

2002 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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TABLE OF CONTENTS

	<u>Page</u>
LETTER FROM THE CHAIR	1
CHIEF COUNSEL'S REPORT	3
COMMITTEE MEMBERS	5
A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS	34
Complaints, Investigations and Dismissals	34
Dispositions	37
Admonitions	37
Formal Proceedings	38
Application to the Appellate Division	40
SIGNIFICANT CASES	42
SUMMARY OF OTHER SIGNIFICANT MATTERS	52
Felony Disbarments	52
Resignations	52
Disbarments After Interim Suspension	53
Reciprocal Disbarments	54
Suspensions as Discipline	54
Suspensions "Serious Crime"	55
Interim Suspensions	
Threat to the Public Interest	56
Reciprocal Suspensions	57
Indefinite Suspensions For Physical and	
Mental Incapacity	57
Public Censures	58
Reprimands and Admonitions	58
Reinstatements	59

APPENDICES

- Appendix A: Committee Assignments
- Appendix B: Chief Counsel's Office: Attorneys
- Appendix C: Chief Counsel's Office: Staff
- Appendix D: Bar Mediators
- Appendix E: Annual Statistical Report to OCA
- Appendix F: Budget for Fiscal Year 2002-2003
- Appendix G: Complaint Form

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

PAUL J. CURRAN, Esq.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

April 24, 2003

To the Bar and the Public:

The mission of the Departmental Disciplinary Committee (the "Committee") and its staff is to protect the public from unethical conduct by lawyers and, equally important, to ascertain that lawyers accused of such conduct receive due process and basic fairness.

This Annual Report of the Committee for 2002 reflects that, as in past years, the Committee has been faithful to this mission and to its obligations to the bar and the public. The record also shows that in 2002, under the leadership of my predecessor as Chairman, Denis McInerney, the Committee reduced its caseload substantially.

These signal accomplishments are due to the steadfast efforts of our Committee members who are appointed by the Court and who serve without compensation, as well as to the work of the Committee's Chief Counsel, Thomas J. Cahill, and to the dedicated professional staff that operates under his supervision. The Committee's and the Staff's contributions are recorded in this report.

Justice Milton L. Williams served as Presiding Justice from March 7, 2002 to December 31, 2002. Justice Williams and his judicial colleagues in the First Department, the Court's Liaison Committee, and Chief Clerk Catherine O'Hagan Wolfe and her staff all contributed meaningfully to the Committee's work in 2002.

I note that Denis McInerney's tenure as the Committee's Chairman ended on December 31, 2002 in accordance with Court Rules. The Committee records its debt of gratitude to him for his stellar public service as its Chairman over the past six years.

Finally, I record my gratitude to Justice Williams and his colleagues in the First Department for their expression of confidence in designating me as Chairman to succeed Denis McInerney. I will do all that I can to justify this confidence

and to continue the Committee's and the Staff's traditions of both protecting the public and being fair to the bar.

Sincerely,


Paul J. Corran
Chairman

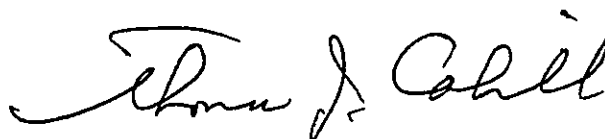
CHIEF COUNSEL'S REPORT

In 2002, the Committee was able to reduce its caseload from approximately 2100 at the beginning of the year to approximately 1450 at year's end, a reduction of thirty percent (30%). This result was accomplished by a coordinated effort by the various elements of the Committee; staff lawyers, Committee members and members of the Policy Committee. The staff attorneys operating with four paralegals at full strength processed matters expeditiously and each month referred matters to Committee members to review recommendations to dismiss. The lawyers on the Committee were very diligent in performing their function of reviewing staff's requests and did so in a timely fashion each month. At the same time the members of the Policy Committee devoted large blocks of time to review staff's recommendations to issue admonitions and bring formal charges, and our former Chairman, Denis McInerney was constantly available to review staff's petitions to the Court.

The reduction in the overall caseload should also result in reduced caseloads for individual staff attorneys and a more expeditious resolution of complaints. At present there is some imbalance in the individual caseload but with continued effort the individual attorney's caseload should be reduced to the point

where matters can be managed more efficiently and with greater expedition.

Finally, the staff and I wish to acknowledge our appreciation to the Court, particularly the members of the Liaison Committee, and especially to Presiding Justice Milton L. Williams, for their encouragement and constant support during 2002.

A handwritten signature in cursive script that reads "Thomas J. Cahill". The signature is written in dark ink and is positioned above the printed name and title.

Thomas J. Cahill
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 the staff, whether formal charges should be brought against an attorney, whether a private admonition should be issued, or whether the complaint should be dismissed. If it is decided to formally charge an attorney with misconduct, a Referee will be appointed by the Court to hear evidence, determine whether the attorney violated the Lawyer's Code of Professional Responsibility, and make a recommendation as to sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent recommendation to the Court as to liability and sanction.

In 2002, forty-seven Committee members served on ten different Hearing Panels of four or five members each (usually three or four lawyers and one non-lawyer).

Nine other members of the Committee (three non-lawyers) served on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including rule changes, setting priorities and administrative issues. Included on the Policy Committee, as Special Counsel

appointed by the Court, are Hon. Thomas B. Galligan, Haliburton Fales, 2d, Esq., Martin R. Gold, Esq., and Roy L. Reardon, Esq.

This year's Committee consisted of 44 members of the New York Bar, drawn from all areas of the profession, and 11 non-lawyer members. The latter included retired businessmen, a broker, a physician, a contractor, a former school principal and three former school teachers who served the Committee with dedication and energy. Below are brief biographies of all Committee members, highlighting their diverse accomplishments:

Paul J. Curran (Chair)

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

Lawrence J. Banks

Mr. Banks is a life member of the California Alumni Association. He is a graduate of New York University. He served as president of the Military Reserve Officers Association of US - Brooklyn Chapter. He also served on the Board of Governors at

Brooklyn Children's Museum; Kiwanis International - International Committee, and the American Institute of Parliamentarians - Long Island Chapter as President/Treasurer.

Sally W. Berg

Ms. Berg is a founder of the Catalog For Giving. She is a graduate of Wheaton College. Ms. Berg has done volunteer work at New York Cornell Hospital - Westchester Division, and was hired as a mental health counselor. While there, she founded the Friends of New York-Cornell. She was the Associate Director of Service and Rehabilitation for the American Cancer Society. To draw attention to the issue of breast cancer, she planned an Outward Bound course for women with breast cancer and arranged for CBS's "Sixty Minutes" to cover the trip. She received a Courage Award from President Reagan for this project. Ms. Berg joined SHARE, a non-profit organization offering emotional and educational support for women with breast and ovarian cancer. She soon became co-director.

Douglas W. Brandrup

Mr. Brandrup is a senior partner in the firm of Griggs, Baldwin & Baldwin. He graduated from Boston University Law School, J.D. He has served on private charitable organizations, such as The Baldwin Foundation and is at present, the president

of the Metropolitan Church of New York. Mr. Brandrup is a member of the American and New York State Bar Associations.

Christopher E. Chang

Mr. Chang is in private practice in his own firm. He was an Assistant District Attorney in New York City from 1978 to 1982. He is a graduate of New York University and Cornell Law School. He served as a member of the Chief Judge's Committee on the Profession and the Courts ("The Craco Commission") from 1993 through 1995. He is a member of the Board of Directors of the Legal Aid Society, the New York County Lawyers' Association and the New York State Bar Association.

Ann J. Charters

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

Brian M. Cogan

Mr. Cogan is a partner with the firm of Stroock & Stroock & Lavan, where he specializes in litigation. He is a graduate of Illinois University and received his law degree from Cornell Law School.

Denis F. Cronin

Mr. Cronin is a partner in the firm of Cronin & Vris. He graduated from Fordham University School of Law (J.D.). Mr. Cronin is currently a member of Colgate University Board of Trustees and past Chairman of the National Special Gifts Committee; Chairman, Board of Trustees, Buckley Country Day School and former Chairman of it's Capital Campaign; President (2002-) of Fordham Law Alumni Association and Trustee of Fordham Law School Alumni Association.

Telesforo Del Valle, Jr.

Mr. Del Valle is a sole practitioner in New York County, specializing in criminal trial practice. He is a graduate of Fordham University and New York Law School and a member of its Alumni Board of Directors. He is the President of the Puerto Rican Bar Association of the State of New York; and the former President, for the Northeast region, of the Hispanic National Bar Association. He is also a member of the Judiciary Committee of

the Association of the Bar of the City of New York; and a former member of the Mayor's Committee on the Judiciary for the City of New York (1991-1994). He is a member of the Advisory Council of the New York State Franklin H. Williams Judicial Commission on Minorities. He is a member of the United States Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts. He is also Vice President of the New York State Association of Criminal Defense Lawyers.

Charles E. Dorkey, III

Mr. Dorkey is a member of TORYS, where he specializes in litigation. He is a graduate of Dartmouth College and received his law degree from the University of Pennsylvania. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association, the American Bar Association, New York County Lawyers' Association and also serves on the Governor's Judicial Screening Committee for the Appellate Division, First Department.

Paul F. Doyle

Mr. Doyle is a graduate of the College of the Holy Cross, and New York University School of Law (J.D., cum laude). He is a member of the firm of Kelley Drye. He is an instructor for the National of Trial Advocacy; a Master of the New York County

Lawyers' Association American Inn of Court; a member of the President's Council of the College of the Holy Cross, and former referee for the Departmental Disciplinary Committee.

Justin E. Driscoll, III

Mr. Driscoll is a partner of Plunkett & Jaffe, P.C. He is a graduate of New York Law School. He served as law assistant in Civil Court and law secretary, in the civil branch of the Supreme Court, New York and Bronx Counties. He also served as Counsel, Governor's Judicial Screening Committee, Second Department. He was a member of the Committee on Character and Fitness, Ninth Judicial District; the Association of the Bar of the City of New York (Committee on State Legislation); a member of New York State Bar Association and New York County Lawyers Association.

Marion T. Etheredge

Ms. Etheredge is a graduate of the University of North Carolina where she received a BA in Creative Arts. She is a Freelance Painter and decorative painter, with paintings in over 60 private collections in the United States, Europe and South America. Ms. Etheredge has done volunteer service in local community organizations, schools and churches.

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

Patricia Farren

Ms. Farren is a member of the firm of Cahill Gordon & Reindel. She graduated from Fordham University (J.D.). She was Editor, Fordham Law Review; a Member of the Board of Directors, The Legal Aid Society of New York and Member, Executive Board, NYCLA American Inn of Court.

Steven N. Feinman

Mr. Feinman graduated from Fordham University School of Law (J.D. 1986). He is a sole practitioner in the Law Offices of Steven N. Feinman, specializing in real estate, estate litigation and appellate practice. He served as law assistant in the Supreme Court of the New York for three years.

Rosalind S. Fink

Ms. Fink specializes in employment law in her own firm and as counsel to the firm of Brill & Meisel. She is a graduate of Baruch 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. She is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the New York County Lawyers' Association where she has served as a member of the Board of Directors, the Executive Committee and as President.

Charlotte Moses Fischman

Ms. Fischman is a litigation partner at Kramer, Levin, Naftalis & Frankel. She is a graduate of Brandeis University and the 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 Mexican American Legal Commissioner of the Ethics Commission for the Unified Court System. As an active member of The Association of the Bar of the City of New York, she has been a member of the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics. She is a member of The American Law Institute.

Beatrice S. Frank

Beatrice S. Frank is a graduate of Sarah Lawrence College and the Cornell Law School. She has served as Vice President of the Association of the Bar of the City of New York and Chair of its Executive Committee. She is a member of the Association's Public Service Network. She has chaired its committees on Continuing Legal Education, Law and Medicine, and Legal Education and Admission to the Bar. She has served on its committees on Professional Discipline and International Human Rights and was a member of the Association's Mission to Malaysia and Singapore which investigated and reported on the independence of lawyers and the judiciary in the two countries. She was also a reporter for the Association's Report on the Grievance System. A former member of the Mayor's Committee on the Judiciary and a former director of the Channel 13/NYU Consumer Help Center, she currently is a board member of Court Appointed Special Advocates (CASA) and the City Bar Fund.

Maranda E. Fritz

Ms. Fritz is a partner in her own law firm, Maranda E Fritz, P.C., specializing in white-collar and complex criminal and civil litigation. She graduated (J.D. magna cum laude) from Tulane University School of Law, New Orleans, Louisiana. She served as Senior Investigative Counsel, Bureau of Frauds, New York County

District Attorney's Office. She is currently a member of the American Bar Association, American INNS of Court, New York State Bar Association, New York Council of Defense Lawyers and Women Criminal Defense Lawyers.

Thomas B. Galligan (Special Counsel to the Policy Committee)

Justice Galligan retired in 1994 after serving since 1977 as an Acting Supreme Court Justice for New York County. He is a past member of the Board of Advisors of Marist College, and currently a member of the Board of Trustees of Daytop Village and of the New York Foundling Hospital. He is also a member of the First Department Screening Panel for Capital Defenders and serves on the Indigent Defense Organization Oversight Committee for the First Department.

William A. Gallina

Mr. Gallina graduated from St. John's University Law School (J.D.). He is currently a sole practitioner whose practice is in the exclusive area of personal injury, medical malpractice and products liability. He has been a long standing member of the American Bar Association, New York State Bar Association, American Trial Lawyers Association and Bronx County Bar Association.

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

Mr. Gold is a partner in the firm of Rubin Baum LLP. From 1965 to 1968 he was an Assistant U.S. 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. He is a member of the Policy Committee.

Robert L. Haig

Mr. Haig is a partner at the law firm of Kelley Drye & Warren. He was the President of the New York County Lawyers' Association from 1992 to 1994. Mr. Haig was the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York from 1989 to 1992 and currently chairs that Association's Council on Judicial Administration. He was a member of the New York State Bar Association's Executive Committee from 1991 to 1994, was the founder and first Chair of that Association's Commercial and Federal Litigation Section, and also chaired its Committee on Federal Courts. Mr. Haig is the Co-Chair of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye to create the Commercial Division of the New York State Supreme Court. He is the Editor-in-Chief of a three volume book, published by West Publishing Company in 1995, entitled Commercial Litigation in New York State Courts.

Richard J. Holwell

Mr. Holwell is a member of the firm of White & Case where he is engaged in litigation of banking and securities matters. He is a graduate of Columbia University Law School. He is a member of the New York State Bar Association and the American Bar Association.

Susan M. Karten

Ms. Karten graduated from Brooklyn Law School, and is President Elect of the Brooklyn Law School Alumni Association. She is a partner in the firm of Castro & Karten, which specializes in personal injury and medical malpractice litigation. She served on a Blue Ribbon Panel established by Chief Judge Kaye of the State of New York, and as Executive Assistant in the New York State Court of Appeals. She currently serves on the Executive Board of the New York State Trial Lawyers Association.

John J. Kenney

Mr. Kenney graduated from Fordham University (J.D.). He is member of the firm of Simpson, Thacher & Bartlett. Mr. Kenney served as an Assistant United States Attorney, Southern District

of New York and Executive Assistant United States Attorney. He was a member of the Association of the Bar of the City of New York, New York State and the American Bar Associations, and the New York County Lawyers' Association.

David G. Keyko

Myron Kirschbaum

Elinore B. Klein

Ms. Klein is a graduate of Fordham University Law School (1972). Ms. Klein currently serves as a Special Master for the Appellate Division, First Department and has served as a director

of the Bronx County Bar Association and a director and lecturer at the New York State Trial Lawyers Association.

Lenore Kramer

Ms. Kramer is a partner in the firm of Kramer & DeVries which specializes in plaintiffs' personal injury and medical malpractice litigation. She graduated from Boston University School of Law. She is a past President of the Women's Bar Association of the State of New York, the Bronx County Bar Association and the Metropolitan Women's Bar Association. She is the immediate past President of the New York State Trial Lawyers Association and has been a member of the Board of Directors for many years. She is a past Chair of the Committee on Tort Litigation of the Association of the Bar of the City of New York. Ms. Kramer is a Commissioner on the Franklin H. Williams Judicial Commission on Minorities and a member of the Office of Court Administration Advisory Committee on Civil Practice, Committee on Case Management and Task Forces and Professionalism and Conduct. She previously served as a member of the Mayor's Committee on The Judiciary.

William Francis Kuntz, III

Mr. Kuntz is a partner in the firm of TORYS. He graduated from Harvard Graduate School of Arts & Sciences, Ph.D. He was a

member of the New York County Lawyers' Association, New York State Bar Association; Chair of the Association of the Bar of the City of New York; a member of American Bar Association; Metropolitan Black Bar Association and Brooklyn Bar Association. He was involved in pro bono activities as a member with MFY Legal Services; Legal Services for New York City and Advisory Committee on Civil Practice in the State of New York. He was Director of Brooklyn Navy Yard Development Corporation; Federal Bar Foundation for the Second Circuit; Trustee, Packer Collegiate Institute and Citizens Union and Practicing Law Institute.

Michael A. Lacher

Mr. Lacher has his own law firm in New York City. He is a graduate of Brooklyn Law School. He served as Legislative Counsel to the Mayor of the City of New York from 1966 to 1970. He is a member of the Association of the Bar of the City of New York, New York State Bar Association, the American Bar Association, the Federal Bar Council and the American Society of International Law.

Deborah E. Lans

Ms. Lans is a member of Wasserman Grubin & Rogers LLP and was formerly Executive Director of Mentoring, USA which matches mentors with New York City school children. She graduated (J.D.

cum laude) from Boston University School of Law. She is a member of the American Bar Association, Association of the Bar of the City of New York, Federal Bar Council, National Arbitration Forum and New York State Bar Association.

Marvin Leffler

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.

Burton Lipshie

Mr. Lipshie is a member of the firm of Stroock & Stroock & Lavan, LLP. He graduated from Columbia University School of Law - LLB, cum laude. He is currently Adjunct Professor of Law, Cardozo School of Law. He served as Law Secretary, New York State Supreme Court and as Assistant District Attorney, New York County. He is a member of the Bars of the State of New York;

Supreme Court of the United States the U.S. District Courts for Southern and Eastern Districts of New York, the U.S. Court of Appeals for the Second Circuit and the Tax Court of the United States. He is also currently a member of the Advisory Committee on Civil Practice; Special Committee on Supreme Court Law Clerks; Arbitration Panel, United States District Court for the Eastern District of New York, and Committee on Civil Practice Law and Rules, New York State Bar Association. He was Special Master, Supreme Court, New York County, and a member of the Mayor's Committee on Judiciary, City of New York.

Henrietta Lyle

Ms. Lyle is Director of The Sister City Program of the City of New York, Inc. She graduated from Fordham University, New York. Ms. Lyle served as Special Assistant to Ambassadors, United Nations Mission to the United Nations, and as Chief of Staff in the Office of State Senator McCall.

Mary B. Maguire

Ms. Maguire is a partner in the firm Ebusinessware, Inc. She is graduate of Yale University and St. John's University, MBA (Finance), and has also received honorary degrees from St. John's University and Mary Mount University. Her affiliations include: Member, Vatican Delegation to the United Nations; Trustee,

St. John's University; Member, Financial Advisory Committee, Carmelite Sisters Healthcare Network, and Member, Ireland-American Economic Advisory Board.

Douglass B. Maynard

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

Charles C. Marino

Lawrence D. McGovern

Mr. McGovern is an Administrative Law Judge and Arbitrator with the City of New York and Dispute Resolution Organizations. He graduated from Fordham University School of Law, LL.B. and New York University School of Law, LL.M. Mr. McGovern is an active member of the New York State Attorney-Client Fee Dispute Resolution Program. He was a member of the American Bar Association where he served as Chairman and Vice-Chairman,

Professional Issues Committee, Tort and Insurance Practice Section, among others; a member of the New York State Bar Association, and Association of the Bar of the City of New York.

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 also a member of the Committee on Character and Fitness in the First Department and is a former Chairman of the Committee. He is a member of the Association of the Bar of the City of New York, the New York State Bar Association and the American Bar Association.

Mathias E. Mone

Mr. Mone is a graduate of Villanova University and Fordham Law School, J.D. He is Senior Counsel in the firm Cahill Gordon & Reindel. His practice was devoted almost entirely to civil litigation at the state and federal courts. Since taking Senior Counsel status, he acts as volunteer arbitrator with the NASD.

Mercedes A. Nesfield

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.

Jane W. Parver

Ms. Parver is a partner at the law firm of Kaye Scholer LLP, representing Fortune 500 companies. Her areas public service include: Assistant United States Attorney for the Southern District of New York; Member, New York City Conflicts of Interest Board, Appointed by Mayor Rudolph W. Guiliani, and Referee, New York State Commission on Judicial Conduct. She established and now oversees the Susan Price Carr Scholarship Committee, and serves on the New York Council of Defense Lawyers, Federal Bar Council.

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

Mr. Reardon is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association, the New York State Bar Association and the Association of the Bar of the City of New York. He is a member of the American College of Trial Lawyers.

Andrew W. Regan

Mr. Regan is a partner in the firm of Shearman & Sterling. He is a graduate of Fordham University (J.D.), and Dublin University. His selected business and professional activities include the American Bar Association, New York State Bar Association, and Society of Trust and Estates Practitioners.

Timothy G. Reynolds

Mr. Reynolds is a partner in the firm of Skadden Arps Slate Meagher & Flom LLP. He graduated from Fordham University and University School of Law, J.D. He specializes in matters involving insurance and reinsurance as well as insurance coverage litigation and arbitration. Additionally, Mr. Reynolds has worked on the successful constitutional challenge in the United States Supreme Court to Connecticut's and New Mexico's beer price regulations and statutes. He has also written many articles which include, The Speedy Trial Acts, An Empirical Study; Punitive Damages in Florida Product Liability Action, and co-authored Hazardous Waste Litigation (National Law Journal).

Michael J. Rosenberg

Mr. Rosenberg graduated from New York University (M.B.A.), where he completed all his studies for a Ph.D. He was involved in private practice for several years. Mr. Rosenberg held

various offices at NYU where he received a Meritorious Service Award. He served as president of the New York University Club; chairman of the NYU Partners Committee (GBA), and former president of NYU, GBA Alumni Associations.

Mr. Rosenberg served for three years as an officer in the U.S. Army, including one year in Korea. He is a recipient of the Silver Star, Bronze Star, Combat Medical Badge and various other awards.

Reuben Samuel

Mr. Samuel is a partner in the firm of Calotta Levine & Samuel in New York City. He is a graduate of Brooklyn Law School and is a member of the New York County Lawyers' Association and the New York State Trial Lawyers Association.

Augustin J. San Filippo

Mr. San Filippo graduated from New York University School of Law. He is currently in private practice in the firm of Augustin J. San Filippo, P.C. His extra-curricular activities for the bar include: Chair, Joint Conference Committee on Court Congestion and Related Problems; Medical Malpractice Panel, First Department; Moot Court Judge, New York University School of Law; Secretary, New York State Bar Association Judicial Administration

Committee and many Committees of the Association of the Bar of the City of New York.

Samuel W. Seymour

Daniel E. Siff

Mr. Siff graduated from New York Law School. He is currently affiliated with the firm of Ledy-Gurren & Blumenstock, L.L.P. His pro bono activities include, Member of Board of Directors and past President of Goddard Riverside Community Center.

Marian E. Silber

Ms. Silber is a member of the firm of Gordon & Silber, P.C. where she specializes in issues of Professional Liability, Construction Law Products Liability and Toxic Torts. She graduated from Connecticut College and 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 many other bar associations.

Eugene P. Souther

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

John L. Warden

Mr. Warden is a member of the firm of Sullivan & Cromwell. He is a graduate of Harvard University 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.

Eric J. Warner

Mr. Warner is a member of the firm of Coblenz & Warner. His areas of practice include civil litigation, criminal defense and juvenile justice. He is a graduate of Albany Law School. He

was involved in public service as a prosecutor for over 20 years in the capacity of Senior Executive Assistant District Attorney, Bronx County; Chief, Juvenile Offense Bureau, and Assistant District Attorney. He is a member of the New York State Bar Association.

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

Mr. Weiner is in private practice in his own firm and serves as Chairman and Commissioner of the New York State Commission of Investigation. He is a graduate of Columbia College and also received his law degree from Columbia University. He is a member of the Association of the Bar of the City of New York, New York State Bar Association, the American Bar Association and is a member of the Board of Directors of the Legal Aid Society. He serves on the Policy Committee of the Departmental Disciplinary Committee.

Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as Second Language in East Harlem. Later, she was a paralegal and administrator at the law firms of Stroock Stroock & Lavan, Reid & Priest, and Cravath Swaine & Moore. She currently donates much of her time to a variety of civic, cultural and charitable organizations.

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process commences with the filing of a complaint against an attorney, who is referred to as a "respondent". 3,458 complaints were received in 2002, mostly from clients, but also from other attorneys, and members of the public at large. In a relatively few cases, the Committee opened sua sponte investigations, based on information which appeared in judicial opinions, professional journals, referrals from the judiciary or other sources.

Each complaint is date-stamped, numbered and entered into the Committee's computer system which generates a printout of the respondent's disciplinary history with the Committee as well as current information from the respondent's registration with the Office of Court Administration. The complaint is then screened by a senior staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction or whether the matter should be referred to another public agency or disciplinary committee or referred for mediation by a mediator on the mediation panel of either 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., there is no allegation of misconduct, the complainant seeks legal advice, it is an attempt to collect a debt, or involves a fee dispute. In 2002, a mandatory arbitration program was instituted to resolve fee disputes in civil 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 fee dispute is in a matrimonial matter, the complainant is referred to the mandatory fee dispute resolution for matrimonial matters.

If the complaint involves allegations which are substantially similar to those in pending litigation, the Committee may, but need not, defer the matter pending resolution of the litigation. Because the allegations may be resolved in the litigation and a judgment may be binding on the respondent concerned, the Committee may decide to close the matter, without prejudice to reopening it after resolution of the underlying litigation. Closure on that basis must be made by a lawyer member of the Committee. Similarly, if it appears that the complaint has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

During the initial screening, a matter may be directly assigned to a staff attorney investigating other complaints involving the same respondent. Also, if it appears from the

complaint that serious misconduct has occurred, the matter is brought to the attention of the Chief Counsel or the First Deputy Chief Counsel for direct assignment to a staff attorney for expedited action.

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 the complainant's reply. The paralegal then writes a summary of the allegations and defenses and refers the file to a senior staff attorney who performs a "second screening" or further evaluation of the complaint, answer and reply. The second screener may also recommend referral to mediation at this point. If the second screener recommends dismissal, that recommendation along with the paralegal's written summary and the file is then reviewed by a Committee member who is a lawyer. A matter that warrants additional investigation is forwarded to the Chief Counsel for his review and assignment to a staff attorney depending on whether the possible misconduct, if established, would warrant no more than an admonition or whether it would require public discipline.

The staff attorney who is assigned to the matter obtains further documentation, using subpoenas when necessary, interviews

witnesses, obtains further information from the complainant and may question the respondent on the record and under oath.

When the investigation is complete, the staff attorney recommends dismissal, admonishment (which is private discipline) or formal charges. Again, all dismissal recommendations are independently considered by a Committee member, who must approve the recommendation before it is implemented. After being notified of the dismissal, the complainant has a right, within thirty days, to request that another Committee member review the dismissal of the complaint.

Dispositions

Admonitions

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

Although it is private and remains confidential, an admonition is a finding of misconduct and becomes a part of the lawyer's permanent disciplinary record, and may be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct (see, 22 N.Y.C.R.R.

§605.5[b]). A staff lawyer's recommendation to issue an admonition is reviewed by a supervisor and the Chief Counsel, and must be approved by two Policy Committee members. In 2002, the Committee issued 111 Letters of Admonition covering 125 complaints.

Formal Proceedings

A staff lawyer's recommendation that formal charges be filed must be based on a demonstration of misconduct and approved by the staff lawyer's supervisor, the Chief Counsel and two members of the Policy Committee. When formal charges are filed, the case is assigned to a Referee by the Court. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, the right to counsel, the right to cross-examine staff witnesses, and to present their own witnesses and exhibits. When the hearing is concluded, the Referee must file a written report containing findings of facts, conclusions of law and, if a charge has been sustained, a recommendation as to sanction.

The Chair of the Committee then refers the Referee's report to a Hearing Panel, generally consisting of four lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews the full record of the proceedings as well as the Referee's Report and Recommendation. It then convenes to hear argument as to

whether the Charges should be sustained, and whether to affirm, disaffirm, or affirm in part the Referee's findings of fact, conclusions of law and recommendation. No additional evidence may be considered at the oral argument, which is not transcribed. Ten days after the argument, the Hearing Panel is required to issue its report containing its written "Determination".

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

In some cases where the Court has determined that a lawyer has been convicted of a crime which is not a felony, but is a "serious crime" under New York law, or when a lawyer who has been suspended or disbarred applies for reinstatement, the Court may assign the case directly to a Hearing Panel. In those cases, the Hearing Panel itself takes testimony, receives evidence and renders a recommendation as to what action should be taken by the Court.

Application to the Appellate Division

In all disciplinary matters requiring action by the Court, the Committee notifies the Appellate Division in a petition which

describes the prior proceedings in the matter and the Court action requested. When the Court decides the matter, it issues an order, which is usually published in the New York Law Journal, unless the Court determines that the decision should remain unpublished.

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

Certain other matters are also filed directly with the Court. For example, when a lawyer fails to cooperate with a Committee investigation or when a lawyer's conduct poses an immediate threat to the public, the Committee may file a request

for an interim suspension pending a hearing under 22 N.Y.C.R.R. §603.4(e).

In addition, the Committee files a petition directly with the Court when an attorney has been convicted of a felony in New York or the equivalent of a New York felony in another jurisdiction (see, Judiciary Law §90[4]). Similar Committee applications are made if an attorney has been convicted of a "serious crime" as defined in §90(4)(d) of the Judiciary Law (see, 22 N.Y.C.R.R. §603.12); or if an attorney has been found guilty of an ethical infraction in another jurisdiction and "reciprocal discipline" is warranted (see, 22 N.Y.C.R.R. §603.3); or if an attorney has violated a court-ordered suspension; or has become incapacitated due to a mental or physical infirmity (see, 22 N.Y.C.R.R. §603.16).

Hearings before Referees and Hearing Panels are normally closed to the public, but they are otherwise conducted like trials in that testimony is taken and exhibits are received with a transcript made of the entire proceeding. A respondent may waive confidentiality and request a public hearing. If the Court eventually imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness of Applicants for Admission to the Bar.

SIGNIFICANT CASES

In 2002, the Appellate Division, First Judicial Department, publicly disciplined 54 lawyers as follows: 21 disbarments, 5 resignations from attorneys facing charges, 21 suspensions and 7 public censures. The Court issued one private reprimand. Some of the more significant cases prosecuted by Committee staff lawyers that have become a matter of public record in 2001 are reviewed below:

Matter of Chico F. Gibbons, 204 A.D.2d 53 (1st Dep't 2002)

The Court disbarred Chico F. Gibbons upon a finding that he converted almost all of a \$75,000 settlement concerning the sale of a half interest in a corporation, in various portions at different times, to pay personal and business expenses. The Court rejected the majority of the Hearing Panel's conclusion that respondent did not convert the funds with venal intent by finding a causal connection between respondent's depression and the misconduct. The Court noted that respondent knew that he was engaging in wrongful conduct despite suffering from depression and that he never offered a specific explanation of how his psychiatric, personal and financial circumstances caused him to commit the misconduct. Also, the Court rejected the majority's recommendation of a two year suspension. Rather, the Court confirmed the Report of the Referee recommending

disbarment and cited the dissent of the Hearing Panel Chair who stated that "venality is found not only in the initial act of converting the funds, despite a claimed state of depression, but in the further act of keeping such stolen or converted funds for approximately 2½ years, until charges by this Committee were brought." (Staff Counsel Dopico)

Matter of Muto, 291 A.D.2d (1st Dep't 2002)

The forty-three charges against immigration lawyer Joesph F. Muto based on over ten different matters involved, among other things, Muto's improper association with non-lawyers who, in effect, provided legal services to Chinese illegal aliens for a fee and Muto's neglect of almost all of the cases. The non-lawyers, known as "agents," operate openly in Chinatown. In what appears to be a case of first impression, the Court sustained the charges that Muto aided the unauthorized practice of law by accepting referrals of cases from the agents for Court appearances while permitting the agents to maintain control over the clients and the cases. At the eight-day hearing, eight Chinese speaking client/witnesses and two experts on immigration law and practice testified credibly in support of the Charges. On the issue of credibility, significantly, the Court agreed with the Referee's rejection of Muto's repeated claim that he rendered "low cost high quality" representation finding instead that the

claim "had an air of delusion about it." In consideration of respondent's prior suspension in the Fourth Department, his "truly shocking disregard of his clients' welfare" and the conclusion that respondent "is a danger to any client who might retain him," the Court confirmed the recommendation of disbarment. (Staff Counsel Cohen)

Matter of Porges, 297 A.D.2d 1 (1st Dep't 2002)

Robert Porges was disbarred after he pleaded guilty to the Federal felonies of racketeering (RICO) and tax evasion. The underlying criminal conduct involved the submission of false INS political asylum applications for Chinese illegal aliens and the evasion of over \$950,000 in taxes. The Court held the Federal felonies were "essentially similar" to the New York's felonies of enterprise corruption, offering a false instrument in the first degree and the scheme to defraud in the first degree. The criminal case was widely reported in the press because of Mr. Porges's firm's direct involvement with smugglers (known as "snakeheads") who not only illegally brought the aliens into the U.S., but pursued the aliens throughout the country for any unpaid smuggling fees with the assistance of Porges's wife, a "paralegal" at Porges's firm who also pleaded guilty to Federal criminal charges. (Staff Counsel Cohen)

Matter of Welt, 296 A.D.2d 154 (1st Dep't 2002)

Henry Welt's resignation was accepted by the Court based on Mr. Welt's admission in his affidavit that he received from the major law firm of which he was a partner partial reimbursement of monies for charitable contributions which in fact he had not made and for other purposes which were improper. (Staff Counsel Cohen)

Matter of David V. Muraskin, --- A.D.2d --; (1st Dep't. 2002)

The Court suspended Muraskin on October 25, 2001 pending further order of the Court on the ground of uncontroverted evidence that Muraskin had defrauded a client by representing that the client's case had been settled for \$325,000, when the actual amount of the settlement was \$725,000. When his client obtained a judgment against him, Muraskin also failed to pay the judgment. In addition to the suspension, the Court appointed a receiver of Muraskin's client funds. Subsequently, Muraskin was indicted and convicted in the United States District Court on federal charges which were equivalent to a New York felony and his name was stricken from the roll of attorneys. (Staff Counsel Anderson)

Matter of Gray, 2002 App. Div. Lexis 12485

By Order dated December 19, 2002, the name of Richard E. Gray was struck from the roll of attorneys on the basis of his disbarment by operation of law upon entry of his guilty plea to two federal felonies , the underlying conduct of which constituted felonies in New York. Specifically, respondent pled to making a materially false statement under oath in a bankruptcy matter in Missouri, and to engaging in tax evasion in Connecticut. The criminal convictions were not totally unrelated to prior misconduct in New York which resulted in his being jailed for failure to purge a criminal contempt order to return millions of dollars to a company under his control, which monies he had removed in violation of a preliminary injunction order issued in Supreme Court, New York County. By order entered May 31, 2002, our Court determined that respondent was guilty of professional misconduct premised on collateral estoppel, on the basis of the adverse findings against him in the criminal contempt matter. A sanction hearing in that matter was stayed pending respondent's release from jail.

Matter of Edward S. Cowen , 748 NYS 2d 747 (First Dept. 2002)

By order dated June 27, 2002, the Court accepted the resignation of Edward S. Cowen who was under investigation for overcharging corporate clients approximately \$51,000 for air travel expenses. At the same time, the Court denied Cowen's

cross-motion to resign anonymously, finding that Cowen failed to identify any compelling reason to do so. In rejecting Cowen's request, the Court ratified its established position that the ramifications of malfeasance "do not qualify as mitigating factors but, rather, are the natural consequences of (the) misdeeds".

Matter of George Edelstein, 290 A.D.2d 189 (1st Dep't. 2002)

By unpublished order entered November 29, 2000, the Court granted the Committee's petition finding that George Edelstein had engaged in professional misconduct based on conduct that led to his disbarment in federal court, barring Edelstein from asserting defenses enumerated in 22 NYCRR 603.3(c); and, in a departure from its usual practice of deferring to the court in which the original disciplinary proceeding arose regarding sanction, remanded the matter to the Committee for a sanction hearing. On the basis of the underlying misconduct in federal court which involved making inappropriate loans to a client, involving himself in a "sting" operation instead of reporting suspected governmental misconduct and impeding the federal disciplinary process, together with his conduct at the sanction hearing, the Court determined that Edelstein was unfit to practice law, and, by order dated February 5, 2002, disbarred him.

Matter of Sitro De La Cruz, 286 A.D.2d 112; 731 N.Y.S.2d 10 (1st Dept. 2001)

De La Cruz represented clients with personal injury claims. In the latter half of 1999, the Committee began to receive complaints from his clients that he was neglecting their cases. De La Cruz submitted answers to approximately nine of the complaints, but in August 2000 he abandoned his practice and relocated to the Philippines when he learned that he was the target of an investigation by the New York County District Attorney.

On August 13, 2001, the Committee moved to have De La Cruz suspended and an attorney appointed to inventory his files and to take such action as indicated to protect the interests of his clients. On October 9, 2001, the Court granted the motion and suspended De La Cruz and entered an order appointing an attorney as a receiver to inventory his files and take appropriate action to protect the interests of his clients. On May 10, 2002, the Court granted staff's motion to disbar De La Cruz, --- A.D.2d --- (Staff Counsel McGoldrick)

Matter of Race, 296 A.D.2d 168, 744 N.Y.S.2d 29 (1st Dep't 2002)

The case concerned a 1977 police investigation into the assault and murder of a police officer friend of Race, who had

described the circumstances of the assault to Race while still conscious. He later died of his wounds. In order to avoid an investigation that would delay or reduce benefits to the survivors, Race intentionally changed the officer's account of the attack. Rather than disclose to the police that the officer had been drinking in an "off-limits" tavern near Sheepshead Bay and was then attacked in the parking lot by two white youths, Race claimed that the officer had told him he was investigating a break-in at a nearby amusement park by two black youths shortly before he was shot. The assailant was finally apprehended over twenty years later and Race testified truthfully in 1999 at the homicide trial as to what his dying friend had actually told him.

The Court found that Race's providing false information to the police in 1977 violated DR 1-102(A)(4), (5) and (6) [now (7)] of the Code, and suspended him for three months. (Staff Counsel Garber)

Matter of Richard Stevens, ___ A.D.2d ____ (1st Dep't. 2002)

The Court disbarred the respondent in Matter of Richard Stevens [admitted as Richard Zelma] finding that he had knowingly converted \$115,000 of client funds held by him in his escrow account. The client had entrusted Stevens with the money for use as for an appeal bond in the event she lost her appellate matter

for which she retained him. The Court rejected Stevens' claims that his client had consented to the taking as payment for his legal fees, crediting the client's testimony that Stevens never advised her that he was taking the \$115,000 and noting that Stevens' own billing letters "did not credit [the client] for the fees she had already paid to him or any sums he had taken [and was continuing to take] from the escrow account." In addition to his intentional conversion in violation of DR1-102 [A][4], respondent further violated that DR by falsely advising the bonding company that his client had consented to his withdrawal of the \$115,000. He violated DR 9-102 by failing to preserve the identity of client funds, commingling his funds with that of a client's, making numerous cash and ATM withdrawals from his escrow account, and failing to maintain required escrow account bookkeeping records. Finally, he violated DR7-101 [A] [3] [conduct intentionally prejudicing the client] by advising the bonding company to look solely to the client for its money [the client had lost her appeal] and offering to assign to the bonding company any outstanding claim he may have against her. (Staff Counsel Bratton)

Matter of Richard J. Calle, --- A.D.2d --- (1st Dep't. 2002)

Respondent was convicted of the federal felony of obstructing justice after a jury trial in the Eastern District of

New York. The jury found that he made false representations in response to a grand jury subpoena which was investigating a carbuying business of which he was a principal and manager. The business allegedly bought used cars from consumers for resale to wholesalers, but the consumers often were not paid. The Court held that respondent was automatically disbarred upon his conviction because the federal felony was essentially similar to the New York felony of offering a false instrument for filing in the first degree, a class E felony (Penal Law §175.35). (Staff Counsel Shields)

Matter of Mark I. Adelman, --- A.D.2d --- (1st Dep't. 2002)

Respondent was disbarred for intentionally converting client funds, primarily real estate down payments, which he had successfully concealed for several years by replacing the money. The Committee's initial investigation of his failure to pay a client judgment led to an examination of his bank accounts, revealing his fraudulent scheme of depositing worthless checks from his personal account into his escrow account, and then immediately withdrawing cash before the check was dishonored. The Court rejected respondent's argument in mitigation that his misconduct was caused by his compulsive gambling habit because he continued to engage in misconduct even while he was in treatment

and not gambling while the disciplinary proceedings progressed.
(Staff Counsel Shields)

Matter of Robert G. Harley, 298 A.D.2d 49 (1st Dep't 2002)

The Court disbarred Harley after first suspending him based on his failure to satisfy any portion of the \$1.5 million judgment of his clients and thereafter finding through collateral estoppel that (1) among other things, he made false and misleading statements to his clients to induce them to sign a backdated retainer agreement, so that his firm could obtain a fee approximately \$382,000 greater than the amount that they were entitled to by agreement or by statute, and (2) he then falsely represented to the court that the "newly-obtained" retainer agreement had not been filed earlier due to an oversight. The Court found Harley guilty of professional misconduct in violation of DR 1-102(A)(4), DR 1-102(A)(7) and DR 2-106(A) of the Code.

The Court determined Harley's "otherwise laudable career did not offset his deliberate, wrongful act, which was undertaken in order to provide his financially-strained law firm with funds that should properly have gone to his clients." The Court also stated that the misconduct here was more than a simple conversion of someone else's money. It involving intentionally lying to both the clients and to the court, in order to carry out the

conversion of funds which should have been turned over to the clients. (Staff Counsel Wilson)

Matter of Orlando I. Balcacer, 293 A.D.2d 107 (1st Dep't. 2002)

The Court suspended Balcacer for six months for placing false advertisements in a telephone directory wherein he seriously misrepresented his legal experience and qualifications. In his advertisements, respondent proclaimed that his firm consisted of "Dominicans and Jews," "criminal defense specialists," including "former prosecutors" with "more than 20 years of experience." The advertisements also claimed that his firm handled civil cases. None of these statements were true. Respondent, who was a sole practitioner, had only been admitted for three years at the time that he placed the aforementioned advertisements. As the Court stated, respondent "had never had any other attorneys--experienced, Jewish, criminal defense specialists, former prosecutors, or otherwise-working in his firm," and he did not handle civil cases. The Court found that these advertisements were "intentionally false and deceptive" and violated DR 1-102(A)(4), DR 2-101(A), and DR 2-105(b) of the Code. In aggravation of his misconduct, the Court concluded that respondent targeted his advertisements to the "Dominican community in Washington Heights, which includes a large number of poor, newly-arrived immigrants," who were vulnerable in that they

would "tend to place their trust in his false advertisements without further inquiry." The Court ended by stating that they viewed "respondent's deceptive advertising as extremely serious—all the more so because it was directed at a particularly vulnerable segment of society for his own financial gain." (Staff Counsel Lipkansky)

Summary of Other Significant Matters

Felony Disbarments

In 2002 the First Department granted eleven (11) motions to strike the names of attorneys convicted of felonies: Matter of Robert E. Porges, supra, --- A.D.2d ---; Matter of Richard E. Gray, supra --- A.D.2d ---; Matter of David E. Muraskin, --- A.D.2d -; Matter of Richard J. Calle, --- A.D.2d ---; Matter of James L. Grant, --- A.D.2d ---; Matter of Michael J. Nelson, --- A.D.2d ---; Matter of Charles Grutman, --- A.D.2d --- Matter of Howard B. Adler, ___ A.D.2d ___; Matter of Jocelyn Bloomfield, -- - A.D.2d -; Matter of Herbert M. Jacobi, - A.D.2d -; Matter of David Brockett, --- A.D.2d -.

Where a lawyer has been convicted of a crime which may be a felony in another jurisdiction but is not a felony under New York law, it may be a "serious crime" under Section 90(4)(d) of the Judiciary Law. In 2002, the Court disbarred a lawyer convicted

of the federal crime of a "serious crime" but not a felony under New York law. Matter of Andrew L. Singer, --- A.D.2d ---.

Resignations

The Court permits an attorney to resign from the Bar during an investigation by the Committee or after the filing of charges if the attorney submits an affidavit in compliance with 22 N.Y.C.R.R. §603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. In 2002, the First Department accepted resignations under 22 N.Y.C.R.R. §603.11 from five (5) attorneys and ordered their names stricken from the roll of attorneys: Matter of Henry Welt, supra, 285 A.D.2d 5; Matter of Edward S. Cowen, supra, --- A.D.2d ---; Matter of Mitchell A. Rothken, supra, --- A.D.2d ---; Matter of Mark Fishbein, --- A.D.2d --- and Matter of Martin G. Vulaj, --- A.D.2d ---.

Disbarments after Interim Suspension

Under Court Rule 22 N.Y.C.R.R. 603.4(g), an attorney who is suspended by the Court for misconduct, including willful failure to cooperate with a Committee investigation, can be disbarred if the attorney who is suspended has not appeared or applied in writing for a hearing or reinstatement within six months of the date of the order of suspension. In 2001, the First Department

invoked 22 N.Y.C.R.R. §603.4(g) to disbar three attorneys:
Rohrberg, 279 A.D.2d 128; Matter of Sitro De La Cruz, supra, ---
A.D.2d ---; Matter of Agustino D. Reis, supra, ___ A.D.2d ___ and
Matter of Donlad B. Stein, ___ A.D.2d ___.

Reciprocal Disbarments

Under Court Rule 22 N.Y.C.R.R. §603.3, the Committee moves for reciprocal discipline against attorneys admitted in the First Judicial Department who have been disciplined in another jurisdiction. In 2002, the First Department disbarred an attorney predicated upon his disbarment in Federal (Matter of George Edelstein, --- A.D.2d ---).

Suspension

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 2002, the Court imposed suspensions for misconduct other than "serious crimes" and reciprocal matters on the following attorneys for periods ranging from six months to four years: Matter of Robert R. Race, supra, 296 A.D.2d 168; Matter of James L. Hobbart, --- A.D.2d ---; Matter of Michael L.

Leavitt, supra, --- A.D.2d ---; Matter of Orlando I. Balcacer, --
- A.D.2d -; Matter of Howard A. Benick, --- A.D.2d --- and Matter
of Edwin L. Eubank, --- A.D.2d ---. Under Rule 22 N.Y.C.R.R.
§603.14, an attorney suspended for six months or less shall be
reinstated at the end of the period of suspension if certain
requirements are met. An attorney suspended for more than six
months may petition for reinstatement, but must establish by
clear and convincing evidence that: (1) there has been full
compliance with the order of suspension; (2) the petitioner
possesses the requisite character and general fitness to practice
law; and (3) the petitioner has taken and passed the Multistate
Professional Responsibility Examination.

Suspensions - "Serious Crime"

When an attorney is convicted of a "serious crime"
(Judiciary Law §90(4)(d)), the Court generally suspends the
attorney pending a hearing as to why a final order of censure,
suspension or disbarment should not be made. In 2002, the First
Department imposed sanctions after hearings on --- attorneys
convicted of "serious crimes":

Interim Suspensions - Threat to Public Interest

The Court also imposes interim suspensions where an
attorney's misconduct constitutes a threat to the public based

upon failure to answer a disciplinary complaint or comply with a lawful demand in an investigation by the Committee (22 N.Y.C.R.R. §603.4[e][1][i]), or upon a finding that an attorney is guilty of misconduct immediately threatening the public interest based upon an admission or uncontested evidence of misconduct (22 N.Y.C.R.R. 603.4[e][1][ii] and [iii]). During 2002, the First Department interimly suspended --- attorneys for those reasons:

In addition, where an attorney has been convicted of a "serious crime" as that term is defined in Section 90(4)(g) of the Judiciary Law as a crime less than a felony under New York law, the Court will generally refer the matter for a hearing as to the appropriate sanction and, in the meantime, suspend the attorney. In 2001, the First Department also suspended two attorneys for commission of a serious crime pending a hearing.

Suspension as Reciprocal Discipline

Under Court Rule 22 N.Y.C.R.R. §603.3, the Committee may seek reciprocal discipline where an attorney subject to the Court's jurisdiction has been suspended in another jurisdiction. In 2001, the First Department suspended one attorney based on discipline imposed in other jurisdictions: Matter of Anthony V. Verni, --- A.D.2d ---; Matter of Gino Josh Singer, --- A.D.2d -

Indefinite Suspensions

Under Court Rule 22 N.Y.C.R.R. §603.16(b)(1), the Court may suspend an attorney indefinitely who is incapacitated from continuing to practice law by reason of physical or mental infirmity. In 2002, the First Department indefinitely suspended attorneys under that rule for psychiatric problems.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (22 N.Y.C.R.R. §605.5[a][3]). In 2002, the First Department issued public censures in five cases based on formal charges of misconduct and in one reciprocal discipline proceeding: Matter of Dan M. De La Rosa, --- A.D.2d ---; Matter of Curt Rogg-Meltzer, --- A.D.2d ---; Matter of Mark L. Hankin, --- A.D.2d ---; Matter of Edward Land, --- A.D.2d 44; Matter of Salvadore Collazo, --- A.D.2d ___; and Matter of Salvatore Maiorino, ___ A.D.2d ___.

Reprimands and Admonitions

The Court may also direct the Committee to issue to a respondent a Reprimand, which is private discipline imposed by the Committee. In 2001, the Court directed the issuance of one private reprimand. Where there is no serious injury, either to a client or a court, and where there is a minor violation of a Disciplinary Rule or decisional law, the Committee itself may

also issue an Admonition to an attorney under the 22 N.Y.C.R.R. §605.5(a)(5). In 2002, the Committee issued 118 admonitions in 125 matters.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 N.Y.C.R.R. §603.14 permit attorneys to be reinstated to the practice of law after a period of exclusion. Attorneys who are suspended for six months or less may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's office an affidavit stating that the attorney has met certain requirements (22 N.Y.C.R.R. §603.14). An attorney who has been suspended for a period of more than six months is entitled to petition the Court for reinstatement upon the expiration of the period of suspension (Ibid). 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 (Ibid). In 2001, the First Department granted eleven (11) applications for reinstatement and denied applications in three other cases.

Appendix A: Committee Assignments

Paul J. Curran
Chair

Policy Committee

Charlotte Moses Fischman	Mercedes A. Nesfield
Martin R. Gold	Haliburton Fales 2d (Special Counsel)
Robert L. Haig	Thomas B. Galligan (Special Counsel)
Myron Kirschbaum	Roy L. Reardon (Special Counsel)
Stephen R. Kaye	Steven L. Weiner (Special Counsel)

Hearing Panel Members

Panel I

Richard J. Holwell, Chair
Ann J. Charters
John J. Kenny
Deborah E. Lans
Marian E. Silber

Panel II

William Francis Kuntz, II, Chair
William A. Gallina
Timothy G. Reynolds
Samuel W. Seymour
Susan Welsher

Panel III

Patricia Farren, Chair
Marion T. Etheredge
Maranda E. Fritz
Reuben Samuel
Augustin J. San Filippo

Panel IV

John L. Warden, Chair
Justin E. Driscoll, III
David G. Keyko
Henrietta Lyle
Douglass B. Maynard

Panel V

Christopher E. Chang, Chair
Sally W. Berg
Susan M. Karten
Burton N. Lipshie
Lawrence D. McGovern

Panel VI

Eugene P. Souther, Chair
Brian M. Cogan
Michael A. Lacher
Marvin Leffler
Daniel E. Siff

Panel VII

Charles G. Moerdler, Chair
Telesforo Del Valle
Steven N. Feinman
Charles C. Marino
Mathias E. Mone

Panel VIII

Rosalind S. Fink, Chair
Lawrence J. Banks
Paul F. Doyle
Andrew W. Regan

Panel IX

Beatrice S. Frank, Chair
Douglas W. Brandrup
Mary B. Maguire
Jane W. Parver
Eric J. Warner

Panel X

Denis F. Cronin, Chair
Charles E. Dorkey, III
Lenore Kramer
Michael J. Rosenberg

Appendix B: Chief Counsel's Office: Attorneys

Thomas J. Cahill
Chief Counsel

Sarah Jo Hamilton
First Deputy Chief Counsel

Andral N. Bratton
Deputy Chief Counsel

Christine C. Anderson
Roberta N. Berkwits
Angela Christmas
Sherry K. Cohen
Nicole Corrado
Jorge Dopico
Mady J. Edelstein
Jeremy S. Garber
Naomi F. Goldstein
Joseph J. Hester
Jun H. Lee
Vitaly Lipkansky
Stephen P. McGoldrick
James T. Shed
Eileen J. Shields
Judith N. Stein
Raymond Vallejo
La Trisha A. Wilson

Appendix C: Chief Counsel's Office: Staff

Investigators

Vincent C. Raniere, Chief
George Cebisch
Virgil Cruz
John Puglise
Martin Schwinger
Kenneth Van Lew
Leonard Zarillo

Paralegals

Rebeca V. Taub, Chief
Donna Killian
Orlando Reyes
Marcy Sterling
Joseph G. Wigley

Computer Personnel

Michelle Y. Wang
Charles A. Sauer

Office Manager

Carol Scheuer

Secretaries

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

Receptionist

Romina Serra

Appendix D: Bar Mediators

Association of the Bar of the City of New York

Bruce D. Angiolillo, Esq.	John Madden Jr., Esq.
Mark S. Arisohn, Esq.	K. Ann McDonald, Esq.
Vivian Berger, Esq.	W. Cullen McDonald, Esq.
Joseph Calderon, Esq.	T. Gorman Reilly, Esq.
Eileen M. Dacey, Esq.	David Rubin, Esq.
David Douglas, Esq.	Marilyn M. Schecter, Esq.
Professor Martin Fogelman	Eileen Caufield Schwab, Esq.
Gerard E. Harper, Esq.	Marsha E. Simms, Esq.
Chris Stern Hyman, Esq.	Briscoe R. Smith, Esq.
Thomas W. Jackson, Esq.	Harvey A. Strickon, Esq.
Andrew D. Kaiser, Esq.	Edward G. Williams, Esq.
Hal R. Lieberman, Esq.	Melvin F. Williams, Jr., Esq.
	Kurt J. Wolff, Esq.

Bronx County Bar Association

Daniel Chavez, Esq.	Jeffrey Pogrow, Esq.
Richard M. Copland, Esq.	Frederick B. Potack, Esq.
Norma Giffords, Esq.	Sherri Sonin, Esq.
Lenore E. McQuilling, Esq.	Cary M. Tanzman, Esq.

New York County Lawyers' Association

Madeline Balk, Esq.	Alan J. Goldberg, Esq.
David A. Botwinik, Esq.	M. Robert Goldstein, Esq.
David N. Brainin, Esq.	Hon. Millard L. Midonick
John A. Cannistraci, Esq.	Edward E. Morris, Jr., Esq.
Faith Colish, Esq.	Joseph B. Russell, Esq.
Klaus Eppler, Esq.	Marttie Louis Thompson, Esq.
Geroge H. Friedman, Esq.	

Appendix E: Annual Report to OCA

ATTORNEY DISCIPLINARY ACTIVITIESPERIOD COVERED (ANNUAL - 2002)FIRST JUDICIAL DISTRICTFIRST DEPARTMENT**I. MATTERS PROCESSED: ***

A. Matters Pending at Start of Period	2093	
B. New Matters During Period	<u>3458</u>	
C. Closed Matters Reactivated During Period	<u>77</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>5628</u>
E. Total Matters Disposed of During Period		<u>4197</u>
F. Matters Pending at End of Period		<u>1431</u>

II. MATTERS DISPOSED OF BY COMMITTEE:

	Cases**	Matters
A. Rejected as Failing to State a Complaint	<u>741</u>	<u>769</u>
B. Referred to Other Disciplinary Committees	<u>316</u>	<u>316</u>
C. Referred to Other Agencies	<u>96</u>	<u>96</u>
D. Dismissed or Withdrawn	<u>2500</u>	<u>2663</u>
E. Dismissed through Mediation	<u>48</u>	<u>48</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>118</u>	<u>133</u>
H. Admonition (or Reprimand)	<u>1</u>	<u>1</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>104</u>	<u>171</u>
Total Disposed of During Period (same as I.E above.)	<u>3924</u>	<u>4197</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>20</u>
1. Disciplinary Proceedings	<u>17</u>	
2. Other	<u>3</u>	
B. Cases Received During Period		<u>131</u>
1. Disciplinary Proceedings	<u>67</u>	
2. Other	<u>64</u>	
C. Total to be Processed During Period		<u>151</u>

ATTORNEY DISCIPLINARY ACTIVITIES

D.	Cases Closed	
	1. Disbarred	20
	2. Disciplinary Resignations	6
	3. Suspended***	21
	4. Censured	7
	5. Privately Censured	1
	6. Remanded to Grievance Committee	16
	7. Discontinued	5
	8. Dismissed	0
	9. Reinstatements Granted	11
	10. Reinstatements Denied	3
	11. Non-Disciplinary Resignations	n/a
	12. All Other Dispositions	33
	13. Total closed	123
E.	Total Cases Pending at End of Period	28
	1. Disciplinary Proceedings	19
	2. Other	9

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

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

* Matters represents individual complaints and 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 definite, ⁽¹²⁾interim and ⁽⁸⁾indefinite suspensions. ⁽¹⁾

Appendix F: Budget for Fiscal Year 2002-2003

Departmental Disciplinary Committee Budget
Fiscal Year 2002 - 2003

Appendix F: Budget for Fiscal Year 2002-2003

Departmental Disciplinary Committee Budget
Fiscal Year 2002-2003

<u>Item</u>	<u>Allocation</u>
Personal Service Total	\$3,184,700
Office Supplies	45,198
EDP Supplies	17,473
Legal Reference - General	16,291
Travel General	5,764
Rentals of Equipment	3,852
Repairs of Equipment	10,973
Postage and Shipping	38,338
Printing - General	14,080
Telephones	35,143
Professional Services - General	86,150
Professional Services - Interpreters	3,000
Transcript Costs - General	37,750
Computer Assisted Legal Research	4,000
Equipment - General	<u>24,000</u>
	\$3,526,712

Appendix G: Sample Complaint

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

212/401-0800

Thomas J. Cahill
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.

