

2009 ANNUAL REPORT



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

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SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

ROY L. REARDON, ESQ.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

July 29, 2010

To The Bar and Public:

I am pleased again to deliver this Annual Report for the year 2009 reporting on the work of the Departmental Disciplinary Committee ("DDC"). Many people have contributed to the excellent performance we have achieved. They are dedicated to their work, the purposes that DDC serves and to maintaining the national reputation it has achieved over the years for leadership and excellence in its field.

Our achievements are also the result of the leadership we receive from Presiding Justice Luis A. Gonzalez and a Committee of the Justices of the Court who provide DDC with continuing guidance and supervision on matters of policy and performance.

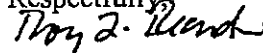
DDC is also fortunate to be led by its Policy Committee, consisting of members who represent the leadership of the Bar, together with lay members who together bring great knowledge, energy, dedication and public insight to the work of the Committee.

With respect to the vital function of hearing the formal charges DDC brings against members of the Bar, our mission is served by ten (10) Hearing Panels, comprised of lawyers and lay members, who hear the charges and endeavor to render fair and just decisions, subject to review by the Court, that deal with what can be complicated matters of law and fact.

Lastly, but certainly an indispensable component of DDC, is its Staff; we could not function without them. The Lawyers on the Staff, their Supervisors, the Investigators and Administrative Personnel provide the day-to-day muscle that makes DDC's work possible. They are all led directly by our Chief Counsel, Alan W. Friedberg and First Deputy Sherry K. Cohen, who serve tirelessly and with distinction to achieve DDC's goals.

We must also recognize the role of David Spokony, the Clerk of the Court, who with his many years of experience at the Court, provides continuing guidance to DDC in helping us to maximize our effectiveness.

Respectfully,

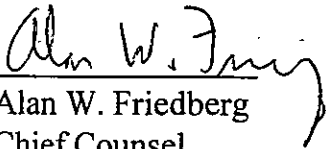


Roy L. Reardon
Chair

CHIEF COUNSEL'S REPORT

In 2009, the Office of the Chief Counsel continued its efforts to complete our investigations – through dismissals, private admonitions and public discipline – in a fair and expeditious manner. I am proud of our staff attorneys' work in the handling of all aspects of our investigations, from reviewing the initial complaint, and, where appropriate, through the prosecution of attorneys at hearings, and written submission to the Court. I also am appreciative of the support provided by our administrative staff. I particularly wish to thank Sherry K. Cohen, our First Deputy Chief Counsel, and Deputy Chief Counsel, Mady Edelstein, Naomi Goldstein, Raymond Vallejo, and former Deputy Chief Counsel Jorge Dopico. I appreciate the work of the individual Committee members who regularly review staff's recommendations and the files in dismissal cases, and who also sit on Hearing Panels in cases involving potential public discipline and reinstatements. I am indebted to the Policy Committee members who meet monthly to address and make recommendations on a variety of issues which have a direct impact on the work of the DDC. Those same members review and approve staff's recommendations to admonish attorneys (private discipline) and to charge attorneys (public discipline). Our Chairman Roy L. Reardon has worked tirelessly with our office to assist in improving the overall work of the DDC. Lastly, I wish to express my appreciation to all the Justices of

the Court, and, in particular, Presiding Justice Luis A. Gonzalez, the Justices who served on the Liaison Committee and the Clerk of the Court, David Spokony.


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 formal charges are approved, the Court appoints a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact and conclusions of law and recommending 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 2009, 63 Committee members served on 10 different Hearing Panels of approximately 6 members each, composed usually of 5 lawyers and 1 non-lawyer.*

Twelve other members of the Committee, including 3 non-lawyers, served on the Policy Committee, which reviews proposed admonitions and recommendations to file

*In January 2010, the Court appointed the following new Committee members:

Robin Stratton Rivera
Ronald Law
Natica von Althann
Roger Juan Maldonado, Esq.

David Buksbaum
Ruth W. Friendly
Karla G. Sanchez, Esq.
James W. Harbison, Jr., Esq.

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., and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession and law firms of varying sizes, plus 12 non-lawyer members. The latter group, including business executives, engineers, a financial adviser, a psychotherapist, a writer and former educator, serve the Committee with dedication and energy. Regretfully, three valued members of the Committee passed away this year – Hon. Alfred D. Lerner and Alfred Gerosa of the Policy Committee, and Reuben Samuel, Esq., of Panel V. We are very grateful for the many years of service they have dedicated to the Committee.

Below are brief biographies of all Committee members who served in 2009, highlighting their diverse accomplishments:

Roy L. Reardon (Chairman)

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.

Catherine M. Abate

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

James M. Altman

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

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, including insurance coverage disputes. He is a graduate of Brooklyn College and New York University Law School where he served as Managing Editor of its 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 two other former Assistant United States Attorneys 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.

Nina Beattie

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

Peter A. Bellacosa

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

George Berger

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

Sheila S. Boston

Ms. Boston is a partner in the New York office of Kaye Scholer LLP. Her litigation practice is concentrated in class action and product liability issues. Ms. Boston received her A.B. from the Woodrow Wilson School of Public Policy and International Affairs at Princeton University in 1990; her minor was African American studies. She received her J.D. from the Columbia University School of Law in 1993 and was the Topics Editor for the Journal of Law and Social Problems. She is currently the Secretary of the New York City Bar Association; Vice President of the Federal Bar Council; Membership Chair of the Federal Bar Council's American Inn of Court; and a member of the Steering Committee of Defense Research Institute's Drug and Medical Device Committee.

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.

John F. Cambria

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

the Office of Appellate Defender, a public interest legal services organization, and the chair of the Board's Fundraising Committee. He is also a member of the College of the Holy Cross New York City Leadership Council and a member of the Historical Society of the Courts of the State of New York. For the past several years, John has regularly been listed in *The Best Lawyers in America* and *New York Super Lawyers* in the field of commercial litigation.

Nicholas M. Cannella

Mr. Cannella is a partner at Fitzpatrick, Cella, Harper & Scinto. A former law clerk to the Hon. Sol Wachtler of the New York State Court of Appeals, Mr. Cannella's practice is focused on the litigation of intellectual property matters, and he has served as lead trial and appellate counsel for numerous Fortune 500 companies, both domestic and foreign. He has appeared in federal trial and appellate courts in New York and throughout the country.

Mr. Cannella serves as the senior member of his firm's Management Committee. In addition, he is an Adjunct Professor at St. John's University School of Law, where he also is a Vice-President of that school's Alumni Association Board of Directors.

Aurora Cassirer

Ms. Cassirer is a partner in the firm of Troutman Sanders LLP. Her varied litigation practice has included banking, insurance, real estate, employment and professional liability. She is a graduate of New York University School of Law. Ms. Cassirer's publications include, "Truth and Consequences? How to Avoid Employee Claims of Defamation," by Aurora Cassirer, Scott B. Feldman, and Devin M. Ehrlich, ACC Docket, September 2006, Volume 24, No. 8; The Association of the Bar of the City of New York, "Women in Negotiation - Practical Tips To Strengthen Your Negotiation Skills," July 21, 2004. She is a member of the New York State Bar Association; New York State Women's Bar Association; American Bar Association, and Commission on Fiduciary Appointments.

Christopher E. Chang

Mr. Chang is in private practice in New York City. His area of practice is commercial and criminal litigation in the Federal and State courts. A graduate of New York University (B.A. '75) and Cornell Law School (J.D. '78), Mr. Chang was an Assistant District Attorney in Manhattan District Attorney's Office under Robert M. Morgenthau from 1978 to 1982. Mr. Chang is currently a member of the New York State Judicial Institute on Professionalism in the Law and was formerly a member of the Chief Judge's Committee on Profession and the Courts (Craco Committee) and Commission on

Public Access to Court Records, the Franklin H. Williams Commission on Minorities in the Judiciary, and the Board of Directors of The Legal Aid Society in New York City. From 1991 to 2001, Mr. Chang was Chair of the Judiciary Committee of the Asian American Bar Association of New York. Mr. Chang was also formerly a member of the Cornell University Council. In October 2002, Mr. Chang received the Millennium Award from the Franklin H. Williams Commission on Minorities in the Judiciary for his efforts in promoting diversity in the New York judiciary and court system.

Ernest J. Collazo

Mr. Collazo is the founding partner of Collazo Florentino & Keil LLP, a boutique firm practicing exclusively management-side labor and employment law and litigation. He is a graduate of Hunter College and Columbia Law School. He has been a member of the NYSBA's 2009 Nominating Committee, and the New York City Bar's Executive Committee, Committee on Professional and Judicial Ethics, and Committee on Labor and Employment, and has served on the boards of the United Hospital Fund of New York and the September 11th Fund. He is currently a Member of the City Bar Delegation to the NYSBA House of Delegates, the Advisory Committee to the Rules Committee of the Second Circuit, the Federal Bar Council Inn of Court, and the Council on Foreign Relations. In addition, he is a Director of the New York Community Trust, and the Federal Defenders of New York, and The Washington Office on Latin America.

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.

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.

Ralph C. Dawson

Mr. Dawson is a member of the firm of Fulbright & Jaworski LLP, and primarily engages in the practice of labor and employment law and civil litigation. He graduated from Columbia University School of Law. He is a member of the American Bar Association; Association of the Bar of the City New York; Metropolitan Black Bar Association of New York, and Magistrate Judges in the United States District Court for the Southern District of New York.

Sheldon H. Elsen

Mr. Elsen is a graduate of Princeton University, was a Woodrow Wilson Fellow and Teaching Fellow at Harvard University, and is a graduate of Harvard Law School. He is a partner at the law firm of Orans Elsen Lupert & Brown LLP, a neutral arbitrator and mediator at JAMS, and an Adjunct Professor of Law at Columbia Law School. He is a former vice president of the New York City Bar Association, a Fellow of the

American College of Trial Lawyers, a former Assistant U.S. Attorney for the Southern District of New York and a member of the American Law Institute.

During the New York fiscal crisis, he served as chief counsel to a Moreland Act Commission appointed by Governor Carey to investigate the default of the Urban Development Corporation on its bonds and the problems of New York's public authorities. Later he served as Chair of a committee appointed by the New York City Bar Association at the request of Mayor Koch and the New York City Board of Estimate to investigate problems surrounding real estate developers and amenities.

Mr. Elsen previously served on the Departmental Disciplinary Committee from 1990-1996, of which the last four years were spent as Chair of a hearing panel, and he has served on the Professional Ethics Committee of the New York City Bar Association.

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

Mr. Fales is a retired partner of the law firm of White & Case. He is a graduate of Columbia Law School, where he was on the Board of Editors of its Law Review. From 1991 to 1996, Mr. Fales was 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.

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 the General Counsel and a litigation partner at Kramer Levin Naftalis & Frankel LLP. She is a graduate of Brandeis University and Columbia Law School, where she was a member of the Columbia Law Review. She has served on the boards of the Legal Aid Society, the New York Community Trust, the September 11th Fund, the Mexican American Legal Defense Fund, and was a Commissioner of the

Ethics Commission for the Unified Court System. As a member of the Association of the Bar of the City of New York, she served on the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics and is presently on its Board of Visitors. She is a member of the American Law Institute. For many years she served as President of the National Alliance for the Mentally Ill- NYC Metro ("NAMI-Metro") and is currently NAMI-Metro's President Emeritus.

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.

Katherine B. Forrest

Ms. Forrest is a litigation partner at the law firm of Cravath, Swaine & Moore LLP. She has particular expertise in the areas of antitrust, intellectual property and general commercial disputes. She graduated from Wesleyan University and received her law degree from New York University School of Law. She is involved in several

organizations, including the Lawyers' Committee for Civil Rights and The Fund for Modern Courts. Ms. Forrest is a member of the American Bar Association and the New York State Bar Association.

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.

David R. Gelfand

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

member of the American Bar Association and DC Bar Association, and the Association of the Bar of the City of New York where he served in the Committee on Judicial Administration.

Joseph Steven Genova

Mr. Genova has been a 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 included 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 - now deceased)

Mr. Gerosa earned a Bachelor's degree in Civil Engineering from the University of Virginia. He was Chairman of the New York College of Podiatric Medicine and the

Executive Committee of the Building Trades Employers' Association. Mr. Gerosa also served 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 was President of the New York Concrete Construction Institute, Inc. and the Concrete Alliance.

Robert J. Giuffra

Mr. Giuffra is a senior partner in the firm of Dougherty, Ryan, Giuffra, Zambito & Hession. He graduated from St. John's University, School of Law and received his Master of Laws from Brooklyn Law School. Mr. Giuffra acted as Appellant/Respondent counsel in cases in the New York State Court of Appeals; Appellate Divisions; and United States Court of Appeals, and served as trial attorney representing litigants in both State and Federal Courts. His bar admissions include: New York State; United States Supreme Court; United States District Court of Appeals, and the United States Tax Court. He is a member of the American Bar Association; New York State Bar Association; Maritime Law Association of the United States; and Association of Average Adjusters. Mr. Giuffra served in the United States Army Corps of Engineers, Republic of South Korea.

Robert E. Godosky

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

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

Mr. Gold is a 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.

John D. Gordan, III

John D. Gordan, III, is a partner of Morgan, Lewis & Bockius LLP, concentrating in litigation. A graduate of Harvard Law School, he clerked for Judge Inzer B. Wyatt of the United States District Court for the Southern District of New York from 1969 to 1971. He was an Assistant United States Attorney for the Southern District of New York

from 1971 to 1976, serving as Chief Appellate Attorney from 1973 to 1975 and Executive Assistant U.S. Attorney from 1975 to 1976.

Richard M. Greenberg

Mr. Greenberg is the Attorney-in-Charge of the Office of the Appellate Defender, a not-for-profit indigent criminal defense firm – the oldest indigent defense organization in New York City other than The Legal Aid Society – that provides high quality, client-centered appellate and post-conviction representation, and trains new lawyers in the practice of appellate advocacy. He has been involved in the practice of criminal law for more than thirty years. He currently serves on the Professional Responsibility Committee of the City Bar Association, and has previously served on the Association’s Council on Criminal Justice, as well as the Judiciary and Criminal Law Committees. Mr. Greenberg also currently serves on the Appellate Courts Committee of the New York County Lawyers Association, and is a member of the New York State Bar Association, the New York State Defenders Association, the National Legal Aid and Defender Association, and the National Association of Criminal Defense Lawyers.

Maura Barry Grinalds

Maura Barry Grinalds is a litigation partner at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. She is a graduate of Harvard College and Harvard Law School. Her practice includes securities, corporate and commercial litigation in federal

and state courts and domestic and international arbitration proceedings. Ms. Grinalds is active in pro bono activities, and serves on the Board of Directors of the Southport Conservancy and on the Schools and Scholarships Committee of Harvard College. She co-edited a New York Legal Ethics Narrative on the American Legal Ethics Library, www.law.cornell.edu/ethics. She is a member of the Federal Bar Council, the American Bar Association, and the Association of the Bar of the City of New York.

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

Mr. Haig is a litigation partner at the law firm of Kelley Drye & Warren LLP. He is a former President of the New York County Lawyers' Association. Mr. Haig has served as the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York and also chaired that Association's Council on Judicial Administration. He has served as a member of the New York State Bar Association's Executive Committee and was the founder and first Chair of that Association's Commercial and Federal Litigation Section. He is a former President of the New York Bar Foundation and a member of the American Law Institute. Mr. Haig 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. On November 16, 2008, he was inducted as an Honorary Charter Member of the American College of Business Court Judges in recognition of his efforts to develop business courts

in New York and many other states and countries. Mr. Haig is the Editor-in-Chief of a 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.

Gerard E. Harper

Mr. Harper is a litigation partner of Paul, Weiss, Rifkind, Wharton & Garrison LLP, and has headed the firm's ethics committee since 1991. He has served on the ethics committees of the New York State, City, and County bar associations, including service as chair of the NYCLA Committee. He is a graduate of Rutgers College and New York University School of Law, where he was Editor-in-Chief of the *Law Review*, and, before joining Paul, Weiss, was law clerk to U.S. Circuit Judge George E. MacKinnon of the U.S. Court of Appeals for the D.C. Circuit.

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.

Seymour W. James, Jr.

Seymour W. James, Jr. is the Attorney-in-Charge of the Criminal Practice at The Legal Aid Society. He is a graduate of Brown University and Boston University Law School. Mr. James is the Treasurer of the New York State Bar Association and a former President of the Queens County Bar Association. He serves as a member of the

Committees on Character and Fitness for the Second Judicial Department and the Independent Judicial Election Qualification Commission for the 11th Judicial District.

Pamela Jarvis

Ms. Jarvis has been a partner in Gregory P. Joseph Law Offices LLC since the firm's formation in 2001. She is a graduate of Barnard College and Boston University School of Law. Following law school, she joined Fried, Frank, Harris, Shriver & Jacobson, where she was a litigation partner from 1985-1991. From 1991-1998, Ms. Jarvis was Vice President, General Counsel and Secretary of NYLCare Health Plans, Inc., a subsidiary of New York Life Insurance Company. From 1999-2001, she served as Chief of the Health Care Bureau of the New York State Attorney General's Office.

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.

Alfreida B. Kenny

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

Myron Kirschbaum (Special Counsel to 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 focuses on white collar criminal defense work, SEC enforcement actions and 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, and Who's Who in America.

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

Judge Lerner was 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 concentrated 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.

Nancy B. Ludmerer

Nancy Ludmerer is counsel in Davis Polk & Wardwell LLP's Litigation Department. She graduated from the University of Pennsylvania and Boalt Hall School of Law (UC-Berkeley). Her practice focuses on complex commercial and securities cases, and she also has an active pro bono practice. In addition to representing indigent

clients in matrimonial and immigration matters, most recently she was co-counsel with the Legal Aid Society and other agencies in a landmark lawsuit brought on behalf of prisoners with mental illness throughout the New York State prison system. She serves as a Civil Court Small Claims Arbitrator in Kings County, and has been a mentor in firm-sponsored alliances with New York City public high schools. She is the author of articles on legal topics in *The American Lawyer*, *The Journal of Medical Ethics* (London), and *Vogue Magazine* and of fiction in *The Kenyon Review*, *Cimarron Review*, and other literary journals. Ms. Ludmerer is a trustee of the SAJ Synagogue.

William A. Maher

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

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. After serving as an Assistant United States Attorney in the Southern District of New York from 1962 to 1966, he 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 Vice Chairman 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 Vice Chair 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.

Robert G. Morvillo

Mr. Morvillo is affiliated with the New York City law firm of Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C., specializing in White Collar criminal defense and commercial litigation from 1973 to the present. Mr. Morvillo received a JD from Columbia University School of Law in 1963. Mr. Morvillo served as a law clerk to

the Honorable William B. Herlands, United States District Judge of the Southern District of New York in 1963-64. He also served in the Criminal Division of the United States Attorney's Office, Southern District of New York from 1964 to 1968 and was Chief of the Criminal Division from 1971 to 1973. Mr. Morvillo is a fellow of the American College of Trial Lawyers and former president of the New York Council of Defense Lawyers.

Mercedes A. Nesfield (A Member of the Policy Committee)

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

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 Williams College and from Yale Law School, where she is Vice Chair of the Board of Directors of the Yale Law School Alumni Fund.

She is the Secretary of the Executive Committee the Association of the Bar of the City of New York, and a member of the New York State Bar Association, and the American Bar Association.

Fredric 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 nonprofit institutions and currently serves on the National Advisory Board of the Johns Hopkins Berman Bioethics Institute.

Jacob Pultman

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

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 (now deceased)

Mr. Samuel, a graduate of City College and Brooklyn Law School, was a partner in the firm of Levine Samuel, LLP. His area of practice was real estate law. Mr. Samuel 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 also chaired and was 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 was General Counsel to Sumitomo Real Estate Sales (NY), Inc.

Karen Patton Seymour

Ms. Seymour is a partner at Sullivan & Cromwell where she heads the Criminal Defense and Investigations Group. She served as the Chief of the Criminal Division for the U.S. Attorney's Office for the Southern District of New York. She is a graduate of University of Texas Law School and received an LLM from the University of London Law School.

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.

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 serves on the Executive Committee of the Association of the Bar of the City of New York and was Chair of the New York Lawyers for Public Interest. He currently serves on the Board of the Historical Society of the Courts of New York. 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.

Hon. Joseph P. Sullivan (A member of the Policy Committee)

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

Christine Collins Tomas

Mrs. Tomas is a Managing Director in the Securities Division of Goldman Sachs, covering large fund management institutions and sovereign wealth funds. She joined Goldman Sachs International in London as a European salesperson in 1997 and moved to New York in 2004. Prior to business school, Mrs. Tomas worked for Allianz AG in Munich and Merrill Lynch International in London. She received a BA in Romance Languages and Literatures from Harvard University in 1992 and a MBA from the MIT Sloan School of Management in 1997.

John L. Warden

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

Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as 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.

Milton L. Williams, Jr.

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

Sarah E. Zgliniec

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

New York. She is a member of the New York State Bar Association and the American Bar Association.

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a “respondent.” Some 3,324 matters were opened in 2009, primarily based on complaints from clients, but also from other attorneys and members of the public at large. The Committee also opened *sua sponte* investigations based on information which appeared in judicial opinions, professional journals, referrals from the judiciary, dishonored check notifications from the Lawyers’ Fund for Client Protection or other sources.

Complaints are date-stamped, numbered and entered into the Committee’s computer system, which generates a printout of the respondent’s disciplinary history with the Committee, as well as current information from the respondent’s registration with the Office of Court Administration. The complaint is then screened by a staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, or whether 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 seeks legal advice; is an attempt to collect a debt; or involves a fee dispute. In 2002, a mandatory mediation/arbitration program was instituted to deal with fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of more than \$1,000 and less than \$50,000.

If the complaint involves the same substantial and material allegations that will be decided in pending litigation, the Committee may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. Staff's recommendation to close a matter pending resolution of the litigation must be approved by a lawyer member of the Committee. In such cases, the Committee will independently monitor the progress of the litigation with a view to reopening it later. If it otherwise 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.

If a matter is not closed 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 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/arbitration at this point. If the second screener recommends dismissal, a lawyer member of the Committee reviews that written recommendation together with the file, and a draft letter to the complainant explaining why the case is being closed. A matter that warrants additional investigation is forwarded to the Chief Counsel for review and assignment to a staff attorney by the First Deputy Chief Counsel.

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

When the investigation is complete, the staff attorney recommends dismissal, an admonition (which is private discipline), or formal charges. The Chief Counsel reviews all staff attorney recommendations to dismiss a matter before the recommendation is reviewed by a Committee member. A Committee member must approve each recommendation for dismissal. When matters are dismissed on the merits, the closing

letter to the complainant indicates the right to request reconsideration of the dismissal within 30 days.

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

Admonitions

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

Although it is private and remains confidential, an admonition is a finding of professional misconduct and becomes a part of the lawyer's permanent disciplinary record. It will 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 attorney'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 and substantial proof of misconduct because if an attorney refuses to accept the admonition, he or she may request that formal charges be

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

brought. In that case, staff must be able to prove the misconduct by a preponderance of the evidence before a Referee. In 2009, the Committee issued 105 Letters of Admonition, covering 114 separate complaints. (An admonition may be based on more than one complaint against a respondent.)

Proceedings on Formal Charges

A staff attorney's recommendation that formal charges be filed must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, and approved by the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, to be represented by counsel, to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two parts, liability and sanction. Most cases also involve briefing on liability and sanction. 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 at least 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 40 days of the argument or 10 days from the submission of briefs, whichever is shorter.

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

Serious Crimes

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

Applications to the Appellate Division

Public discipline requires an order of the Court. The Committee applies to the Appellate Division by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court decides to impose a public sanction, it issues an order and a written opinion which is usually published in the New York Law Journal and is otherwise public. In matters involving a hearing on charges, the Committee files a petition with the Court to confirm a Hearing Panel's Determination or, with the Chairman's permission, may file a motion to disaffirm a Hearing Panel's Determination.

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

Certain other matters are also filed directly with the Court. For example, when a lawyer fails to cooperate with a Committee investigation and the lawyer's conduct otherwise 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). If the Committee

obtains uncontroverted evidence that the attorney has continued to engage in the practice of law during the period of a suspension, the Committee will petition the Court to disbar the attorney for violating its order.

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

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

REPRESENTATIVE PUBLIC DISCIPLINE CASES

In 2009, the Appellate Division, First Judicial Department, publicly disciplined 52 lawyers as follows: 21 disbarments, 4 resignations by attorneys facing charges (equivalent of disbarment), 19 suspensions and 8 public censures. Some of the cases prosecuted by Committee staff attorneys that have become a matter of public record in 2009 are reviewed below:

Matter of Tommy Alejandro, 65 AD3d 63 (2009)

In an order dated June 11, 2009, the Court disbarred Mr. Alejandro based on 36 counts of misconduct, including neglect of numerous client matters; failure to promptly return unearned legal fees; failure to pay judgments owed to clients; providing false written and oral assurances to his clients that he had performed legal work; and misuse of his escrow account. In consideration of the appropriate sanction, the Court noted that respondent had been found to have given false testimony in deposition before the Committee during its investigation, in addition to his other misconduct which resulted in disciplinary proceedings. (Staff Counsel Kevin P. Culley)

Matter of Alfredo A. Johannes, 66 AD3d 39 (2009)

The Court found that Mr. Johannes neglected two unrelated client matters, failed to return an unearned fee to a client and misused his escrow account. Moreover, Mr.

Johannes had previously received four letters of admonition. The Court found that this attorney took on matters he was not prepared to handle but, in view of his extensive pro bono work, service to his community and the lack of venal intent, a three-month suspension was warranted. (Staff Counsel Scott D. Smith)

Matter of George S. Balis, 70 AD3d 76 (2009)

Mr. Balis was convicted, after a jury trial in the Southern District of New York, of conspiracy to commit securities fraud and wire fraud. Following a “serious crime” sanctions hearing, the Court disbarred Mr. Balis noting the “reprehensible” nature of his crime coupled with his failure to assume responsibility for his actions, as well as substantial evidence in aggravation, including outstanding judgments and liens filed against him, and a finding of contempt of court for non-payment of child support. (Deputy Chief Counsel Raymond Vallejo)

Matter of Kenneth Selterman, 66 AD3d 74 (2009)

Mr. Selterman pleaded guilty to the “serious crime” misdemeanor of falsifying business records as a result of preparing and sending a letter to NASDAQ containing false information about his company. The Court found, as evidence in aggravation, that Mr. Selterman had also devised an internal ethics compliance questionnaire for the employees of the company, including himself, to which he admittedly provided untruthful

answers. Moreover, the Court found that his inconsistent testimony about his culpability should be construed as a lack of remorse and ordered him suspended for three years.

(Staff Counsel Orlando Reyes)

Matter of Bradley A. Alperin, 66 AD3d 309 (2009)

Mr. Alperin was found to have engaged in a pattern of neglect of five client matters as well as deceiving his firm and its clients concerning work he completely failed to perform. He attempted to cover up his neglect by, among other things, submitting false billings. Upon becoming aware of Mr. Alperin's misconduct, his law firm terminated his employment and notified the Committee. The Court found that such a persistent pattern of neglect warranted a two-year suspension. (Staff Counsel Vitaly Lipkansky)

Matter of Marc S. Dreier, 69 AD3d 43 (2009)

Mr. Dreier was suspended on an interim basis by the Court on December 23, 2008, due to his guilty plea in the Southern District of New York to all eight counts of an indictment, including securities and wire fraud and money laundering. Mr. Dreier was subsequently sentenced to 20 years' incarceration. The Court ordered him automatically disbarred based on his federal convictions. (Staff Counsel Vitaly Lipkansky)

Matter of John P. Howley, 70 AD3d 218 (2009)

The Court departed from a long line of cases imposing a public censure in “serious crime” failure to file tax return cases by ordering Mr. Howley suspended for one year. Specifically, the Court found compelling factors in aggravation such as Mr. Howley’s substantial income during the ten years he failed to file income tax returns, his lavish lifestyle, his failure to notify his law firm partners of his pending criminal investigation and lying to his wife that their tax returns had been filed. (Deputy Chief Counsel Raymond Vallejo)

Matter of Vernell A. Clarke, 71 AD3d 33 (2009)

Mr. Clarke was found to have engaged in a pervasive pattern of misconduct by deceiving his employer, Fidelity National Insurance Company, and four of its clients, with respect to work that he failed to perform in five separate matters, and by neglecting a total of six matters involving five separate clients. Although his treating psychologist stated at the hearing that Mr. Clarke’s depression was a major contributing factor to his neglect of legal matters, she did not conclude that his depression and self-destructive behavior were causally linked to his acts of intentional deceit. By order dated December 10, 2009, the Court suspended Mr. Clarke for five years. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Howard L. Blau, 70 AD3d 28 (2009)

The Committee learned that Mr. Blau improperly held himself out as an attorney and engaged in the unauthorized practice of law in violation of the Court's order suspending him in February 2008. Specifically, a purchaser wired \$51,000 into Mr. Blau's IOLA account as the down payment for a co-op apartment where Mr. Blau represented the seller. Upon learning that Mr. Blau was suspended, the attorney for the buyer unsuccessfully demanded the return of the escrow funds. The Court subsequently rejected Mr. Blau's attempt to resign from the bar, finding that his affidavit of resignation failed to comply with the rules of the Court. Mr. Blau was disbarred based on his "willful defiance of [the] Court's order of interim suspension" and for his failure to file an affidavit of compliance with his interim suspension. (Staff Counsel Stephen M. McGoldrick)

Matter of Christopher L. Musmanno, 69 AD3d 54 (2009)

Mr. Musmanno, in an attempt to avoid receiving a traffic summons, falsely told a New Jersey police officer that he was employed by the Union County Prosecutor's Office and showed him an ID card issued by the Union County Sheriff's Office. Mr. Musmanno subsequently admitted that he lied to the police and also misrepresented to the Office of Attorney Ethics that the charges against him had been dismissed. Mr. Musmanno pleaded guilty to a disorderly conduct charge and was censured by the New Jersey bar. In a

reciprocal proceeding, the Court found that the New Jersey sanction was in accord with New York precedent and issued a censure. (Staff Counsel Scott D. Smith)

SUMMARY OF OTHER REPRESENTATIVE CASES

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

Interim Suspensions

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

The most serious misconduct the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The Court in 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 attorneys 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 does not comply with lawful demands for information. In 2009, the Court suspended nine lawyers on an interim basis pending resolution of the charges against them in the following cases: Matter of Joel A. Silberman, 62 AD3d 61; Matter of Robert J. Barsch, 62 AD3d 42; Matter of Barry S. Siskin, 65 AD3d 58; Matter of David G. Ignacio, 63 AD3d 83; Matter of Marc A. Bernstein, 63 AD3d 87; Matter of Neil S. Kramer, 69 AD3d 139; Matter of Robert B. Davis, 70 AD3d 53; Matter of Raymond J. Ruble, 66 AD3d 48; Matter of Peter H. Jacoby, 69 AD3d 65, and Matter of James D. Christo, 69 AD3d 157.

The Court also has a rule unique to the First Department (see 22 NYCRR § 603.4 [g]), whereby a motion to suspend may also include a notice to the attorney that the attorney may be disbarred*** if the attorney is suspended and fails to appear or to apply in writing to the Court requesting a hearing or reinstatement within six months. In 2009, the First Department invoked 22 NYCRR § 603.4 [g] to disbar four attorneys: Matter of Thomas Burke, 62 AD3d 94; Matter of Jeffrey D. Fletcher, 70 AD3d 63; Matter of David G. Ignacio, 71 AD3d 71, and Matter of Samuel A. Amukele, 70 AD3d 200.

***In February 2010, Rule 604.4 (g) was amended by deleting the phrase "to appear."

Felony Disbarments

In 2009, the First Department granted 13 motions to strike the names of attorneys convicted of felonies: Matter of Stephen Yagman, 61 AD3d 30; Matter of Amir Rosenthal; 64 AD3d 16; Matter of Lesly R. Harper Devereaux, 62 AD3d 210; Matter of Samuel A. Fishman, 61 AD3d 159; Matter of Steven M. Leff, 63 AD3d 57; Matter of Stephen J. Katz, 64 AD3d 163; Matter of Bernard Meiterman, 67 AD3d 50; Matter of Allen B. Witz, 70 AD3d 259; Matter of Marc S. Dreier, 69 AD3d 43; Matter of Menachem E. Lifshitz, 69 AD3d 8; Matter of Eric A. Holzer, 71 AD3d 73; Matter of Austen O. O. Ugweches, 69 AD3d 125, and Matter of Stuart G. Fish, 70 AD3d 36.

Disciplinary Resignations

The Court may permit an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR § 603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending charges is the equivalent of disbarment. In 2009, the First Department accepted resignations under 22 NYCRR § 603.11 from four attorneys and ordered their names stricken from the roll of attorneys: Matter of Andreas Georgakopoulos, 65 AD3d 71; Matter of Joseph G. O'Shea, 62 AD3d 119; Matter of Arthur E. Swidler, 64 AD3d 1; Matter of Steven R. Lapidus, 70 AD3d 49.

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 2009, the Court imposed suspensions for misconduct on nine attorneys for periods ranging from three months to five years:**** Matter of Warren Horakh, 61 AD3d 24; Matter of Kenneth Selterman, 66 AD3d 74; Matter of Alfredo A. Johannes, 66 AD3d 39; Matter of David Goldstein, 65 AD3d 354; Matter of Leopold Kaplan, 65 AD3d 287; Matter of Ronald A. Goldman, 71 AD 3d 9; Matter of John J. P. Howley, 70 AD3d 218; Matter of Bradley A. Alperin, 66 AD3D 309; Matter of Vernell A. Clarke, 71 AD3d 33.

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 2009, the First Department issued public censures in eight cases, 5 based on reciprocal discipline: Matter of Anthony C. Jones, 60 AD3d 312; Matter of James J. Jackson, 62 AD3d 97; Matter of Jeff H. Goldsmith, 61 AD3d 132; Matter of Clarence Jordan Ball, III, 69 AD 3d 149; Matter of Christopher L. Musmanno, 69 AD3d 54; two based on serious crimes: Matter of Gerald A. Eppner, 62 AD3d 151;

**** Three attorneys suspended indefinitely due to disability.

Matter of Justine M. Clark, 60 AD3d 159; and one based on formal charges: Matter of Carlyet D. Marshburn, 70 AD3d 231.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR § 603.14 permit attorneys to apply for reinstatement to the practice of law after a period of suspension or disbarment. Attorneys who are suspended for six months or less may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's office an affidavit stating that the attorney has met certain requirements (see 22 NYCRR § 603.14). An attorney who has been suspended for a period of more than six months may petition the Court for reinstatement upon the expiration of the period of suspension (id.). An attorney who has been disbarred or stricken from the roll of attorneys may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (id.). In such cases, the Court may refer the matter for a hearing before a Referee or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2009, the First Department granted three petitions for reinstatement and denied nine.

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 have been divided into three groups: The first group consists of 952 delinquent attorneys whose last names begin with the letters “A” through “K,” and the second group consists of 1,158 delinquent attorneys whose last names begin with the letters “L” through “Q.”

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 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 project is conducted by Marcy Sterling, paralegal, Michelle Wang, computer specialist, and the Committee’s investigators under the supervision of Mady J. Edelstein, Deputy Chief Counsel.

On April 2, 2009 and on November 10, 2009, respectively the Appellate Division issued orders suspending approximately 1500 attorneys who have failed to register and pay their registration dues as required by Judiciary Law § 468-a.

2009

Appendix A: Committee Assignments

Roy L. Reardon, Chairman
Policy Committee

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

Hearing Panel Members

Panel I

John S. Siffert, Chair
Cheryl Davis
William L. Freeman*
David R. Gelfand
Robert J. Giuffra
Martin S. Rothman
Milton L. Williams, Jr.

Panel II

Christopher E. Chang, Chair
Nicholas M. Cannella
Sheldon Elsen
Nancy B. Ludmerer
Robert J. McGuire
Jacob Pultman

Panel III

Lynn K. Neuner, Chair
Peter A. Bellacosa
Dr. Jane Eisner Bram*
Maura Barry Grinalds
Andrew M. Lawler
Charles G. Moerdler

Panel IV

Harold F. McGuire, Chair
Catherine M. Abate
Ernest J. Collazo
Robert E. Godosky
Patricia Handal*
Robert G. Morvillo

*Public Member

Panel V

John L. Warden, Chair
Thomas Fitzpatrick
Reuben Samuel
Augustin J. San Filippo
Christine Collins Tomas*
Sarah E. Zgliniec

Panel VII

Fredric S. Newman, Chair
Patrick H. Barth
Nina Beattie
Ralph C. Dawson
Katherine B. Forrest
Joseph Steven Genova
Susan Welsher*

Panel IX

Rosalind S. Fink, Chair
Dominic F. Amorosa
Aurora Cassirer
William E. Hammond
Gerard E. Harper
Pamela Jarvis

Panel VI

Seymour W. James, Jr., Chair
John F. Cambria
Lisa D. Correll*
Patricia Hatry
Alan R. Kaufman
Karen Patton Seymour

Panel VIII

Richard M. Greenberg, Chair
James M. Altman
Eugene F. Bannigan
George C. Berger
Sheila S. Boston
Jean E. Davis*
Stephen E. Kaufman

Panel X

John D. Gordan, III, Chair
Alfreida B. Kenny
Frank J. Loverro
William A. Maher
Fitzgerald Miller*
Marian E. Silber

*Public Member

2009

Appendix B: Chief Counsel's Office: Attorneys

Alan W. Friedberg
Chief Counsel

Sherry K. Cohen
First Deputy Chief Counsel

Jorge Dopico
Mady J. Edelstein
Naomi F. Goldstein
Deputy Chief Counsel

Mary Louise A. Biunno
Angela Christmas
Nicole Corrado
Kevin P. Culley
Jeremy S. Garber
Joseph J. Hester
Roberta N. Kolar
Jun Hwa Lee
Vitaly Lipkansky
Stephen P. McGoldrick
Kevin E. F. O'Sullivan
Elizabeth A. Palladino
Kim Petersen
Orlando Reyes
Ann E. Scherzer
Eileen J. Shields
Scott D. Smith
Raymond Vallejo

2009

Appendix C: Chief Counsel's Office: Staff

Investigators

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

Virgil Cruz, Clerk

Computer Personnel

Michelle Y. Wang, LAN Administrator
Charles A. Sauer

Paralegals

Rebeca V. Taub, Chief
Donna Killian
Eileen McNerney
Joel Peterson
Marcy Sterling

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

Appendix E: Annual Report to OCA

ATTORNEY DISCIPLINE ACTIVITIES
PERIOD COVERED - JANUARY - DECEMBER 2009

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED:*

A. Matters Pending at Start of Period	<u>1267</u>	
B. New Matters During Period	<u>3324 [4181¹]</u>	
C. Closed Matters Reactivated During Period	<u>39</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>4630</u>
E. Total Matters Disposed of During Period		<u>3441</u>
F. Matters Pending at End of Period		<u>1189</u>

II MATTERS DISPOSED OF BY COMMITTEE:

	Cases**	Matters
A. Rejected as Failing to State a Complaint	<u>433</u>	<u>448</u>
B. Referred to Other Disciplinary Committees	<u>419</u>	<u>421</u>
C. Referred to Other Agencies	<u>62</u>	<u>63</u>
D. Dismissed or Withdrawn	<u>2053</u>	<u>2135</u>
E. Dismissed through Mediation	<u>11</u>	<u>11</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>105</u>	<u>114</u>
H. Reprimand	<u>0</u>	<u>0</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>143</u>	<u>249[857*]</u>
Total Disposed of During Period (same as I.E above.)	<u>3226</u>	<u>3441</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>27</u>
1. Disciplinary Proceedings	<u>14</u>	
2. Other	<u>13</u>	
B. Cases Received During Period		<u>171</u>
1. Disciplinary Proceedings	<u>80</u>	
2. Other	<u>91</u>	
C. Total to be Processed During Period		<u>198</u>

¹ 857 dockets/cases opened for attorney registration default, referral to the Appellate Division and closed as suspended. See "*" in referred to App. Div.

ATTORNEY DISCIPLINE ACTIVITIES (1-12/09)

D.	Cases Closed		
	1. Disbarred	21	
	2. Disciplinary Resignations	4	
	3. Suspended***	19	
	4. Censured	8	
	5. Privately Censured	0	
	6. Remanded to Disciplinary Committee	20	
	7. Discontinued	2	
	8. Dismissed	1	
	9. Reinstatements Granted	3	
	10. Reinstatements Denied	9	
	11. Non-Disciplinary Resignations	0	
	12. All Other Dispositions	71 ²	
	13. Total Closed		160 ³
E.	Total Cases Pending at End of Period		38
	1. Disciplinary Proceedings	30	
	2. Other	8	

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 (6) definite, (10) interim and (3) indefinite suspension(s)

² This number includes 31 Attorney General and District Attorney Motions for Sharing Order/Unseal.

³ This number includes 2 Disciplinary Proceeding numbers assigned for 2 mass suspensions

Appendix F: Budget for Fiscal Year 2009-2010

Departmental Disciplinary Committee Budget
Fiscal Year 2009-2010

Appendix F: Budget for Fiscal Year 2009-2010

Departmental Disciplinary Committee Budget
Fiscal Year 2009-2010

	<u>Allocation</u>
Personal Service Total:	\$ 4,247,425
<u>Non-Personal Service:</u>	
Office Supplies	46,934
EDP Supplies	6,500
Legal Reference - General	25,500
Miscellaneous Supplies and Materials	5,100
Travel-General	4,805
Rentals of Equipment	24,000
Repairs of Equipment	27,500
Repairs of Structure	-0-
Real Estate Rentals	1,500
Conferences/Training	1,000
Postage and Shipping	23,000
Printing - General	7,500
Telephones	27,000
EDP Telecommunication Charges	600
Information Technology Services	4,000
Building and Property Services	5,600
Subscriptions	4,800
Other General Services	10,200
Records Management services	21,000
Professional Services - Expert Witnesses	3,000
Professional Services - Interpreters	200
Transcript Costs - General	57,000
Computer Assisted Legal Research	100
Other Court Appointed Services	11,000
Professional Services Per Diem Court Reporters	100
Equipment - New/Replacement	-0-
Non-Personal Service Total:	\$ 317,939
TOTAL BUDGET FISCAL YEAR 2009-2010	\$ 4,565,364

Appendix G: Sample Complaint Form

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.

