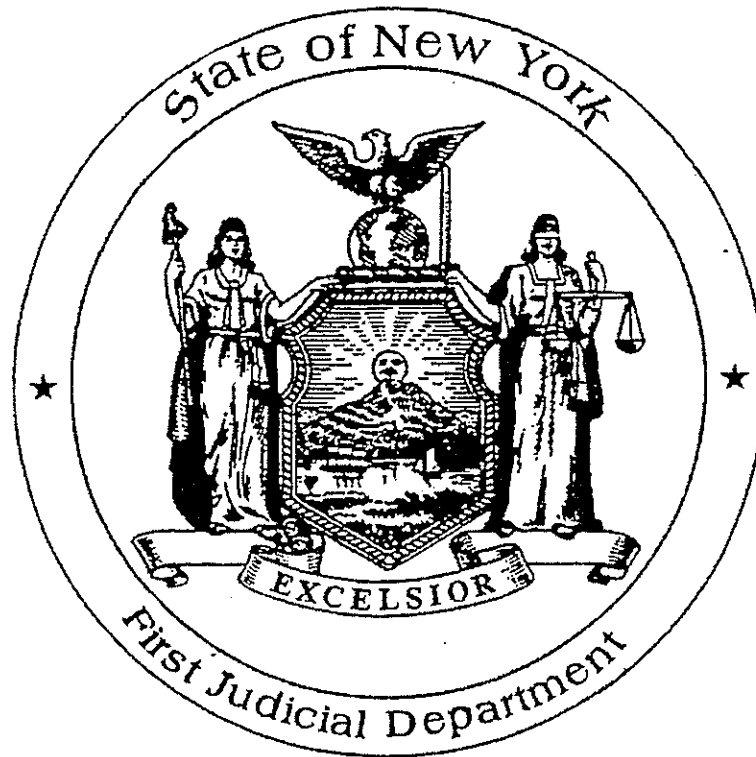


2008 ANNUAL REPORT



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

2008 ANNUAL REPORT

The Departmental Disciplinary Committee

of the Appellate Division

of the Supreme Court

of the State of New York,

First Judicial Department

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SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

ROY L. REARDON, ESQ.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

June 22, 2009

To The Bar and the Public

I am pleased to deliver this Annual Report for 2008 reporting on the good work of the Departmental Disciplinary Committee (“DDC”) during the past year. This performance is the product of the contribution of many individuals who because of their diligence and dedication continue to enable us to maintain the great reputation of the DDC as a preeminent office of its kind in the United States.

At the top of this pyramid of contributors is the Court itself, led during the past year by Presiding Justice Jonathan Lippman, now Chief Judge of the New York Court of Appeals, recently succeeded by the new Presiding Justice, Luis A. Gonzalez. A Liaison Committee consisting of a team of Justices of the Court provide continuing guidance to the DDC on matters of policy and its overall performance.

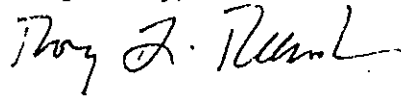
The DDC also receives “hands on” supervision by a Policy Committee, consisting of retired Justices of the Court, distinguished lay persons and experienced lawyers, all of whom are appointed by the Court. The Policy Committee is intimately involved in overseeing the work of the DDC Staff, setting policy, subject to review by the Court, and insuring the fair and prompt carrying out of our mission.

Our success in performing the DDC’s work is also the result of the dedicated work of the ten (10) Hearing Panels, generally comprised of lay persons and experienced lawyers, that provide their collective wisdom and judgment in resolving matters that come before them for decision.

Lastly, I acknowledge the good work of the DDC lawyers and administrative staff, who in the end are responsible for making the machinery of the DDC work well. This team is diligently and effectively led by our Chief Counsel, Alan, W. Friedberg and his First Deputy Sherry K. Cohen.

Finally, I must acknowledge the leadership role of John W. McConnell, Esq., Clerk of the Court, who is committed to the continuation of the reputation of the Court as a leading player in the judicial system of New York and the standing of DDC

Respectfully,

A handwritten signature in black ink, appearing to read "Roy L. Reardon". The signature is written in a cursive, flowing style.

Roy L. Reardon
Chair

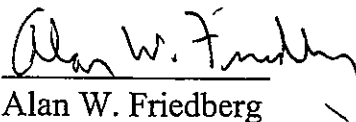
CHIEF COUNSEL'S REPORT

I am pleased to have completed my first year with the Departmental Disciplinary Committee. I am pleased by the performance of our staff, both professional and administrative. New levels of supervision have been put into place to insure that complaints are handled in a professional and expeditious manner. In that regard I wish to thank First Deputy Chief Counsel Sherry K. Cohen. I also want to thank Jorge Dopico, Mady J. Edelstein and Naomi F. Goldstein, who each served as longtime staff counsel and assumed positions of Deputy Chief Counsel during 2008. All of the Deputy Chiefs have assisted me in ensuring the high quality of the staff's work and responding to the concerns of the Chairman and the Policy Committee about the length of time to resolve matters. Reducing the time period in which matters are resolved following fair and comprehensive investigations continues to be our common goal.

I would like to thank all of the members of the Committee for the time and energy they spend on Committee matters, particularly sitting on hearing panels that preside over disciplinary matters resulting in public discipline. I would also like to thank the attorney members of the Committee who reviewed and approved the dismissal of more than 1,600 cases in 2008 and reviewed approximately 400 for reconsideration, as well as our staff attorneys and support staff.

I would also like to personally thank Roy L. Reardon who became Chairman of the Committee in 2008 and has been a true partner with me. I also wish to thank the Policy Committee for their expeditious review of recommendations for private admonitions and formal charges. I am indebted to the Chairman and the Policy Committee members for easing my transition and making me feel so welcome.

Those of us who practice in the First Department are appreciative that the Court, in imposing public discipline on attorneys, issues detailed decisions that provide all members of the Bar with guidance. These decisions are extremely important in educating both attorneys and members of the public about disciplinary rules, disciplinary procedures in the First Department and the consequences of misconduct. I am grateful for the Court's support and wish to thank all the judges of the Court and, in particular, former Presiding Justice Jonathan Lippman, Presiding Justice Luis A. Gonzalez, the Associate Justices who served on the Liaison Committee during 2008 and Clerk of the Court John W. McConnell.


Alan W. Friedberg
Chief Counsel

COMMITTEE MEMBERS

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

In 2008, 61 Committee members served on 10 different Hearing Panels of approximately 6 members each, composed usually of 5 lawyers and 1 non-lawyer.*

*In January 2009, the Court appointed the following new Committee members:

James M. Altman, Esq.
Sheila S. Boston, Esq.
John F. Cambria, Esq.
Nicholas M. Cannella, Esq.
Sheldon Elsen, Esq.
Katherine B. Forrest, Esq.
Gerard E. Harper, Esq.

Pamela Jarvis, Esq.
Alfreida B. Kenny, Esq.
William A. Maher, Esq.
Robert G. Morvillo, Esq.
Karen Patton Seymour, Esq.
Susan Welsher
Sarah E. Zgliniec, Esq.

Twelve other members of the Committee, including 3 non-lawyers, served on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including possible rule changes, setting priorities and administrative issues. Included on the Policy Committee, as Special Counsel appointed by the Court, were Haliburton Fales, 2d, Esq., Charlotte Moses Fischman, Esq., Martin R. Gold, Esq., William Francis Kuntz, II, Esq., and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession and law firms of varying sizes, plus 12 non-lawyer members. The latter group, including business executives, engineers, a psychotherapist, a writer and former educator serve the Committee with dedication and energy. Below are brief biographies of all Committee members who served in 2008, highlighting their diverse accomplishments:

Roy L. Reardon (Chairman)

Mr. Reardon is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association; the New York State Bar Association, and the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Catherine M. Abate

Ms. Abate graduated cum laude from Vassar College and received her law degree from Boston University Law School. Since 1999, Ms. Abate has served as the President and CEO of Community Healthcare Network (CHN, a not-for-profit organization). Prior to 1999, among other positions, she served as Director of Training in the Criminal Defense Division of the Legal Aid Society. Ms. Abate was elected as a New York State Senator in Manhattan from 1994 to 1998. Ms. Abate is a lecturer and panelist on human rights, criminal justice, health care and management/leadership, has served on numerous Boards and was appointed to serve as a Deputy Commissioner by Governor Mario Cuomo and by Mayor David Dinkins.

Dominic F. Amorosa

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

Eugene F. Bannigan

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

Patrick H. Barth

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

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

Nina Beattie

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

Peter A. Bellacosa

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

George Berger

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

Jane Eisner Bram, Ph.D.

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

Douglas W. Brandrup

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

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

Aurora Cassirer

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

Christopher E. Chang

Mr. Chang is in private practice in his own firm. He was an Assistant District Attorney in New York County from 1978 to 1982. He is a graduate of New York University and Cornell Law School. He served as a member of the Chief Judge's Committee on the Profession and the Courts ("The Craco Commission") from 1993

through 1995. He is a member of the Board of Directors of the Legal Aid Society, the New York County Lawyers' Association and the New York State Bar Association.

Ann J. Charters

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

Ernest J. Collazo

Mr. Collazo is the founding partner of Collazo Carling & Mish LLP, a boutique firm practicing exclusively management-side labor and employment law and litigation. He is a graduate of Hunter College and Columbia Law School. He has been a member of the New York City Bar's Executive Committee, Committee on Professional and Judicial Ethics, and Committee on Labor and Employment, and has served on the boards of the United Hospital Fund of New York and the September 11th Fund. He is currently a Member of the City Bar Delegation to the NYSBA House of Delegates, the Advisory Committee to the Rules Committee of the Second Circuit, and the Council on Foreign

Relations. In addition, he is a Director of the New York Community Trust and the Federal Defenders of New York.

Lisa D. Correll

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

Denis F. Cronin

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

Cheryl Davis

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

Committee on Lawyer Alcoholism for the Association of the Bar of the City of New York.

Jean E. Davis

Ms. Davis is a graduate of Hunter College (B.S., Nursing), and received a Master's Degree from Teachers College, Columbia University and a Juris Doctor from the University of Wisconsin Law School. After a multifaceted career in nursing, she served as counsel for interpretations and advice in the Office of the Solicitor/Civil Rights Division, U.S. Department of Labor; Advisor to the President, Drexel University; Director of Affirmative Action, and later, Chief of Staff to the President at Brooklyn College, City University of New York (CUNY); and as Special Assistant to the Chief Operating Officer at City College, CUNY. Retired from her dual careers, she currently engages in a number of volunteer activities including serving as a volunteer officer of the Harlem Hospital Center Community Advisory Board.

Ralph C. Dawson

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

Association of New York, and Magistrate Judges in the United States District Court for the Southern District of New York.

Paul F. Doyle

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

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

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

Rosalind S. Fink

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

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

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

System. She is currently President of the National Alliance for the Mentally Ill - NYC Metro. As an active member of the Association of the Bar of the City of New York, she has been a member of the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics and is presently on its Board of Visitors. She is a member of the American Law Institute.

Thomas Fitzpatrick

Mr. Fitzpatrick is in private practice in his own firm, engaging in white collar criminal defense. He is a graduate of Fordham Law School. He served as an Assistant United States Attorney in the Southern District of New York and as Chief of its Criminal Division. He is a member of the New York Council of Defense Lawyers and a Fellow of the American College of Trial Lawyers.

William L. Freeman

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

David R. Gelfand

Mr. Gelfand is a partner in the firm of Milbank, Tweed, Hadley & McCloy LLP, and the practice group leader of Milbank's national litigation department. He is a graduate of Vanderbilt University School of Law. He is a member of the Bars of the State of New York and the District of Columbia; a member of the Association of the Bar of the City of New York, and a member of the American Bar Association.

Joseph Steven Genova

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

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

Mr. Gerosa earned a Bachelor's degree in Civil Engineering from the University of Virginia. He is Chairman of the New York College of Podiatric Medicine and the Executive Committee of the Building Trades Employers' Association. Mr. Gerosa also serves on the following trust funds as employer representative: Local 780 Cement Masons; Local No. 46 Metal Furring and Lathing; the Cement & Concrete Workers, and the Operating Engineers Local 14. He is President of the New York Concrete Construction Institute, Inc. and the Concrete Alliance.

Robert J. Giuffra

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

Adjusters. Mr. Giuffra served in the United States Army Corps of Engineers, Republic of South Korea.

Robert E. Godosky

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

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

Mr. Gold is a partner in the firm of Sonnenschein Nath & Rosenthal. From 1965 to 1968, he was an Assistant United States Attorney in the Southern District of New York. Mr. Gold has been an adjunct Professor of Law at Cardozo Law School and is a member of the boards of the Lawyers' Committee for Civil Rights Under Law and New York Lawyers for the Public Interest.

John D. Gordan, III

John D. Gordan, III, is a partner of Morgan, Lewis & Bockius LLP, specializing in litigation. A graduate of Harvard Law School, he clerked for Judge Inzer B. Wyatt of the United States District Court for the Southern District of New York from 1969 to 1971. He was an Assistant United States Attorney for the Southern District of New York from 1971 to 1976, serving as Chief Appellate Attorney from 1973 to 1975 and Executive Assistant U.S. Attorney from 1975 to 1976.

Richard M. Greenberg

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

Maura Barry Grinalds

Maura Barry Grinalds is a litigation partner at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. She is a graduate of Harvard College and Harvard Law School. Her practice includes securities, corporate and commercial litigation in federal and state courts and domestic and international arbitration proceedings. Ms. Grinalds is active in pro bono activities, and serves on the Board of Directors of the Southport Conservancy and on the Schools and Scholarships Committee of Harvard College. She co-edited a New York Legal Ethics Narrative on the American Legal Ethics Library, www.law.cornell.edu/ethics. She is a member of the Federal Bar Council, the American Bar Association, and the Association of the Bar of the City of New York.

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

Mr. Haig is a litigation partner at the law firm of Kelley Drye & Warren LLP. He is a former President of the New York County Lawyers' Association. Mr. Haig has served as the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York and also chaired that Association's Council on Judicial Administration. He has served as a member of the New York State Bar Association's Executive Committee and was the founder and first Chair of that Association's Commercial and Federal Litigation Section. He is a former President of the New York Bar Foundation and a member of the American Law Institute. Mr. Haig is the Co-Chair

of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye to create and refine the Commercial Division of the New York State Supreme Court. On November 16, 2008, he was inducted as an Honorary Charter Member of the American College of Business Court Judges in recognition of his efforts to develop business courts in New York and many other states and countries. Mr. Haig is the Editor-in-Chief of a five-volume treatise, entitled Commercial Litigation in New York State Courts, and of two other multi-volume treatises.

William E. Hammond

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

Patricia Handal

Mrs. Handal has a B.A. from Barat College in Lake Forest, Illinois. She has taught in both Ohio and New York. Mrs. Handal has been active in a variety of community organizations involving children, the homeless, the elderly and the New York Catholic

Archdiocese. She is currently the coordinator of the Cause of Canonization for Terence Cardinal Cooke, the late Archbishop of New York. She serves on the Board of Catholic Charities of New York and is a member of the Board of The American Visionary Art Museum in Baltimore, Maryland.

Patricia Hatry

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

Seymour W. James, Jr.

Seymour W. James, Jr. is the Attorney-in-Charge of the Criminal Practice at The Legal Aid Society. He is a graduate of Brown University and Boston University Law School. Mr. James is the Treasurer of the New York State Bar Association and a former President of the Queens County Bar Association. He serves as a member of the Committees on Character and Fitness for the Second Judicial Department and the Independent Judicial Election Qualification Commission for the 11th Judicial District.

Alan R. Kaufman

Mr. Kaufman is a partner in the firm of Kelley Drye & Warren LLP where he is principally engaged in white collar criminal defense work and represents clients who are under investigation by the Securities and Exchange Commission. He is a graduate of Lehigh University and New York University School of Law. Following his graduation, he served as a law clerk for Judge Paul Weick of the United States Court of Appeals for the Sixth Circuit. He joined the United States Attorney's Office in the Southern District of New York in 1973, where he served as Chief of the Official Corruption Unit and Chief of the Organized Crime Strike Force Unit. In 1980, he and Don Buchwald left the U.S. Attorney's Office and formed Buchwald & Kaufman. In 1999 he returned to the United States Attorney's Office as Chief of the Criminal Division where he served until 2002, and then rejoined his firm, which merged with Kelley Drye in June 2007.

Stephen E. Kaufman

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

Myron Kirschbaum (Special Counsel to the Policy Committee)

Mr. Kirschbaum is a partner in the firm of Kaye Scholer, LLP, where he is engaged in complex business litigation and securities and insurance law. He received his law degree from Harvard University where he was Editor of the Harvard Law Review. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit.

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

Dr. Kuntz is a member of the firm of Baker & Hostetler LLP. He is a graduate of Harvard Law School and holds a Ph.D. in History from Harvard, as well. He is a member of the Executive Committee of the Association of the Bar of the City of New York; a member of the New York County Lawyers' Association; the New York State Bar Association; the American Bar Association; the Metropolitan Black Bar Association; and the Brooklyn Bar Association. He is a Commissioner and past Chairman of the Civilian Complaint Review Board of the City of New York. He is involved in pro bono activities, as a member of the Board of Directors of the Legal Aid Society of the City of New York, and the Brooklyn Hospital Corporation and Advisory Committee on Civil Practice in the State of New York. He is director of the Federal Bar Foundation for the Second Circuit, and a trustee of the Practising Law Institute.

Andrew M. Lawler

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

Marvin Leffler (A member of the Policy Committee)

Mr. Leffler has been president of Town Hall Foundation for the past 20 years. His principal activities and positions include: trustee associate, New York University; member of Mayor's Midtown Citizens Committee; Panelist, American Arbitration Association; President (retired), Flexible Fabricators, Inc.; member, New York Regional Board Anti-Defamation League; former Chairman of the Board, National Council of Sales Organizations; past Co-Chair and Director, NYU Alumni Association; author of Sales Books published by Prentice Hall and Lecturer; listed in Who's Who in the East, and Who's Who in America.

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

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

Frank J. Loverro

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

Nancy B. Ludmerer

Nancy Ludmerer is counsel in Davis Polk & Wardwell's Litigation Department. She graduated from the University of Pennsylvania and Boalt Hall School of Law (UC-Berkeley). Her practice focuses on complex commercial and securities cases, and she

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

Mary B. Maguire

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

Douglass B. Maynard

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

Lawrence D. McGovern

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

Harold F. McGuire, Jr.

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

and Controls Corporation. He is a member of the Association of the Bar of the City of New York; New York State and the American Bar Associations, and Federal Bar Council.

Robert J. McGuire

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

Fitzgerald Miller

Mr. Miller is a financial adviser with the firm of Merrill Lynch. He holds a B.A. from Bernard Baruch College. He has served as a financial consultant at AXA Advisors, LLC, and Prudential Securities and as principal of Fitzgerald Miller, DBA Global

Visions, where he developed business and marketing plans to help small businesses raise funding and improve operations. He also authored and independently published, Your Complete and Comprehensive Guide to the SBA Guaranteed Loan Program.

Charles G. Moerdler

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

Mathias E. Mone

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

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

Ms. Nesfield is the retired Director of the Office of Equal Opportunity of the New York City Board of Education. She holds a B.A. from Brooklyn College and a Masters

Degree in Educational Administration from Baruch College. She has served as the Executive Assistant to the President of the Board of Education of the City of New York and as Executive Director and Executive Assistant to the Chairman of the New York City Commission on Human Rights.

Lynn K. Neuner

Ms. Neuner is a member of the firm of Simpson Thacher & Bartlett LLP. She practices in the areas of insurance coverage, securities, false advertising and complex commercial litigation. She graduated from Williams College and from Yale Law School, where she is Vice Chair of the Board of Directors of the Yale Law School Alumni Fund. She is a member of the Association of the Bar of the City of New York, where she is a member of the Executive Committee, the New York State Bar Association, and the American Bar Association.

Fredric S. Newman

Mr. Newman is a founding partner of the firm of Hoguet Newman Regal & Kenney where he is engaged in commercial litigation and business counseling. He is a graduate of Harvard College and received his law degree from Columbia Law School. Before founding his present firm, he worked as a litigation associate at White & Case and served as Assistant General Counsel, Vice President, and General Counsel of Philip

Morris, USA. Mr. Newman has served on various boards of civic and nonprofit institutions and currently serves on the National Advisory Board of the Johns Hopkins Berman Bioethics Institute.

Jacob Pultman

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

Anthony M. Radice

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

Timothy G. Reynolds

Mr. Reynolds is a partner in the firm of Skadden Arps Slate Meagher & Flom LLP. He graduated from Fordham University School of Law. His practice includes matters involving insurance, insurance litigation, reinsurance, and arbitration. Additionally, Mr. Reynolds has worked on the successful constitutional challenge in the United States Supreme Court to the Connecticut and New Mexico beer price regulations and statutes. He has also written many articles which include “The Speedy Trial Acts, An Empirical Study,” Fordham Law Review; and “Punitive Damages in Florida Product Liability Action: A Reexamination,” Florida Trial Advocate Quarterly.

Martin S. Rothman

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

Reuben Samuel

Mr. Samuel, a graduate of City College and Brooklyn Law School, is a partner in the firm of Levine Samuel, LLP. His area of practice is real estate law. Mr. Samuel has

served as a member of the Committee previously, as a lecturer in real estate licensing, as chairperson of the New York County Lawyers Association Family Law Committee and member of New York State Bar Association Real Property Law Section, Co-op & Condo Committee. Mr. Samuel has also chaired and been a member of several Appellate Division, First Department committees related to family law, as well as being a member of the New York State Task Force on Foster Care. In addition to his law practice, Mr. Samuel is General Counsel to Sumitomo Real Estate Sales (N.Y.), Inc.

Augustin J. San Filippo

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

John S. Siffert

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

Marian E. Silber

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

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

Eugene P. Souther

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

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

Judge Sullivan is Of Counsel, at the firm of Holland & Knight LLP. He graduated from St. John's University LL.B and the University of Virginia, School of Law, LL.M. Prior to joining Holland & Knight LLP, Judge Sullivan served as Associate Justice of the Appellate Division, First Judicial Department – January 1, 1978 to February 15, 2000; January 1, 2002 to December 31, 2007, and served as Presiding Justice of the Appellate Division, First Judicial Department – February 16, 2000 to December 31, 2001. He also served as Justice of the Supreme Court of the State of New

York, First Judicial Department, and Judge of the Civil Court of the City of New York. He was nominated ten times by the Commission on Judicial Nomination for appointment to the Court of Appeals, including twice for the office of Chief Judge.

Christine Collins Tomas

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

John L. Warden

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

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

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

Milton L. Williams, Jr.

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

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a “respondent.” Some 3,284 matters were opened in 2008, primarily from clients, but also from other attorneys, and members of the public at large. In relatively few cases, the Committee opened *sua sponte* investigations based on information which appeared in judicial opinions, professional journals, referrals from the judiciary, dishonored check notifications from the Lawyers’ Fund for Client Protection or other sources.

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

The screening attorney may also recommend rejection of a complaint for any one of several reasons, e.g., the complaint fails to allege a violation of the Lawyer’s Code of

Professional Responsibility; the complaint seeks legal advice; is an attempt to collect a debt; or involves a fee dispute. In 2002, a mandatory mediation/arbitration program was instituted to deal with fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of more than \$1,000 and less than \$50,000.

If the complaint involves the same substantial and material allegations which will be decided in pending litigation, the Committee may, but need not, defer the matter pending resolution of the litigation. Because the allegations may be decided in the litigation and a judgment may be binding on the respondent, the Committee may decide to close the matter without prejudice with a view to reopening it later. That decision must be approved by a lawyer member of the Committee. In such cases the Committee will independently monitor the progress of the litigation. If it otherwise appears that the complaint on its face has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

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

Following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who files an answer to the complaint, and from the complainant who is sent a copy of the respondent's answer for a reply. The paralegal then writes a summary of the allegations and defenses and refers the file to a staff attorney who performs a "second screening" or further evaluation of the complaint, answer and reply. The second screener may also recommend referral to mediation/arbitration at this point. If the second screener recommends dismissal, a lawyer member of the Committee reviews that written recommendation together with the paralegal's written summary and a draft letter to the complainant explaining why the case is being closed. A matter that warrants additional investigation is forwarded to the Chief Counsel for review and assignment to a staff attorney.

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

When the investigation is complete, the staff attorney recommends dismissal, an admonition (which is private discipline), or formal charges. Again, all dismissal recommendations are independently considered by a Committee member, who must approve the recommendation before it is implemented. The Chief Counsel reviews all staff attorney recommendations to dismiss a matter, before the recommendation is

reviewed by a Committee member. The closing letter to the complainant indicates the right to request reconsideration of the dismissal within 30 days.

Dispositions

Admonitions

The Committee issues a Letter of Admonition when an investigation reveals that a lawyer has violated the Code of Professional Responsibility, but not seriously enough to warrant a more severe sanction. For example, an admonition might be issued if a lawyer neglected only one legal matter and 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 will be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct (see 22 NYCRR §605.5[b]). A staff attorney's recommendation to issue an admonition is reviewed by a supervisor and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible and substantial proof of misconduct because if an attorney refuses to accept the admonition, he or she may request that formal charges be brought. In that case, staff must be able to prove the misconduct by a preponderance of the evidence before a Referee. In 2008, the Committee issued 58 Letters of Admonition,

covering 60 separate complaints. (An admonition may be based on more than one complaint against a respondent.)

Proceedings on Formal Charges

A staff lawyer's recommendation that formal charges be filed must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, and approved by the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, the right to counsel, the right to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two parts, liability and sanction. Most cases also involve briefing liability and sanction. When the hearing is concluded, the Referee must file a written report within 60 days containing findings of facts, conclusions of law and, if a charge has been sustained, a recommendation as to sanction.

The Chairman of the Committee then refers the Referee's Report to a Hearing Panel, usually consisting of at least four lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews *de novo* the full record of the proceedings as well as the Referee's Report and Recommendation. It then convenes to hear oral argument to

determine whether to confirm, disaffirm, or modify the findings of fact and conclusions of law in the Referee's Report and Recommendation. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue its report containing its written Determination within 10 days of the argument or the submission of briefs, whichever is later.

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

Serious Crimes

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

Applications to the Appellate Division

All disciplinary actions which involve the request for public discipline require action by the Court. In such cases, the Committee applies to the Appellate Division in a motion or petition which includes the record and the Court action requested. When the Court decides the matter, it issues an order and a written opinion which is usually published in the New York Law Journal. In matters involving a hearing on charges, the Committee files a petition with the Court to confirm a Hearing Panel's Determination as to the Referee's Report and Recommendation. Staff, with permission of the Chairman, may also file a motion to disaffirm a Hearing Panel's Determination.

In certain cases, the Committee files petitions with the Court to initiate disciplinary action without a hearing. For example, the Committee may seek a court order applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Code solely on the basis of prior civil or criminal court decisions without a further hearing. The petition may be granted where the issues in the prior action and the disciplinary matter are identical to the potential charges against a respondent who has had a full and fair opportunity to litigate in the prior proceeding. In such cases, a hearing will be held on the issue of sanction only.

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

suspension, pending a hearing under 22 NYCRR §603.4(e). If the Committee, during the period of a suspension, obtains uncontrovertible evidence that the attorney has continued to engage in the practice of law, the Committee will petition the Court to disbar the attorney for violating its order.

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

Hearings before Referees and Hearing Panels are normally closed to the public, except in those rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials in that testimony is taken and exhibits are received in accordance with the rules of evidence. A transcript is made of the entire proceeding. If the Court eventually imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness located at 41 Madison Avenue, 26th Floor. Under Judiciary Law § 90(10) all matters are deemed private and confidential unless the Court orders otherwise upon good cause shown.

REPRESENTATIVE CASES

In 2008, the Appellate Division, First Judicial Department, publicly disciplined 53 lawyers as follows: 21 disbarments, 8 resignations from attorneys facing charges (equivalent of disbarment), 22 suspensions and 2 public censures. Some of the cases prosecuted by Committee staff attorneys that have become a matter of public record in 2008 are reviewed below:

Matter of Steven J. Lever, 60 AD3d 37 (2008)

Mr. Lever was found to have violated DR 1-102(A)(3) (illegal act) and DR 1-102(A)(7) (fitness) as a result of his guilty plea in Suffolk County to the misdemeanor crime of Attempted Criminal Sex Act in the Third Degree. Specifically, the attorney admitted engaging in sexually explicit conversations over an internet chat room with an undercover police officer posing as a 13-year old girl, followed by his attempted meeting with the presumed minor for purposes of sexual contact. In a 3-2 split decision, the Court ordered the attorney suspended for three years; the two dissenting judges recommended disbarment. Recognizing that there were no New York disciplinary cases directly on point, the majority found that "while respondent's grave misconduct unquestionably impugns the integrity of attorneys in general, ... a three-year or longer suspension carrying through the end of respondent's probationary term was adequate to protect the public and deter future misconduct." (Staff Counsel Raymond Vallejo)

Carlos J. Spinelli-Nosedá, 55 AD3d 206 (2008)

Mr. Spinelli-Nosedá, a Harvard Law School graduate and a partner with Sullivan & Cromwell, resigned from the Bar after admitting that he billed clients and the law firm over \$500,000 in fraudulent travel and entertainment expenses. Mr. Spinelli-Nosedá admitted having violated DR 1-102(A)(4) (misrepresentation) and (7) (fitness) of the Code and is no longer with Sullivan & Cromwell. His resignation in light of pending allegations of professional misconduct is the equivalent of disbarment. (Staff Counsel Raymond Vallejo)

Matter of Israel Grossman, 51 AD3d 135 (2008)

In this unique if not unprecedented matter, the Court disbarred an attorney for a second time. On January 26, 1988, the Court disbarred Israel Grossman based upon his felony conviction for misappropriating confidential securities information from his former law firm employer and subsequently sharing the information with friends and family who traded the securities and made approximately \$1.5 million in illegal profits. In 1996, Mr. Grossman's application for reinstatement was denied after hearing, primarily because he refused to acknowledge his criminal culpability or exhibit remorse. In 2001, Mr. Grossman reapplied, and, by order dated May 22, 2003, after a full hearing, the Court reinstated Mr. Grossman.

After Mr. Grossman was reinstated, the Committee learned that Mr. Grossman had made materially false statements and material omissions on his verified reinstatement application to the Court and throughout the proceeding involving other ongoing disciplinary proceedings before other agencies. The Committee formally charged Mr. Grossman and at the same time moved for his interim suspension. Mr. Grossman was suspended by order dated March 23, 2006. After a full hearing, the Referee recommended that Mr. Grossman's license should be revoked because it was fraudulently obtained in the first place. The Hearing Panel concurred but recommended disbarment as an alternative sanction. By order dated March 18, 2008, Mr. Grossman was disbarred, again. (Staff Counsel Naomi F. Goldstein)

Matter of Chin W. Fong, 56 AD3d 136 (2008)

On June 24, 2003 the Court suspended Mr. Fong for three months based on neglect of a client's legal matter and escrow account irregularities and he was reinstated on October 30, 2003. Based on a complaint filed several years later, the Committee learned that during the period of his suspension Mr. Fong improperly held himself as being able to practice law, he performed legal work for another attorney, and, as a consequence, had made a material misrepresentation in his affidavit of compliance which he submitted in his application for reinstatement. The Referee sustained all the charges and recommended a two year suspension; the Hearing Panel recommended a five year

suspension. Shortly thereafter, Mr. Fong submitted an affidavit of resignation which was accepted. His resignation is the equivalent of disbarment. (Staff Counsel Jun Hwa Lee)

Matter of Michael Caliguiri, 50 AD3d 90 (2008)

Mr. Caliguiri was suspended for one year for improperly “using” confidential information belonging to one of his clients, an insurance carrier, during the course of providing free advice to opposing counsel regarding a medical malpractice claim being defended by the carrier (Caliguiri’s firm was uninvolved in the matter). Mr. Caliguiri’s wife worked for the insurer and secretly copied the insurer’s confidential file on the matter and gave it to Mr. Caliguiri to be “helpful.” Mr. Caliguiri testified that he reviewed the material only to satisfy his curiosity and to confirm whether he had been correct in concluding that the case would not settle because there was a viable defense. The medical malpractice action was eventually settled with full disclosure of Mr. Caliguiri’s actions. The Court found that Mr. Caliguiri had engaged in conduct prejudicial to the administration of justice; engaged in conduct adversely reflecting on his fitness as a lawyer; used a confidence or secret of a client to the disadvantage of the client; used a confidence or secret of a client for the advantage of respondent or of a third person; accepted employment when the exercise of professional judgment might have been affected by respondent’s own personal interests; and accepted proffered employment when the exercise of independent professional judgment on behalf of a

client would likely be adversely affected by the acceptance of the proffered employment, or would likely involve respondent representing differing interests. (Staff Counsel Angela Christmas)

Matter of Edward D. Fagan, 58 AD3d 260 (2008)

On December 11, 2008, the Appellate Division disbarred Mr. Fagan, based on sanctions imposed by Hon. Shirley W. Kram for bringing a frivolous suit, deceiving the court concerning critical facts of a previous class action settlement, engaging in champerty, and making flagrant misrepresentations. Mr. Fagan's suit, entitled AHVRAM v. Bank Austria sought \$6.8 billion from various banks, corporations and governmental entities alleging theft of artwork looted during the Holocaust. Judge Kram fined Mr. Fagan \$5000 and assessed him \$345,520 in litigation costs and expenses, which Mr. Fagan failed to pay, except for \$250. In imposing these sanctions, the Court noted Mr. Fagan's long history of sanctions by various federal courts for frivolous filings, abuse of discovery, false representations to the Court, and obtaining a confidentiality order on false pretenses, as well as his public reprimand in New Jersey for misrepresentations to a client. The Court held that the Hearing Panel's sanction recommendation, made following referral by the Court upon granting the Committee motion for collateral estoppel, was fully supported by the record, citing his dishonesty to

the Court, violations of court rulings, prior sanctions, failure to satisfy those sanctions, lack of contrition or acknowledgment of wrongdoing. (Staff Counsel Mady J. Edelstein)

Matter of Anthony M. Mahoney, 56 AD3d 169 (2008)

Mr. Mahoney was suspended by the Court on October 9, 2008 based on his New Jersey convictions of forgery. Mr. Mahoney forged his clients' endorsements of a \$75,000 settlement check he received as settlement of their son's wrongful death action. Mr. Mahoney was convicted of misappropriation of entrusted property and forgery in New Jersey; the misappropriation conviction was reversed and remanded, and subsequently dismissed by the prosecution. The Appellate Division found that Mr. Mahoney's convictions were "serious crimes," suspended him, and referred the matter to the Committee to recommend sanction. Upon review of the record of proceedings before the Referee and Hearing Panel, the Court suspended respondent for three years prospectively, citing his misrepresentations to his clients, his use of their funds for his own purposes, and his minimal expression of remorse. (Staff Counsel Mady J. Edelstein)

Matter of Armando A. Crescenzi, 51 AD3d 230 (2008)

Mr. Crescenzi was interrimly suspended and then charged with dishonest conduct involving intentional conversion of escrow funds and submitting an answer to the

Committee containing a knowingly false statement. Mr. Crescenzi argued that his addiction to crack cocaine should be considered in mitigation of sanction. Nevertheless, the Court agreed with the Committee's view that Mr. Crescenzi failed to establish a causal connection between his addiction and his dishonest conduct, and disbarred him *nunc pro tunc* to February 1, 2006, which is the date the Court found that he stopped regularly using drugs. (Staff Counsel Mady J. Edelstein)

Matter of Leah Larsen, 50 AD3d 41 (2008)

Ms. Larsen represented a husband in a matrimonial matter in Dutchess County, involving a marriage of only six years, with no children and only one major asset, the marital home. In the course of representing the husband, Ms. Larsen, with his permission, improperly signed his name and "notarized" the signature on various documents. She also improperly convinced the husband that certain monies, held by her in escrow at the Court's direction to repay the husband's specified loans, should be used instead to pay her legal fees. When the husband protested that he had already paid Ms. Larsen substantial legal fees, she sent him a fabricated and inflated bill for \$168,400. After the husband wrote a letter to the Court about the fee, Ms. Larsen responded by warning the husband that unless he withdrew the letter she would seek to obtain the entire \$168,400 in an arbitration proceeding. He then wrote the Court withdrawing his complaint. The Appellate Division sustained the Committee's Charges regarding

Ms. Larsen's improperly signing and notarizing her client's name, in violation of DR 1-102(A)(4) (dishonesty), her disregarding the Trial Court's order to repay her client's 401(k) loan, her sending a bill for an excessive fee, in violation DR 2-106(A) (excessive fee) and DR 1-102(A)(7) (fitness), and her improper pressure on her client to withdraw his letter to the Trial Court, in violation of DR 1-102(A)(5) (conduct prejudicial to the administration of justice) and (7) (fitness). The Court suspended Ms. Larsen for two and one half years and ordered her to make restitution to her client of 401(k) moneys she had kept. (Staff Counsel Jeremy S. Garber)

Matter of Marc S. Dreier, 59 AD3d 37 (2008)

Mr. Dreier was interimly suspended based on uncontested evidence of multi-million dollar conversion from the escrow account of Dreier LLP and uncontested evidence of larceny by sale of hundreds of millions of dollars in fictitious promissory notes to unsuspecting investors. In the case of the promissory notes, Mr. Dreier pretended that he was selling them on behalf of a former client, who was unaware of Mr. Dreier's actions. In one instance, Mr. Dreier even held a meeting with a potential promissory-note investor in the offices of the unsuspecting client. (Staff Counsel Vitaly Lipkansky)

Matter of Laurence T. Lewitas, 56 AD3d 178 (2008)

Mr. Lewitas submitted his resignation upon his admission that he could not defend himself against charges of theft of more than \$4 million from a title company business that he owned and operated. Mr. Lewitas was supposed to have used the funds that he converted to record mortgages and pay liens and taxes in connection with real estate transactions. Instead Mr. Lewitas used the converted funds for his own personal and business purposes. (Staff Counsel Vitaly Lipkansky)

Matter of Ira L. Berman, 53 AD3d 11 (2008)

Because Mr. Berman allowed a negative balance in his escrow account on multiple occasions, thereby evidencing intentional conversion, Mr. Berman violated DR 1-102(A)(4); and he violated DR 9-102(J) for failing to produce his escrow account records. Mr. Berman's mishandling of his escrow account constituted professional misconduct warranting his immediate suspension from the practice of law under 22 NYCRR 603.4(e)(1)(iii). The Committee's investigation in this matter began upon its receipt of a complaint from an aggrieved real estate seller who had unsuccessfully pursued Mr. Berman for down-payment funds to which the seller was entitled. Mr. Berman paid the seller eventually, and attempted to mislead that Committee that there had been no issue with the integrity of the escrow funds. The Committee, however, demanded that he show that the seller's escrow funds had remained intact for the entire

time that Mr. Berman had them in his escrow account. The escrow records showed that Mr. Berman had invaded the seller's escrow funds, and that his escrow account had huge negative balances. Mr. Berman invoked his Fifth Amendment Privilege rather than appear for a deposition. Mr. Berman was subsequently disbarred based on his criminal conviction. The Manhattan District Attorney's Office, which prosecuted Mr. Berman, had obtained a Sharing Order from the Appellate Division, First Department to review the Committee's files in this matter, and the District Attorney publicly thanked the Committee for its assistance in providing certain documents pursuant to that order which aided the prosecution. (Staff Counsel Vitaly Lipkansky)

Matter of Gwenerva D. Cherry, 51 AD3d 119 (2008)

Because Ms. Cherry converted and/or misappropriated escrow funds and failed to cooperate with the Departmental Disciplinary Committee, Ms. Cherry violated DR 1-102(A)(4), (5), (7), DR 9-102(A); Ms. Cherry's misconduct warranted her interim suspension under 22 NYCRR 603.4(e)(1)(ii), (iii). Ms. Cherry was a partner in a two-person law firm that mainly handled real estate matters. The Committee commenced its investigation after Ms. Cherry issued a check from her firm's escrow account that was dishonored. The Committee audited Ms. Cherry's escrow account, and the audit made it clear that Ms. Cherry had converted hundreds of thousands of dollars in escrow funds.

Ms. Cherry was subsequently disbarred based on her criminal conviction. (Staff Counsel
Vitaly Lipkansky)

SUMMARY OF OTHER REPRESENTATIVE CASES

Although it may appear that the Committee is primarily engaged in bringing formal charges of misconduct and conducting hearings on those charges, those obviously important functions of the Committee are only a part of the picture. Most of the Committee's work is done completely in private, such as the investigation and resolution of the majority of the complaints filed with the Committee, but a large portion of what the Committee does in a confidential manner eventually does become public when the Court acts on motions made by the Committee. Interim suspensions are one such area.

Interim Suspensions

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

The most serious misconduct the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The First Department has made it quite clear that the intentional conversion of money held as a

fiduciary or for a client requires disbarment except where there are exceptional mitigating circumstances, which are very rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff attorneys will seek an immediate suspension for such misconduct if it has the evidence to justify the motion. In addition, the Committee's staff will seek a suspension of an attorney who fails to cooperate in answering a complaint or not complying with lawful demands for information. In 2008, the Court suspended 10 lawyers on an interim basis pending resolution of the charges against them in the following cases: Matter of Leopold Kaplan, 49 AD3d 107; Matter of Zelda E. Stewart, 50 AD3d 247; Matter of Howard L. Blau, 50 AD3d 240; Matter of Thomas P. Burke, 54 AD3d 70; Matter of Kehinde Oluwaranti Jobi, 56 AD3d 158; Matter of Stewart G. Fish, 57 AD3d 112; Matter of Samuel A. Amukele, 58 AD3d 128; Matter of James J. Armenakis, 58 AD3d 222; Matter of Jeffrey D. Fletcher, 58AD3d 254, and Matter of Marc S. Dreier, 59 AD3d 37.

The Court also has a rule unique to the First Department (see 22 NYCRR §603.4[g]), whereby a motion to suspend may also include a notice to the attorney that, if the attorney is suspended and fails to appear or apply in writing to the Court requesting a hearing or reinstatement within six months, the attorney may be disbarred. In 2008, the First Department invoked 22 NYCRR §603.4[g] to disbar five attorneys: Matter of Barry J. Benzing, 51 AD3d 236; Matter of Joseph S. Lefrak, 53 AD3d 161; Matter of

Walter Lawrence Lopez, 53 AD3d 198; Matter of Barry I. Spiegler, 53 AD3d 218, and Matter of Morgan Kennedy, 55 AD3d 169.

Felony Disbarments

In 2008, the First Department granted 10 motions to strike the names of attorneys convicted of felonies: Matter of Peter A. Barta, 49 AD3d 141; Matter of Ellen M. Carlstein Roth, 49 AD3d 144; Matter of James P. Colliton, 50 AD3d 245; Matter of Louise M. Brown, 51 AD3d 76; Matter of Gwenerva D. Cherry, 51 AD3d 119; Matter of Steven G. Schulman, 51 AD3d 220; Matter of Ira L. Berman, 53 AD3d 11; Matter of Manuel S. Martinez, 55 AD3d 197; Matter of Stephen K. Woods, 56 AD3d 184, and Matter of Melvyn I. Weiss, 58 AD3d 203.

Disciplinary Resignations

The Court permits an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR §603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending charges is the equivalent of disbarment. In 2008, the First Department accepted resignations under 22 NYCRR §603.11 from 8 attorneys and ordered their names stricken from the roll of attorneys: Matter of Angelo Capelli, 51 AD3d 100; Matter of Michael D. Jaspan, 51 AD3d 256;

Matter of Dexter C. Wadsworth, 52 AD3d 42; Matter of Alan J. Lichtenstein, 52 AD3d 130; Matter of Carlos J. Spinelli-Nosedá, 55AD3d 206; Matter of Manuel Campos-Galvan, 55 AD3d 241; Matter of Chin W. Fong, 56 AD3d 136, and Matter of Laurence T. Lewitas, 56 AD3d 178.

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 2008, the Court imposed suspensions for misconduct on 12 attorneys for periods ranging from one year to five years: ** Matter of Leah Larsen, 50 AD3d 41; Matter of Michael Caliguiri, 50 AD3d 90; Matter of William Jarblum, 51 AD3d 68; Matter of John G. Lynch, 55 AD3d 213; Matter of James J. Hess, 55 AD3d 248; Matter of Frederick D. Schwartz, 56 AD3d 87; Matter of Anthony M. Mahoney, 56 AD3d 169; Matter of Jack Tillem, 56 AD3d 94; Matter of Samuel Racer, 56 AD3d 125; Matter of Wild Chang, 57 AD3d 151; Matter of Mark W. Scher, 59 AD3d 47, and Matter of Steven J. Lever, 60 AD2d 37.

**Two attorneys suspended indefinitely due to disability.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (see 22 NYCRR §605.5[a][3]). In 2008, the First Department issued public censures in two cases based on reciprocal discipline: Matter of Joel J. Rogge, 51 AD3d 367, and Matter of Kenneth A. Rosen, 57 AD3d 157.

Admonitions/ Reprimands

The Court may also direct the Committee to issue to a respondent a Reprimand, private discipline imposed by the Committee, after a hearing. In 2008, the Court directed the issuance of two private reprimands. Where there is no serious injury, either to a client or a court, and where there is a minor violation of a Disciplinary Rule or decisional law, the Committee itself may also issue an Admonition, which is private discipline, under 22 NYCRR §605.5(a)(5). As noted earlier, in 2008, the Committee issued 58 admonitions in 60 matters.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR §603.14 permit attorneys to apply for reinstatement to the practice of law after a period of suspension or disbarment. Attorneys who are suspended for six months or less may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief

Counsel's office an affidavit stating that the attorney has met certain requirements (see 22 NYCRR §603.14). An attorney who has been suspended for a period of more than six months is entitled to petition the Court for reinstatement upon the expiration of the period of suspension (id.). An attorney who has been disbarred or stricken from the roll of attorneys may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (id.). In such cases, the Court may refer the matter for a hearing before a Referee or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2008, the First Department granted eight petitions for reinstatement and denied eight.

Registration Project

This year the Committee continued a project to suspend lawyers who have failed to register and pay required registration fees to the Office of Court Administration (OCA) in violation of Judiciary Law §468-a. Because of sheer volume, the delinquent attorneys have been divided into three groups; the first group consists of 952 delinquent attorneys whose last names begin with the letters “A” through “K” and the second group consists of 1,158 delinquent attorneys whose last names begin with the letters “L” through “Q.”

OCA provided a list of attorneys who failed to register for two biennial registration periods (four years), despite three written notices from OCA alerting them to comply. The Committee notified the remaining delinquent attorneys of the Committee’s motion to suspend them by publication of their names in the New York Law Journal. A database was created to manage and update the list and to coordinate the data with other disciplinary matters concerning the same attorneys.

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

2008

Appendix A: Committee Assignments

Roy L. Reardon, Chairman
Policy Committee

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

Hearing Panel Members

Panel I

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

Panel II

Christopher E. Chang, Chair
Ann J. Charters*
Nancy B. Ludmerer
Robert J. McGuire
Jacob Pultman
Timothy G. Reynolds

Panel III

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

Panel IV

Harold F. McGuire, Chair
Catherine M. Abate
Ernest J. Collazo
Robert E. Godosky
Patricia Handal*
Douglass B. Maynard

*Public Member

Panel V

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

Panel VI

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

Panel VII

Mathias E. Mone, Chair
Patrick H. Barth
Nina Beattie
Ralph C. Dawson
Joseph Steven Genova
Fredric S. Newman

Panel VIII

Paul F. Doyle, Chair
Eugene F. Bannigan
George C. Berger
Jean E. Davis*
Richard M. Greenberg
Stephen E. Kaufman

Panel IX

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

Panel X

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

*Public Member

2008

Appendix B: Chief Counsel's Office: Attorneys

Alan W. Friedberg
Chief Counsel

Sherry K. Cohen
First Deputy Chief Counsel

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

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

2008

Appendix C: Chief Counsel's Office: Staff

Investigators

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

Paralegals

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

Computer Personnel

Michelle Y. Wang
Charles A. Sauer

Office Manager

Carol Scheuer

Secretaries

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

2008

Appendix D: Bar Mediators

Association of the Bar of the City of New York

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

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

Bronx County Bar Association

Daniel Chavez, Esq.
Richard M. Copland, Esq.
Cary M. Tanzman, Esq.

Jeffrey Pogrow, Esq.
Frederick B. Potack, Esq.

New York County Lawyers' Association

David A. Botwinik, Esq.
David N. Brainin, Esq.
John A. Cannistraci, Esq.
Faith Colish, Esq.
Klaus Eppler, Esq.

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

Appendix E: Annual Report to OCA

ATTORNEY DISCIPLINE ACTIVITIESPERIOD COVERED - ANNUAL 2008

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED:*

A. Matters Pending at Start of Period	<u>1039</u>	
B. New Matters During Period	<u>3977¹</u>	
C. Closed Matters Reactivated During Period	<u>49</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>5065</u>
E. Total Matters Disposed of During Period		<u>3798</u>
F. Matters Pending at End of Period		<u>1267</u>

II. MATTERS DISPOSED OF BY COMMITTEE:

	Cases**	Matters
A. Rejected as Failing to State a Complaint	<u>499</u>	<u>525</u>
B. Referred to Other Disciplinary Committees	<u>363</u>	<u>367</u>
C. Referred to Other Agencies	<u>59</u>	<u>66</u>
D. Dismissed or Withdrawn	<u>1887</u>	<u>1919</u>
E. Dismissed through Mediation	<u>9</u>	<u>9</u>
F. Letter of Caution	<u>n/a</u>	<u>n/a</u>
G. Letter of Admonition	<u>58</u>	<u>60</u>
H. Reprimand	<u>3</u>	<u>3</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>790</u>	<u>849</u>
Total Disposed of During Period (same as I.E above.)	<u>3668</u>	<u>3798</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>22</u>
1. Disciplinary Proceedings	<u>16</u>	
2. Other	<u>6</u>	
B. Cases Received During Period		<u>119</u>
1. Disciplinary Proceedings	<u>57</u>	
2. Other	<u>62</u>	
C. Total to be Processed During Period		<u>141</u>

¹ Includes 693 attorneys suspended for nonpayment of registration fees; also included in totals of II - I. (cases/matters)

ATTORNEY DISCIPLINE ACTIVITIES (1-12/08)

D.	Cases Closed		
	1. Disbarred	21	
	2. Disciplinary Resignations	8	
	3. Suspended***	22	
	4. Censured	2	
	5. Privately Censured	2	
	6. Remanded to Disciplinary Committee	9	
	7. Discontinued	2	
	8. Dismissed	1	
	9. Reinstatements Granted	7	
	10. Reinstatements Denied	8	
	11. Non-Disciplinary Resignations	0	
	12. All Other Dispositions	31	
	13. Total Closed		113
E.	Total Cases Pending at End of Period		27
	1. Disciplinary Proceedings	14	
	2. Other	13	

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

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

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

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

***Includes (9) definite, (10) interim and (3) indefinite suspension(s)

Appendix F: Budget for Fiscal Year 2008-2009

Departmental Disciplinary Committee Budget
Fiscal Year 2008-2009

Appendix F: Budget for Fiscal Year 2008-2009

Departmental Disciplinary Committee Budget
Fiscal Year 2008-2009

	<u>Allocation</u>
Personal Service Total:	\$ 4,341,950
<u>Non-Personal Service:</u>	
Office Supplies	46,059
EDP Supplies	6,500
Legal Reference - General	25,500
Miscellaneous Supplies and Materials	5,100
Travel-General	9,250
Rentals of Equipment	24,000
Repairs of Equipment	27,000
Repairs of Structure	3,000
Real Estate Rentals	1,500
Conferences/Training	1,000
Postage and Shipping	23,000
Printing - General	7,500
Telephones	27,000
EDP Telecommunication Charges	600
Information Technology Services	4,000
Building and Property Services	5,600
Subscriptions	4,800
Other General Services	10,200
Records Management services	21,000
Professional Services - Expert Witnesses	3,000
Professional Services - Interpreters	200
Transcript Costs - General	40,000
Computer Assisted Legal Research	100
Other Court Appointed Services	11,000
Professional Services Per Diem Court Reporters	100
Equipment - New/Replacement	17,500
Non-Personal Service Total:	\$ 324,509
TOTAL BUDGET FISCAL YEAR 2008-2009	\$ 4,666,459

Appendix G: Sample Complaint Form

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

212/401-0800

Alan W. Friedberg
Chief Counsel

DATE: _____

Complainant(s):

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

Address: _____ Apt. _____

_____ City State Zip Code

Telephone: Home _____ Business _____

Attorney Complained of:

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

Firm Name: _____

Address: _____ Suite/Floor _____

_____ City State Zip Code

Telephone: _____

Complaints to other agencies:

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

If so, name of agency: _____

Action taken by agency: _____

Court action against attorney complained of:

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

If so, name of court: _____ Index No. _____

Statute: _____

Details of Complaint PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH

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

