of evidence. A transcript is made of the entire proceeding. If the Court eventually imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness of Applicants for Admission to the Bar.

REPRESENTATIVE CASES

In 2007, the Appellate Division, First Judicial Department, publicly disciplined 65 lawyers as follows: 29 disbarments, 16 resignations from attorneys facing charges, 24 suspensions and 6 public censures. Some of the cases prosecuted by Committee staff lawyers that have become a matter of public record in 2007 are reviewed below:

Matter of Francois Au, 41 AD3d 67 (2007)

This unusual case involved an attorney who tendered his non-disciplinary resignation in the normal course from the bar for medical reasons. His letter of resignation specifically asserted that he was unaware of any disciplinary proceeding pending against him at the time, and there were none. However, while his application for resignation was pending, Au pleaded guilty to federal felony bribery charges without disclosing that fact to the Court or the Committee. The Court, unaware of Au's conviction, granted his resignation request. The Committee, upon learning of Au's criminal conviction years later, filed a motion to vacate the Court's order granting Au's resignation and to strike Au's name from the roll of attorneys based on his federal felony conviction. In granting the Committee's motion, the Court found that Au's failure to inform the Court of his indictment and conviction while he sought resignation from the bar "amounted to a fraud on the Court" and that his resignation was granted under false

pretenses. Thus, the order granting Au's resignation was vacated and he was ordered disbarred. (Staff Counsel Raymond Vallejo)

Matter of Albert S. Lefkowitz, 47 AD3d 326 (2007)

This case is the third published First Department decision in five years involving exploitation of immigrants seeking permanent residency by non-attorneys – sometimes referred to as “travel agents” or “immigration consultants” – and the attorneys who improperly associate with the non-attorneys. Here, the Court suspended Mr. Lefkowitz for a period of three months on the grounds that he aided the non-attorneys in the unauthorized practice of law and also engaged in conflict of interest. The Court found that the non-attorneys prepared and filed asylum applications on behalf of five separate immigration clients. When an attorney was needed to represent the clients at personal interviews or attend hearings in Immigration Court, the non-attorneys essentially retained Mr. Lefkowitz. In determining that the non-attorneys were in essence practicing law, the Court noted that the non-attorney agents, not Mr. Lefkowitz “maintained the primary financial and substantial relationship with th[e] clients.” In sustaining the conflict of interest charge the Court found that Mr. Lefkowitz's relationship with the non-lawyers involved divided loyalties since he depended on them for case referrals and he never informed his clients of the conflict. (Staff Counsel Jun Hwa Lee)

Matter of Michael P. Goldsmith, 43 AD3d 158 (2007)

The Committee charged Mr. Goldsmith with intentionally depositing personal funds into his IOLA account to hide assets from tax authorities, improperly using his IOLA account, and commingling personal funds with client funds. Although Mr. Goldsmith appeared for a deposition during the Committee's investigation of the complaint, he failed to submit an answer to the Charges after they were served. Despite the Committee's numerous attempts to contact Mr. Goldsmith personally, he did not appear at the hearing before the Referee or the Hearing Panel. The Court ordered that Mr. Goldsmith be disbarred based on his misconduct and his failure to participate in the proceedings and otherwise cooperate with the Committee. (Staff Counsel Jun Hwa Lee)

Matter of Jonathan B. Fisher, 43 AD3d 173 (2007)

Contrary to the rules governing the proper handling of client or third party funds by an attorney, Mr. Fisher kept personal funds in his trust account using the account as a business account, commingled client funds with his personal funds in the account, failed to keep a proper ledger, issued checks to "cash," and inadvertently misappropriated client funds once when he mistakenly overpaid a client. While a significant suspension period would be imposed in situations where the attorney used his trust account to shield personal funds from creditors, here the Court imposed a public censure because Mr. Fisher's actions were unintentional and the result of poor judgment rather than

dishonesty. Moreover, he had failed to understand fully the nature of the trust account that he opened, had no disciplinary history, cooperated with the investigation, was extremely remorseful, and no client was harmed. (Staff Counsel Jorge Dopico)

Matter of Campbell M. Holder, 42 AD3d 92 (2007)

During the course of the Committee's investigation of numerous complaints against Mr. Holder alleging misappropriations of funds, Mr. Holder pleaded guilty to six counts of Grand Larceny in the Second Degree. Mr. Holder was sentenced to 3 1/2 to 10 years in jail, after failing to repay \$1,704,862 that he stole from his clients. Pursuant to Judiciary Law §90(4)(e), Mr. Holder's name was stricken from the roll of attorneys on the ground that upon his conviction of a New York felony he was automatically disbarred. Notably, at the Committee's request, the Court appointed an attorney, pursuant to 22 NYCRR §603.13(g), to inventory Mr. Holder's attorney's files, act as a receiver of client funds in bank accounts maintained by him, and take any necessary action to protect the interests of Mr. Holder's former clients. (Staff Counsel Jorge Dopico)

Matter of Lynne F. Stewart, 42 AD3d 59 (2007)

In a highly publicized case, Ms. Stewart was convicted in federal court of conspiracy to defraud the United States, providing and concealing material support to terrorists, and making false statements. The Court found that one of the federal criminal

laws which formed the basis of her conviction, 18 USC §1001, was analogous to NY Penal Law §175.35, and thus proper predicate for automatic disbarment. Both federal and New York statutes prohibit the filing of written instruments with the knowledge that they contained false statements. The Court did not accept Ms. Stewart's affidavit in support of resignation which she submitted after her conviction since she ceased to be an attorney upon her conviction. (Staff Counsel Jorge Dopico)

Matter of Joseph Lefrak, 46 AD3d 56 (2007)

Mr. Lefrak acted as the attorney for an estate and in that capacity was obligated to hold approximately \$790,000 in a trust account for the benefit of the Estate. Initially, there appeared to be only a civil dispute between a beneficiary and Mr. Lefrak which was subject to the New York County Lawyers' mediation program. When Mr. Lefrak failed to cooperate and therefore complete the mediation process and the complaint referred back to the Committee, staff made numerous requests of Mr. Lefrak for financial records and other information which he failed to provide. Based on Mr. Lefrak's failure to comply with a court-ordered subpoena calling for his records and his appearance, the Court suspended Mr. Lefrak on an interim basis. During the pendency of the motion to suspend, respondent made restitution of the funds but the Court suspended him nevertheless on the basis of his failure to cooperate. (Staff Counsel Kevin E. O'Sullivan)

Matter of Max D. Antoine, 46 AD3d 60 (2007)

Mr. Antoine had been admitted to practice law in Haiti, but was licensed only as a “legal consultant” in New York subject to certain statutory requirements, among them: he was prohibited from holding himself out as a duly admitted attorney in New York or member of the bar in good standing and actually engaging in the practice of law. Nevertheless, Mr. Antoine filled out and submitted numerous applications for admission as an attorney to the U.S. Tax Court, the U.S. Supreme Court and the Court of Appeals for the Armed Forces of the United States in which he intentionally withheld and misrepresented the fact that he was only a legal consultant and not a duly admitted attorney in New York. He also improperly held himself out as a duly admitted attorney in the representations of clients before the Immigration authorities. The Court suspended on an interim basis pending further action by the Court. (Staff Counsel Kevin E. O’Sullivan)

Matter of Richard Zalk, 45 AD3d 42 (2007)

This matter involved the contested legal question of whether the Dead Man’s Statute applies in disciplinary hearings. The Committee charged Mr. Zalk with converting \$100,000 remaining in his escrow account from the proceeds of the sale of property belonging to his deceased client. Mr. Zalk claimed that this client orally had given him permission to keep the money as payment for a decade of free legal services he had purportedly provided. The Committee argued throughout the proceeding that the

Dead Man's Statute (CPLR 4519) precluded Mr. Zalk from testifying about the supposed fee agreement and any conversations he had with his client on the issue. The Referee disagreed and allowed Mr. Zalk to testify about the conversations at the hearing and thereafter credited his testimony. The Referee did not find that Mr. Zalk converted the funds, but recommended public censure on the grounds that Mr. Zalk's failure to obtain a legally valid writing from his client reflected adversely on Mr. Zalk's fitness to practice. The Hearing Panel which reviews the record and the Referee's determination in the same manner as an appellate court, determined that as a matter of law the Dead Man Statute did apply and recommended that the matter be referred back to the Referee for reconsideration based on its legal determination. Mr. Zalk and the Committee agreed that it was appropriate for the matter go directly to the Court. Based on its analysis of the Dead Man's Statute, the Court ruled that the Statute applies to the liability portion of a disciplinary hearing, but not to the sanction phase. By order dated August 23, 2007, the Court suspended Mr. Zalk for two years. Mr. Zalk appealed and his suspension has been stayed pending the decision of the Court of Appeals. Both parties filed their respective briefs and oral argument took place on April 30, 2008. (Staff Counsel Naomi F. Goldstein)

Matter of Allan Laurence Brenner, 44 AD3d 160 (2007)

The Court suspended Mr. Brenner for a period of six months for making an affirmative misrepresentation on his application for *pro hac vice* admission to federal district court where he was representing a client in a criminal case. In an affidavit submitted for admission, Mr. Brenner falsely denied that he had ever been disciplined when, in fact, he had been publicly censured in the Second Department and formally admonished. Although Mr. Brenner argued that the misrepresentations were inadvertent and not deliberate, the Court concluded otherwise given that the attorney prepared the affidavit on his word-processor and inserted the names of the court where he was admitted. The Referee concluded that Mr. Brenner was attempting to "pull a fast one" on the court in the hopes that no one would check the public record of his discipline. In light of Mr. Brenner's mitigation evidence - impressive pro bono activity, cooperation with the Committee, essentially admitting his misconduct, expression of contrition, having a wife and young children - the Court found a suspension of six months to be appropriate. (Staff Counsel Joseph J. Hester)

Matter of Richard Boter, 46 AD3d 1 (2007)

While Mr. Boter already was suspended for failure to cooperate with the Committee [27 AD3d 137 (2006)], two disciplinary proceedings were commenced against him. The first was a serious crime proceeding arising from his misdemeanor

guilty plea admitting that he paid a non-attorney to solicit clients. The non-attorney had bribed hospital workers to send Mr. Boter medical records of potential personal injury clients and then referred over 100 cases to Mr. Boter for a fee. The second was a formal charges proceeding, which resulted in the findings that Mr. Boter had presented personal injury clients with overreaching retainer agreements permitting him to settle their cases without their consent; instructed his employees and a notary to forge or falsely notarize clients names on releases and other documents; used falsehoods to persuade clients to withdraw their disciplinary complaints; failed to promptly send clients their settlement proceeds; failed to timely file retainer and closing statements with OCA, and falsely concealed in those statements his use of non-attorneys to solicit clients. In addition, he was found to have failed to keep required records of his IOLA account. In determining that disbarment was warranted, the Court noted, among other things, Mr. Boter's complete disregard for his legal and ethical responsibilities. (Staff Counsel Jeremy S. Garber)

Matter of Kemakolam Comas, 40 AD3d 168 (2007)

After the Court suspended Mr. Comas on an interim basis for failing to cooperate with the Committee's investigation [14 AD3d 89 (2004)] and also appointed a receiver of his files, the Committee filed formal charges. The charges, all of which were sustained, alleged that he had misappropriated client payments intended for Immigration

and Naturalization Service (“INS”) filing fees, neglected client matters, knowingly drafted a check to the INS on an account with no funds, misrepresented to clients and the Committee the status of INS applications, falsely back dated INS applications, commingled client funds, and completely abandoned his clients for a four month period. The Court disbarred Mr. Comas and also held him in contempt for failing to cooperate with the receiver of his files, fined him \$1,000 and ordered him jailed for 10 days. (Staff Counsel Jeremy S. Garber)

Matter of Ira L. Berman, 45 AD3d 219 (2007)

The Committee received a complaint against Mr. Berman which was withdrawn by the client after he received from Mr. Berman certain funds to which he was entitled. Nevertheless, the Committee continued its investigation and review of Mr. Berman’s escrow records. That review revealed that Mr. Berman had transferred more than \$66 million from his escrow account into an investment account and more than \$70 million from the investment account back into his escrow account. After the Committee made attempts to obtain documents directly from Mr. Berman, through counsel, he filed an affidavit averring that he did not possess any responsive documents and that, if he were deposed, he would invoke his Constitutional right against self-incrimination and refuse to answer any questions. Pursuant to 22 NYCRR §603.4(e)(1)(iii), the Court suspended respondent from the practice of law on an interim basis because of the uncontested

evidence that respondent's misappropriation of escrow funds threatened the public interest. At the Committee's request, the Court also appointed a Receiver as a cosignatory on the escrow account. (Staff Counsel Vitaly Lipkansky)

Matter of Gwenerva D. Cherry, 39 AD3d 123 (2007)

Respondent was suspended on an interim basis pursuant to 22 NYCRR §603.4(e) (1)(ii) and (iii) based on uncontested evidence that she committed professional misconduct that immediately threatened the public interest, and based on evidence that she failed to cooperate fully with the Committee's investigation. Specifically, as a result of a dishonored check notice from the Lawyer's Fund for Client Protection, Committee Staff conducted an audit of respondent's escrow records. The audit showed a balance far below the amount that respondent was obligated to keep intact on behalf of respondent's clients and third parties. There were also a number of unexplained disbursements to respondent's firm's operating account. Respondent failed to appear at any of the three depositions that were scheduled by Committee Staff. The Court noted that the pattern of respondent's actions negated any semblance of mistake or negligence. Respondent's misappropriation of escrow funds amounted to hundreds of thousands of dollars. (Staff Counsel Vitaly Lipkansky)

Matter of Lawrence Bernstein, 41 AD3d 49 (2007)

In this disbarment case, Respondent, a partner in a two-person law firm, admitted that he allowed or caused the firm's IOLA account balance to fall below the amount required to be on deposit for client matters and failed to participate in or oversee the record keeping of his IOLA account which caused the unauthorized invasion of funds. Respondent was also found guilty of intentionally converting client escrow funds, which was evidenced by the respondent depositing his own funds into IOLA account to replenish the funds that he had converted earlier and for failing to maintain an accounting record of each transaction in the IOLA account. Respondent's former law partner, Michael L. Steindam, resigned in 2006 after admitting to intentional conversion of funds from the firm's escrow account. (Staff Counsel Vitaly Lipkansky)

Matter of Jeremiah J. Sheehan, 48 AD3d 163 (2007)

Respondent was disbarred for engaging in a pattern of intentional conversion and misappropriation of client funds and submitting a false affidavit to the Court and the Committee regarding that misconduct. An aggravating factor was respondent's continued indifference to the disciplinary proceedings in that he failed to submit responses to the Committee's investigative inquiries or appear for scheduled hearings, and there also were no mitigating factors for his intentional conversion of client funds. (Staff Counsel Vitaly Lipkansky)

Matter of John M. Ioannou, 47 AD3d 65 (2007)

Respondent was publicly censured for neglecting a legal matter entrusted to him and for failing to honor an escrow agreement with former counsel in a personal injury matter. Although respondent had received two prior admonitions, he was censured based on strong mitigating evidence, including making both complainants whole and changing the operation of his law office to prevent similar law office failures in the future. (Staff Counsel Vitaly Lipkansky)

Matter of Emani P. Taylor, 48 AD3d 138 (2007)

Based upon both her failure to cooperate with the Committee's investigation and uncontested evidence of misconduct, respondent was interimsly suspended. Respondent, the former legal guardian for NY Supreme Court Justice John Phillips, was found guilty by the Court of withdrawing for herself \$327,000 in funds she was holding in escrow for the benefit of Justice Phillips. As the Court noted, "At a minimum, respondent withdrew funds from the guardianship account as legal fees without court permission, at worst, she intentionally converted guardianship funds." Due to the seriousness of this matter and the uncontested evidence of grave misconduct, the Committee moved for respondent's immediate suspension notwithstanding parallel pending civil litigation in Kings County Supreme Court. (Deputy Chief Counsel Andral N. Bratton)

Matter of Kenneth D. Law, 39 AD3d 90 (2007)

Respondent was suspended for four months, with his reinstatement contingent upon proof of his office reforms and that he had obtained appropriate treatment for any personal problems. Respondent neglected two client matters and improperly wrote checks to “cash” on his escrow account. The Court noted that respondent had received a prior reprimand by the Committee in 2004 following a full hearing for similar misconduct. (Deputy Chief Counsel Andral N. Bratton)

Matter of David Nuzzo, 47 AD3d 125 (2007)

Respondent neglected a client’s personal injury matters and then fabricated and sent a “General Release” to his client allegedly from the defendant’s carrier in “settlement” of the client’s matters. While being deposed by Committee Staff, respondent made affirmative misrepresentations concerning his knowledge of his prior correspondence to the client. In imposing a one-year suspension, the Court noted respondent’s neglect of and his misrepresentations to the client and that “he gave false testimony to the Committee.” (Deputy Chief Counsel Andral N. Bratton)

SUMMARY OF OTHER REPRESENTATIVE CASES

To those interested in the work of the Committee, it may appear that the Committee is primarily engaged in bringing formal charges of misconduct and conducting hearings on those charges. Those are obviously important functions of the Committee but only a part of the picture. Most of the Committee's work is done completely in private, such as the investigation and resolution of the majority of the complaints filed with the Committee, but a large 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 are one such area.

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 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 the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The First

Department has made it quite clear that the intentional conversion of money held as a fiduciary or for a client requires disbarment except where there are exceptional mitigating circumstances, which are very rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff will seek an immediate suspension for such misconduct if it has the evidence to justify the motion. In addition, the Committee's staff will seek a suspension of an attorney who fails to cooperate in answering a complaint or not complying with lawful demands for information. In 2007, the Court suspended 13 lawyers on an interim basis pending resolution of the charges against them in the following cases: Matter of Gwenerva D. Cherry, 39 AD3d 123; Matter of Chase A. Caro, 40 AD3d 43; Matter of Juan A. Baez, 42 AD3d 157; Matter of Frank McClain-Sewer, 39 AD3d 35; Matter of Max D. Antoine, 46 AD3d 60; Matter of Barry J. Benzing, 43 AD3d 163; Matter of Ira L. Berman, 45 AD3d 219; Matter of Walter Lawrence Lopez, 46 AD3d 99, Matter of K. Steven Zimmerman, 45AD3d 212; Matter of Catherine M. Conrad, 48 AD3d 187; Matter of Joseph S. Lefrak, 46 AD3d 56; Matter of Morgan Kennedy, 47 AD3d 145, and Matter of Emani P. Taylor, 48 AD3d 138.

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, if the attorney is suspended and fails to appear or apply in writing to the Court requesting a hearing or reinstatement within six months, the attorney may be disbarred. In 2007, the

First Department invoked 22 NYCRR §603.4(g) to disbar three attorneys: Matter of Linda J. Stanch, 46 AD3d 16; Matter of Charles H. Ryans, 46 AD3d 71, and Matter of Berthold H. Hoeniger, 47 AD3d 259.

Felony Disbarments

In 2007, the First Department granted 15 motions to strike the names of attorneys convicted of felonies: Matter of Lynne F. Stewart, 42 AD3d 59; Matter of Campbell M. Holder, 42 AD3d 92; Matter of Gary L. Berenholtz, 40 AD3d 162; Matter of Francois K. Au, 41 AD3d 67; Matter of Myron F. Olesnyckyj, 43 AD3d 167; Matter of Michael A. Szegda, 42 AD3d 193; Matter of Mark R. Pronk, 42 AD3d 190; Matter of Frank DeGrasse, 44 AD3d 107; Matter of Lloyd M. Berns, 46 AD3d 116; Matter of Eugene Castro, 46 AD3d 68; Matter of Arthur L. Schwartz, 47 AD3d 46; Matter of Stephen J. Sheinbaum, 47 AD3d 49; Matter of Chase A. Caro, 46 AD3d 136; Matter of David M. Sheeger, 46 AD3d 119, and Matter of William F. Sorin, 47 AD3d 1.

Disciplinary Resignations

The Court permits 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 in compliance with 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 2007, the First Department accepted resignations under 22 NYCRR §603.11 from 16 attorneys and ordered their names stricken from the roll of attorneys: Matter of Simone V. Palazzolo, 38 AD3d 66; Matter of Jerry M. Vasquez, 39 AD3d 159; Matter of Maurice R. Garber, 42 AD3d 74; Matter of Anthony J. Fauci, 41 AD3d 1; Matter of Jose R. Martinez, 43 AD3d 179; Matter of Giovanni Peluso, 43 AD3d 155; Matter of Zoilo I. Silva, 46 AD3d 30; Matter of Francis K. Decker, 46 AD3d 23; Matter of Steven C. Cunningham, 46 AD3d 43; Matter of Jerome E. Goldman, 47 AD3d 151; Matter of Lawrence B. Newman, 45 AD3d 200; Matter of Alvin E. Leonard, 45 AD3d 113; Matter of Albert J. Santoro, 48 AD3d 84; Matter of David J. Bershad, 49 AD3d 82; Matter of Luis A. Flores, 47 AD3d 335, and Matter of Juan A. Baez, 47 AD3d 225.

Suspension as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public on an interim basis. The Court imposes suspension for conviction of “serious crimes,” as defined in the Judiciary Law §90(4)(d), for reciprocal discipline and for other misconduct. In 2007, the Court imposed suspensions for misconduct on 11 attorneys for periods ranging from 3 months to 2 years: Matter of Richard A. Zalk, 45 AD3d 42; Matter of Kenneth D. Law, 39 AD3d 90; Matter of Elizabeth Cohen, 40 AD3d 61; Matter of Kevin J. Flynn, 39 AD3d 116; Matter of Wendy W. Benjamin Morgan, 42

AD3d 116; Matter of James O. Roberson, 40 AD3d 69; Matter of Allan L. Brenner, 44 AD3d 160; Matter of Jeffrey T. Lowden, 44 AD3d 200; Matter of Albert S. Lefkowitz, 47 AD3d 326; Matter of David J. Nuzzo, 47 AD3d 125, and Matter of Jeanette G. Stewart, 47 AD3d 43.

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 2007, the First Department issued public censures in two cases based on formal charges of misconduct: Matter of John M. Ioannou, 47 AD3d 65; Matter of Jonathan B. Fisher, 43 AD3d 173; one serious crime: Matter of Harold Meyerson, 46 AD3d 141; and three reciprocals: Matter of Karen Jaffe-Nierenberg, 40 AD3d 96; Matter of Peter H. Jacoby, 42 AD3d 196, and Matter of Arthur L. Glatman, 47 AD3d 230.

Admonitions/ Reprimands

The Court may also direct the Committee to issue to a respondent a Reprimand, which is private discipline imposed by the Committee after a hearing. In 2007, the Court directed the issuance of three private reprimands. Where there is no serious injury, either to a client or a court, and where there is a minor violation of a Disciplinary Rule or decisional law, the Committee itself may also issue an Admonition, which is private

discipline, under 22 NYCRR §605.5(a)(5). As noted earlier, in 2007, the Committee issued 69 admonitions in 85 matters.

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 exclusion. 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 is entitled to 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.). 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 2007, the First Department granted six petitions for reinstatement and denied four.

Registration Project

This year the Committee continued a project to suspend lawyers who have failed to register and pay required registration fees to the Office of Court Administration (OCA) in violation of Judiciary Law §468-a. Because of sheer volume, the delinquent attorneys were divided into four groups; the first group consisted of 1250 delinquent attorneys whose last names begin with the letters "A" through "D" and the second group consisted of 1150 delinquent attorneys whose last names begin with the letters "E" through "K."

OCA provided a list of attorneys who failed to register for two biennial registration periods (four years), despite three written notices from OCA alerting them to comply. The Committee staff sent letters to each attorney by first class and certified mail allowing 30 days for them to comply. At the end of that period, the Committee notified the remaining delinquent attorneys of the Committee's motion to suspend them by publication of their names in the New York Law Journal. A database was created to manage and update the list and to coordinate the data with other disciplinary matters concerning the same attorneys.

The second phase of the project was completed by the Appellate Division with the suspension of approximately 700 non-compliant attorneys on February 5, 2008. The project is conducted by Marcy Sterling, paralegal, Michelle Wang, computer specialist,

and the Committee's investigators and secretaries, under the supervision of Mady J. Edelstein, Principal Attorney.

2007

Appendix A: Committee Assignments

Paul J. Curran
Chair
Policy Committee

Haliburton Fales 2d (Special Counsel)
Charlotte Moses Fischman (Special Counsel)
Martin R. Gold (Special Counsel)
William Francis Kuntz, II (Special Counsel)
Roy L. Reardon (Special Counsel)
Stephen L. Weiner (Special Counsel)
Alfred G. Gerosa*
Robert L. Haig
Myron Kirschbaum
Marvin Leffler*
Hon. Alfred D. Lerner

Hearing Panel Members

Panel I

John J. Kenney, Chair
Ann J. Charters*
Cheryl Davis
William L. Freeman*
Martin S. Rothman
John Siffert

Panel II

Christopher E. Chang, Chair
Robert J. McGuire
Lynn K. Neuner
Timothy G. Reynolds
Susan Welsher*

Panel III

Patricia Farren, Chair
Dr. Jane Eisner Bram*
Andrew M. Lawler
Harold F. McGuire, Jr.
Charles G. Moerdler

Panel IV

Samuel W. Seymour, Chair
Patricia Handal*
Patricia M. Hynes
David G. Keyko
Douglass B. Maynard

*Public Member

Panel V

John L. Warden
Thomas Fitzpatrick
Lawrence D. McGovern
Reuben Samuel
Augustin J. San Filippo
Christine Collins Tomas*

Panel VI

Eugene P. Souther, Chair
Lisa D. Correll*
Paul G. Gardephe
Patricia Hatry
Alan R. Kaufman

Panel VII

Mathias E. Mone, Chair
Patrick H. Barth
Joseph Steven Genova
Charles C. Marino*
Frederic S. Newman

Panel VIII

Paul F. Doyle, Chair
Eugene F. Bannigan
Jean E. Davis*
Stephen E. Kaufman
John W. McConnell

Panel IX

Jane W. Parver, Chair
Dominic F. Amorosa
Douglas W. Brandrup
Rosalind S. Fink
William E. Hammond
Mary B. Maguire*

Panel X

Denis F. Cronin, Chair
Frank J. Loverro
Fitzgerald Miller*
Anthony M. Radice
Marian E. Silber

*Public Member

2007

Appendix B: Chief Counsel's Office: Attorneys

Thomas J. Cahill
Chief Counsel

Sherry K. Cohen
First Deputy Chief Counsel

Andral N. Bratton
Deputy Chief Counsel

Christine C. Anderson
Angela Christmas
Nicole Corrado
Kevin P. Culley
Jorge Dopico
Mady J. Edelstein
Jeremy S. Garber
Naomi F. Goldstein
Joseph J. Hester
Roberta N. Kolar
Jun Hwa Lee
Vitaly Lipkansky
Stephen P. McGoldrick
Kevin E. F. O'Sullivan
Orlando Reyes
James T. Shed
Eileen J. Shields
Judith N. Stein
Raymond Vallejo

2007

Appendix C: Chief Counsel's Office: Staff

Investigators

Vincent C. Raniere, Chief
George Cebisch
Virgil Cruz
John Puglise
Martin Schwinger
Michael Vega
Leonard Zarrillo

Paralegals

Rebeca V. Taub, Chief
Donna Killian
Robin Green
Eileen Mc Nerney
Joel Peterson
Marcy Sterling

Computer Personnel

Michelle Y. Wang
Charles A. Sauer

Office Manager

Carol Scheuer

Secretaries

Anna Abbate
Francine N. L. Ali
Nancy K. De Leon
Eartha Hobot
Monique Hudson
Tennille Millhouse
Celina Nelson
Hermine Otto
Gloria Rodriguez
Maria L. Vera

2007
Appendix D: Bar Mediators

Association of the Bar of the City of New York

Mark S. Arisohn, Esq.
Vivian O. Berger, Esq.
Chris Stern Hyman, Esq.
Andrew D. Kaizer, Esq.
Hal R. Lieberman, Esq.

John Madden Jr., Esq.
K. Ann McDonald, Esq.
David M. Rubin, Esq.
Briscoe R. Smith, Esq.
Harvey A. Strickon, Esq.

Bronx County Bar Association

Daniel Chavez, Esq.
Richard M. Copland, Esq.
Norma Giffords, Esq.

Jeffrey Pogrow, Esq.
Frederick B. Potack, Esq.
Cary M. Tanzman, Esq.

New York County Lawyers' Association

David A. Botwinik, Esq.
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 Report to OCA

ATTORNEY DISCIPLINE ACTIVITIESPERIOD COVERED - ANNUAL 2007

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED:*

A. Matters Pending at Start of Period	<u>1111</u>	
B. New Matters During Period	<u>3517</u>	
C. Closed Matters Reactivated During Period	<u>67</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>4695</u>
E. Total Matters Disposed of During Period		<u>3656</u>
F. Matters Pending at End of Period		<u>1039</u>

II. MATTERS DISPOSED OF BY COMMITTEE:

	Cases**	Matters
A. Rejected as Failing to State a Complaint	<u>813</u>	<u>849</u>
B. Referred to Other Disciplinary Committees	<u>385</u>	<u>390</u>
C. Referred to Other Agencies	<u>54</u>	<u>54</u>
D. Dismissed or Withdrawn	<u>1893</u>	<u>2032</u>
E. Dismissed through Mediation	<u>19</u>	<u>21</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>69</u>	<u>85</u>
H. Admonition (or Reprimand)	<u>2</u>	<u>2</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>122</u>	<u>223</u>
Total Disposed of During Period (same as I.E above.)	<u>3357</u>	<u>3656</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>33</u>
1. Disciplinary Proceedings	<u>23</u>	
2. Other	<u>10</u>	
B. Cases Received During Period		<u>122</u>
1. Disciplinary Proceedings	<u>80</u>	
2. Other	<u>42</u>	
C. Total to be Processed During Period		<u>155</u>

ATTORNEY DISCIPLINE ACTIVITIES (2007)

D.	Cases Closed		
	1. Disbarred	29	
	2. Disciplinary Resignations	16	
	3. Suspended***	24	
	4. Censured	6	
	5. Privately Censured	3	
	6. Remanded to Disciplinary Committee	12	
	7. Discontinued	4	
	8. Dismissed	0	
	9. Reinstatements Granted	6	
	10. Reinstatements Denied	4	
	11. Non-Disciplinary Resignations	0	
	12. All Other Dispositions	28	
	13. Total Closed		132
E.	Total Cases Pending at End of Period		22 ¹
	1. Disciplinary Proceedings	16	
	2. Other	6	

For the purposes of this report, the term "Matter" includes the following:

1. Complaints
2. Inquiries (Excluding telephone inquiries)
3. Sua Sponte investigations

* In the First Dept., "matters" does not include inquiries.

**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.

***Includes (11) definite, (13) interim and (0) indefinite suspension(s)

¹ 1 misc. matter subtracted in 2nd quarter

Appendix F: Budget for Fiscal Year 2007-2008

Departmental Disciplinary Committee Budget
Fiscal Year 2007-2008

Appendix F: Budget for Fiscal Year 2007-2008

Departmental Disciplinary Committee Budget
Fiscal Year 2007-2008

<u>Item</u>	<u>Allocation</u>
<u>Personal Service Total</u>	\$ 3,781,743
Office Supplies	53,404
EDP Supplies	3,063
Legal Reference - General	25,530
Travel-General	6,604
Rentals of Equipment	4,202
Repairs of Equipment	11,743
Postage and Shipping	55,712
Printing - General	10,436
Telephones	36,847
EDP Telecommunication Charges	3,200
Subscriptions	2,200
Other General Services	10,738
Records Management services	22,000
Professional Services - Expert Witnesses	4,000
Professional Services - Interpreters	2,000
Transcript Costs - General	55,000
Computer Assisted Legal Research	1,000
Other Court Appointed Services	13,000
Equipment - Replacement	15,000
<u>Non-Personal Service Total</u>	\$ 335,679
TOTAL BUDGET FISCAL YEAR 2007-2008	\$ 4,117,422

Appendix G: Sample Complaint

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE
61 BROADWAY, 2ND FLOOR
NEW YORK, NEW YORK 10006

212/401-0800

Alan W. Friedberg
Chief Counsel

DATE: _____

Complainant(s):

Mr. () Ms. () Mrs. () _____
Last First Initial

Address: _____ Apt. _____

_____ City State Zip Code

Telephone: Home _____ Business _____

Attorney Complained of:

Mr. () Ms. () Mrs. () _____
Last First Initial

Firm Name: _____

Address: _____ Suite/Floor _____

_____ City State Zip Code

Telephone: _____

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. _____

Statute: _____

Details of Complaint PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH

Start from the beginning and be sure to tell why you went to the attorney, when you had contact with the attorney, what happened each time you contacted the attorney and what it was that the attorney did wrong. Please send this office copies of all papers that you received from the attorney with this form.

