

STATE OF NEW YORK
Supreme Court, Appellate Division
Third Judicial Department

Committee on Professional Standards

Annual Report Concerning Attorney Discipline

2014

The Committee on Professional Standards is empowered by Judiciary Law §90 and the Rules of the Appellate Division, Third Department (22 NYCRR Part 806), to investigate complaints made against attorneys who are admitted to practice, reside or have an office, or who are employed or transact business, in the Third Department.

The Committee considers all matters called to its attention alleging misconduct by an attorney in the Third Judicial Department. Investigations are conducted by the Committee's professional staff and determinations regarding matters are made by the Committee.

If, following investigation, the Committee determines that no action is warranted, the matter will be closed. If the Committee determines that serious misconduct exists, it may direct the commencement of a disciplinary proceeding before the Appellate Division, Third Department. (See, 22 NYCRR §806.5) The Appellate Division, Third Department, may impose discipline in the form of a censure, suspension, or disbarment.

If the misconduct is not serious enough to warrant the institution of a disciplinary proceeding, the Committee may impose private discipline in the form of a Letter of Caution, Letter of Admonition or an Oral Admonition. If misconduct is not found but the attorney's conduct warrants comment, the Committee may issue a Letter of Education. (See, 22 NYCRR §806.4)

Set forth in this report are summaries of the cases wherein public discipline was imposed by the Appellate Division, Third Department, and wherein private discipline was imposed by the Committee, along with its issuance of Letters of Education.

The private discipline and Letters of Education case summaries are generic in terms as these cases are confidential pursuant to Judiciary Law §90(10) and Court Rule §806.(c)(5). The summaries include the Committee's findings of misconduct and rule violations and do not include the Committee's analysis of any mitigating and aggravating factors, the impact of which is decided on a case-by-case basis. Therefore, the disposition of the cases by the Committee should not be understood as definitive of the results expected to be obtained in other cases before the Committee.

The Rules of Professional Conduct (22 NYCRR Part 1200.0), effective April 1, 2009, are cited as "Rule" with a number or numbers following. The Disciplinary Rules of the Code of Professional Responsibility (22 NYCRR Part 1200.1-1200.46), effective prior to April 1, 2009, are cited as "DR" with a number or numbers following.

PUBLIC DISCIPLINE

DISBARMENTS:

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
Briggs, Emerson V.	9/25/2014	Disbarred by order imposing final discipline pursuant to Judiciary Law §90(4)(g) based on a conviction of a serious crime, federal felony of receipt of child pornography.
Calisi, Anthony P.	7/31/2014	Disbarred reciprocally in New York after having been disbarred in Texas for neglect, failure to communicate with clients and failure to cooperate in the disciplinary process.
Cooper, Jon C.	11/13/2014	Disbarred by order imposing final discipline pursuant to Judiciary Law §90(4)(g) based on guilty plea to a serious crime, federal felony of tax evasion.
Crane, James B., II	1/16/2014	Disbarred based upon Court's acceptance of attorney's disciplinary resignation based on admission to removing and then replacing client escrow monies.
Felli, Jay A.	4/24/2014	Disbarred reciprocally in New York after having been disbarred in Wisconsin for conduct involving dishonesty, fraud, deceit and/or misrepresentation.
Kremner, Jonathan	12/4/2014	Disbarred by Order imposing final discipline pursuant to Judiciary Law §90(4)(g) based on guilty plea to serious crimes, sale of an unregistered security and filing of a false tax return.
Kurpiers, Ronald J., III	8/21/2014	Disbarred based upon Court's acceptance of attorney's resignation while reciprocal disciplinary proceeding pending.
Morrisseau, Charlene	5/1/2014	Disbarred for failure to answer disciplinary charges and failure to respond to a motion for a default judgment.

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
Plimpton, Thomas W.	9/11/2014	Disbarred for the intentional conversion of funds belonging to a law firm and misleading conduct towards the firm and a client.
Rothenberg, Michael L.	4/24/2014	Disbarred reciprocally in New York after a federal conviction of wire fraud.
Sanderson, Erik C.	7/31/2014	Disbarred based upon a plea of guilty to a Class D felony of promoting sexual performance by a child.
Van Benschoten, David B.	6/19/2014	Disbarred for engaging in a conflict of interest, neglecting client matters, impermissibly serving as both advocate and witness at a tribunal, failing to promptly pay or deliver funds belonging to a client or third party, advancing financial assistance other than court costs or expenses of litigation while representing a client, failing to respond to clients and keep them reasonably informed as to the status of their cases, failing to provide retainer agreements, and engaging in conduct prejudicial to the administration of justice by, among other things, failing to cooperate with the Committee in its investigation.

SUSPENSIONS:

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
1,637 attorneys in violation of Judiciary Law §468-a (failure to comply with registration requirements)	1/30/2014	Suspended indefinitely. (See full listing of attorneys at www.nycourts.gov/ad3)
Briggs, Emerson V. III	3/27/2014	Suspended pursuant to Judiciary Law §90(4)(f) until such time as a final disciplinary order is made pursuant to Judiciary Law §90(4)(g).
Brollesy, Hany S.	3/6/2014	Suspended one year for creating a fraudulent document purporting to be from a government entity and providing it to the client in an effort to make it appear that the attorney had obtained the approval of the client's visa application and also providing false reports to

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
		the client attributing the delay in approval of the application to government bureaucracy, when in fact the attorney had failed to file the paperwork in a timely fashion.
Coleman, Douglas E.	4/10/2014	Suspended one year for failing to appear for an Oral Admonition issued by the Committee with respect to findings of neglect, failing to cooperate with the Committee in its investigation, failing to communicate with clients and failing to appear pursuant to subpoena.
Courtney, Marshall A.	12/31/2014	Suspended two years for neglect of clients' cases, failing to properly communicate with clients, failing to cooperate with the Committee in its investigation and defaulting after disciplinary charges were filed.
Crockett, Pamela A.	3/6/2014	Suspended (interim) pursuant to Court Rule §806.4(f) pending charges based on a finding of professional misconduct immediately threatening the public interest.
Doyle, Marcia J.	10/24/2014	Suspended three years for engaging in misleading and deceiving conduct and engaging in a conflict of interest.
Ehring, Daniel A.	1/30/2014	Suspended one year for improperly withdrawing from representation, failing to comply with the rule regarding the disbursement of funds for missing clients, being held in civil contempt in Surrogate's Court for failing to comply with a subpoena and failing to cooperate with the Committee in its investigation.
Mendelson, Michael B.	10/23/2014	Stayed suspension for one year terminated.
Mizner, John F.	4/10/2014	Conditionally stayed suspension for five years terminated.
Morgan, James E.	5/08/2014	Suspended one year for having been disciplined in violation of conditions of stayed suspension order and prior federal and state court sanctions.

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
Nichols, John H., III	4/10/2014	Suspended indefinitely for failing to comply with a subpoena compelling attorney to give testimony and produce records relevant to Committee's investigation.
Paul, Roger L.	9/4/2014	Stayed suspension for two years terminated.
Plimpton, Thomas W.	4/17/2014	Suspended (interim) pursuant to Court Rule §806.4(f) pending charges based on a finding of professional misconduct immediately threatening the public interest.
Van Siclen, Todd D.	12/4/2014	Suspended two years for assisting another lawyer in a securities trading scheme and engaging in a conflict of interest.
Watson, David J.	10/2/2014	Suspended two years for engaging in a significant conflict of interest, engaging in inappropriate conduct by exerting undue influence over a client regarding a will in which the attorney's girlfriend was a beneficiary, failing to provide competent representation, failing to explain adequately the legal consequences of a client executing a will leaving the estate to his attorney's girlfriend and engaging in misleading and deceiving conduct.
Yannon, Christopher L.	5/29/2014	Suspended one year reciprocally in New York after having been suspended in New Jersey for engaging in professional misconduct involving record-keeping violations, knowingly making a false statement of material fact in a disciplinary matter and dishonesty, deceit, fraud or misrepresentation in connection with a real estate transaction.

CENSURED:

<i>Attorney's Name:</i>	<i>Date of Order:</i>	<i>Summary:</i>
Burns, Christopher A.	12/11/2014	Censured for failing to promptly refund the unearned portion of a client's retainer fee following discharge.
Schillinger, Lawrence R.	4/3/2014	Censured for making a false statement of fact to a tribunal, engaging in conduct involving

Attorney's Name:

Date of Order:

Summary:

dishonesty, fraud, deceit and misrepresentation, and engaging in conduct prejudicial to the administration of justice.

REINSTATEMENT APPLICATIONS:

Aguilar, Humberto J.	3/27/2014	Reinstatement denied from 1992 disbarment.
Clark, Richard E.	11/20/2014	Respondent was suspended for six months by decision dated 3/28/13. Respondent reinstated to practice of law effective immediately.
Krouner, Leonard W.	2/6/2104	Reinstatement denied from 2003 disbarment.
Nicotera, Thomas C.	6/19/2014	Respondent was disbarred by decision dated 1/24/00. Respondent reinstated to practice of law effective immediately.
Novel, Sur G.	10/30/2014	Reinstatement denied from 2013 suspension. Reinstated from suspension for violation of Judiciary Law §468-a .
Alaka, Obafemi	11/26/2014	
Anonymous	12/24/2014	
Armstrong, Michael A.	12/04/2014	
Arocena, Juan Martin	10/02/2014	
Brammer, William H., Jr.	09/11/2014	
Brandt, Coleen Leigh	11/26/2014	
Bravo, Edilberto B.	10/16/2014	
Chipperson, Amy Sue	01/26/2014	
Choong, Stacy Hui Hui	10/02/2014	
Coletta, John Francis	10/16/2014	
Diaz-Granados, Rafael A.	09/11/2014	
Dorrity, Tracey Ann	05/15/2014	
Federman, Jonathan	04/25/2014	
Fierro, Scott Nicholas	05/01/2014	
Galvin, Kevin Patrick	10/02/2014	
Gelety, John Andrew	09/11/2014	
Glucksman, Joel R.	10/02/2014	
Hine, Robert Paul	08/07/2014	
Hubbard, Elizabeth Lynn	12/04/2014	
Inyang, Idongesit Umoh	06/05/2014	
Jang, Sunah	12/04/2014	
Karlin, Marni Beth	07/24/2014	
Kawamura, Akimoto	01/16/2014	

<i>Attorney's Name:</i>	<i>Date of Order:</i>
Kim, John Y.	10/16/2014
Kim, Youngmin	11/26/2014
Ladestro, Gregory	10/02/2014
Lasch, Frank J.	06/19/2014
Layton, Elaine L.	10/16/2014
Madziar, Laurie Jane	09/11/2014
Mattessich, Michael A.	09/11/2014
McSwiggan, Lawrence J.	03/26/2014
Meng, Louis Fang-Lin	12/18/2014
Morris, Kevin Michael	12/18/2014
O'Callaghan, Clíodhna	12/04/2014
Olakanpo, Olutoyin Belinda	08/07/2014
Paisner, Eric Jay	10/16/2014
Pera, Lars-Uwe	09/11/2014
Ryu, Si-Chang	10/02/2014
Schubert, Claudia	12/04/2014
Sheehan, Daniel Peter	10/16/2014
Stefandl, Margaret Skarbek	09/11/2014
Suda, Hiroyuki	10/16/2014
Suleman, Nigar Suroor	11/26/2014
Tarvin, Michael Everett	10/02/2014
Tene, Aviv	07/24/2014
Thompson, Amy Elizabeth	09/11/2014
Tzchori, Michael	12/04/2014
Verner, Kimberly Ann S.	11/26/2014
Vlahos, Joanne Maria	11/26/2014
Zambelli, Maria Pia	10/16/2014
Zeng, Yink	11/26/2014
Zhu, Yun	10/16/2014

PRIVATE DISCIPLINE

ORAL ADMONITIONS

Oral Admonition for misleading and deceiving conduct towards the Committee in its investigation in violation of Rules 8.4(c), (d) & (h).

Oral Admonition for charging a client grossly excessive fees and engaging in misleading conduct towards the client concerning the fees charged and collected in violation of Rules 1.5(a)(1), (3), (4), 1.5(b), 8.4(c) & (d).

Oral Admonition for unintentional conversion of client funds maintained in the attorney's escrow account and failing to reconcile balances and transactions in the escrow account for a six month period resulting in shortages in the escrow account in violation of Rules 1.15(a), 8.4(d) & (h).

Oral Admonition for misleading and deceiving conduct towards the Committee in its investigation in violation of Rules 8.4(c), (d) & (h).

Oral Admonition for neglecting several civil matters, failing to provide a refund and failing to cooperate with the Committee in its investigation in violation of DR 1-102(A)(5), 2-110(A)(2), 6-101(A)(3), Rules 1.3(b), 1.4(a), 1.16(e), 8.4(d).

Oral Admonition for entering into a retainer agreement that contained improper provisions including ones which imposed discretionary penalties on the client and had the client pay for collection costs, in violation of Rules 1.5(a), 1.7(a)(1) & (2).

Oral Admonition for consenting to a client's settlement agreement after the client had withdrawn consent to the agreement and discharged the attorney and making misleading statements in violation of Rules 1.2(a), 3.3(a)(1), 8.4(c) & (d).

LETTERS OF ADMONITION

Letter of Admonition for making a false statement to police about the attorney's conduct before being placed under arrest for a criminal offense in violation of Rules 8.4(b), (c), (d) & (h).

Letter of Admonition for neglecting a client's matter, failing to keep the client reasonably informed about the status of the matter, failing to comply with the client's requests for reasonable information, engaging in conduct prejudicial to the administration of justice and engaging in misleading and deceiving conduct in the attorney's responses to the Committee in violation of Rules 1.3(b), 1.4(a)(3) & (4), 8.4(c) & (d).

Letter of Admonition for failing to account to a former client concerning how funds were disbursed after a settlement, failing to account to the Committee by providing requested escrow records and failing to timely remit funds belonging to a client in violation of DR 1-102(A)(5), 9-102.

Letter of Admonition for improperly soliciting and collecting a legal fee as an Article 81 guardian, to which the attorney was not entitled in the absence of a court order in violation of Rules 1.5(a), 8.4(c) & (d).

Letter of Admonition for neglecting the administration of an estate and failing to properly maintain client funds in an escrow account in violation of Rules 1.15(b)(1), 1.3(b).

Letter of Admonition for neglecting a client's matter, failing to litigate the claim, failing to promptly reconstruct or obtain copies of documents that were destroyed, failing to promptly provide the client with copies of documents related to the matter when requested, failing to cooperate with the Committee in its investigation, neglecting another client's personal injury matter, failing to commence a lawsuit in a timely manner causing the statute of limitations to expire, failing to inform the client that the statute of limitations had expired, failing to keep the client reasonably informed of the status of the matter, failing to communicate with the client and discharging the client in a manner likely to cause harm in violation of Rules 1.3(b), 1.4(a)(1)(iii), 1.4(a)(2)(3) & (4), 1.15(c)(4), 1.16(e), 8.4(d).

Letter of Admonition for failing to pay delinquent child support, being incarcerated for such failure and being held in contempt by family court in violation of Rules 8.4(d) & (h).

Letter of Admonition for neglecting the administration of an estate and failing to timely advise the estate executor of the attorney's inability to proceed with respect to the estate administration in violation of Rule 1.3(b).

Letter of Admonition for improperly disbursing funds from the attorney's escrow account to the wrong person, breach of fiduciary duty with respect to an escrow agreement, failing to contemporaneously track funds held in escrow and keep accurate escrow account records and assure that the attorney was properly maintaining funds and disbursing funds to the proper persons in violation of Rules 1.15, 1.15(c)(1), (2), (3) & (4).

Letter of Admonition for failing to cooperate with the Committee in its investigation in violation of Rule 8.4(d).

LETTERS OF CAUTION

Letter of Caution for improperly preparing, filing and affixing the client's name to an answer in violation of Rules 1.1(c)(1), 8.4(c) & (d).

Letter of Caution for conviction of a criminal offense, Driving While Intoxicated, in violation of Rule 8.4(b).

Letter of Caution for failing to have each client give their informed consent in writing to their common representation in violation of Rule 1.7(a)(1).

Letter of Caution for conviction of a criminal offense, Criminal Possession of Marijuana, in violation of Rule 8.4(b).

Letter of Caution for borrowing monies from a client without having the client's informed consent in writing in violation of DR 5-104(A)(3), DR 9-102(D)(2), Rule 1.3(b).

Letter of Caution for neglecting a client's matter in violation of Rule 1.3(b).

Letter of Caution for failing to cooperate with the Committee in its investigation which resulted in an appearance pursuant to subpoena in violation of Rule 8.4(d).

Letter of Caution for commingling personal funds with client funds in violation of DR 9-102(A), Rule 1.15(a).

Letter of Caution for neglecting a client's matter, failing to communicate with the client and failing to timely cooperate with the Committee's investigation in violation of Rules 1.3(b), 1.4(a)(2), 8.4(d).

Letter of Caution for failing to return client property in violation of Rule 1.15(c)(4).

Letter of Caution for engaging in misleading and deceiving conduct by creating and affixing a witness' signature to a document in preparation for litigation in violation of Rules 8.4(c), (d) & (h).

Letter of Caution for neglecting a client matter, failing to keep the client reasonably informed about the status of a matter, and failing to comply with the client's request for additional information in violation of Rules 1.3(b), 1.4(a)(3) & (4).

Letter of Caution for maintaining funds in an attorney escrow account for several years, unrelated to the representation of the client, failing to contact a creditor regarding its rights to said funds and failing to remit said funds to the proper person in violation of Rules 1.15, 1.15(c)(1) & (4), 8.4(d).

Letter of Caution for neglecting clients' matters, failing to keep the clients reasonably informed about the status of their matters, charging an excessive fee, engaging in conflicts of interest by representing two clients with potentially differing interests and failing to cooperate with the Committee in violation of Rules 1.3(b), 1.4(a)(2) & (3), 1.5(a), 1.7(a)(1), 1.7(b)(4), 8.4(d).

Letter of Caution for failing to promptly inform clients of a material title defect in a real estate transaction and failing to keep the clients reasonably informed of the status of the matter, or of any actions taken to remedy the defect in violation of Rules 1.4(a)(1)(iii) & (a)(3).

Letter of Caution for being a trustee of, and representing, a trust, failing to properly monitor a trust account from which a theft occurred, engaging in a conflict of interest by continuing to represent the trust after being accused of, and found partially responsible for, the theft, for failing to use a written retainer agreement and for failing to timely remit trust checks to beneficiaries of another trust in violation of Rules 1.15(c)(3), 1.15(d)(2), 1.3(b), 1.7(a), 5.7(a)(4), 22 NYRCRR 1215.

Letter of Caution for threatening criminal charges to obtain an advantage in a civil matter and being discourteous to the adversary in violation of Rules 1.4(a)(5), 3.4(e), 8.4(d) & (h).

Letter of Caution for failing to cooperate with the Committee in its investigation which resulted in an appearance pursuant to subpoena in violation of Rule 8.4(d).

Letter of Caution for commingling personal funds with client funds in violation of DR 9-102(A), Rule 1.15(a).

Letter of Caution for neglecting a client's matter by failing to timely perfect a client's appeal, failing to properly communicate with the client and creating a conflict of interest by putting the attorney's

own personal and financial interests ahead of the client's in violation of Rules 1.3(b), 1.4(a)(3) & (4), 1.7(a)(2).

Letter of Caution for neglecting the administration of a trust due to an inordinate delay in distributing the trust assets and failing to cooperate with the Committee in its investigation due to a significant delay responding to several requests for information from the Committee in violation of Rules 1.3(b), 8.4(b).

Letter of Caution for neglecting a client's matter and failing to appear in court when directed by a judge in violation of Rules 1.3(b), 8.4(d).

Letter of Caution for failing to respond to the client's reasonable requests for information, failing to promptly inform the client about the status of the client's matters, making material misrepresentations as to a particular transaction and misleading the client with regard to the filing of a pleading in violation of Rules 1.3(a), 1.3(b), 1.4(a)(3) & (a)(4), 8.4(c).

Letter of Caution for failing to keep a client reasonably informed about the status of a matter and failing to promptly deliver the client's file to a new attorney upon discharge in violation of Rules 1.16(e), 1.4(a)(3).

Letter of Caution for a conviction of a criminal offense, Driving Under the Influence of Alcohol, in violation of Rule 8.4(b).

LETTERS OF EDUCATION

Letter of Education citing Rule 3.1(b)(2) for engaging in undignified conduct towards another attorney.

Letter of Education citing DR 6-101(A)(3) for neglecting to draft and file a QDRO.

Letter of Education citing DR 5-104(A)(3), 9-102(D)(2) for borrowing money from the attorney's firm's client without having the client's informed consent in writing.

Letter of Education citing Rule 1.5(d)(4) for charging a non-refundable fee and failing to timely refund the unused portion of the fee.

Letter of Education citing Rules 1.4(a)(4), 1.15(c)(4) for failing to promptly return client property upon request and failing to comply with a client's request for information.

Letter of Education citing 22 NYCRR Part 1400 for failing to bill the client every sixty days in a matrimonial matter.

Letter of Education citing Rules 1.12(b)(1), 8.4(d) for serving as a third party neutral in a matter in which the attorney also served as an attorney.

Letter of Education citing Rule 1.7(b)(4) for representing clients jointly as buyers in a real estate transaction and the formation of a corporation without having the parties give their informed consent in writing to the common representation.

Letter of Education citing Rule 1.5(d)(4) for charging a non-refundable fee and failing to timely refund the unused portion of the fee.

Letter of Education citing Rules 1.5(a) & (d)(4) for using a retainer agreement that contained a non-refundable fee provision and a provision for excessive fee charges related to non-emergency telephone calls.

Letter of Education citing Rule 1.5(d)(4) for using a retainer agreement that contained a non-refundable fee provision.

Letter of Education citing Rules 1.5(b), 8.4(d), NYSBA Ethics Opinion #399 for improperly charging interest on overdue legal fees in the absence of such a provision in the retainer agreement.

Letter of Education citing 22 NYCRR Part 1400, NYSBA Ethics Opinion #719 for using a retainer agreement that did not comply with 22 NYCRR Part 1400, failing to obtain a Statement of Client's Rights and Responsibilities signed by the client and failing to bill at least every sixty days.

Letter of Education citing Rule 1.5(b) for failing to communicate to the client the basis of a fee increase in a real property matter.

Letter of Education citing Rule 8.4(d), Judiciary Law §90(10) for disclosing a copy of an inquiry filed against the attorney by an opposing party in pending litigation.

Letter of Education citing 22 NYCRR Part 1400.3 for improperly waiving the minimum sixty (60) day billing requirement mandated by 22 NYCRR Part 1400.3 in the retainer agreement.

Letter of Education citing Rule 1.3(b) for neglecting an ancillary probate matter.

Letter of Education citing Rules 1.5(b), 1.15(c)(3), 22 NYCRR 1215 for failing to have a written letter of engagement or communicate the scope and basis of fee in writing to a client and for failing to maintain complete records and render appropriate accounts of client funds.

Letter of Education citing DR 6-101(A)(3) for failing to timely file a notice of appeal in a criminal matter.

Letter of Education citing Rule 8.4(d) for improperly participating in the defense of an individual that was limited by the court.

Letter of Education citing Rule 1.5(d)(4) for charging a client a non-refundable fee.

Letter of Education citing Rules 1.4(b), 1.5(b) for failing to adequately communicate with the client regarding the client's estate matter and employing an unadmitted attorney and outside counsel.

Letter of Education citing Rule 8.4(d) for initiating a verbal confrontation with an opposing party in a court facility.

Letter of Education citing Rules 1.15(d)(1)(iii), 8.4(d) for failing to keep and maintain a copy of a retainer agreement and failing to cooperate with the Committee in its investigation.