NOTICE TO THE BAR

Proposed 2017 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2017 Attorney Discipline Budget has been submitted to the Supreme Court for action. The Court has directed that the Report and an Overview of the proposed 2017 Attorney Discipline Budget be published for comment. Those documents are attached.

Please send any comments in writing by Monday, November 7, 2016 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Attorney Discipline Budget
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via Internet email to the following address: Comments.mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.

Glenn A. Grant by SDS

Glenn A. Grant, J.A.D.
Acting Administrative Director
of the Courts

Dated: October 6, 2016

SUPREME COURT OF NEW JERSEY
DISCIPLINARY OVERSIGHT COMMITTEE

RICHARD SACKIN, CPA, CHAIR
MAUREEN E. KERNS, ESQ., VICE-CHAIR
PARIS P. ELIADES, ESQ.
SPENCER V. WISSINGER, III, CPA
JOEL B. ROSEN, ESQ.
DEBRA L. STONE, ESQ.
NESLE A. RODRIGUEZ, J.S.C.
ALONZO BRANDON, JR.
LUIS J. MARTINEZ
DANIEL D. LYNN
MATTHEW P. O'MALLEY, ESQ.

SUPREME COURT CLERK'S OFFICE
RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 970
TRENTON, NEW JERSEY 08625
EUGENE TROCHE, ESQ.
SECRETARY
(609) 341-3830

September 27, 2016

The Honorable Chief Justice Stuart J. Rabner and
Associate Justices of the Supreme Court
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, New Jersey 08625

Re: 2017 Attorney Disciplinary Budget

Dear Chief Justice Rabner and Associate Justices:

The Supreme Court's Disciplinary Oversight Committee ("DOC" or "Committee") considered and unanimously approved the proposed FY 2017 Attorney Disciplinary Budget, pursuant to R. 1:20B-4(a)(2). This Budget Report reflects the Committee's careful analysis and recommendations. The Committee requests the Court's review and approval for publication of this report and the 2017 Disciplinary Budget Overview. Budget reserve actuals since 2012 and projections through 2019 are also enclosed for the Court's consideration.

The budget was prepared in consultation with the Administrative Office of the Court's Office of Management and Administrative Services ("OMAS"). The Committee thanks OMAS Director Shelley Webster and Assistant Chief Linda McAdams for their assistance during the budget process. The Committee thanks Charles Centinaro, Esq., Director of the Office of Attorney Ethics ("OAE"); Susan Fleming, OAE Administrator; Ellen Brodsky, Esq., Chief Counsel of the Disciplinary Review Board

("DRB"); and the staffs of the OAE and DRB for preparing the budget in a professional and timely manner. The DOC is especially thankful to its Budget Subcommittee and commends it for its work and diligent efforts.[1]

I. Overview.

The disciplinary budget year runs from January 1 to December 31. The proposed 2017 budget is $13,463,345, representing a 3.7% increase from the budget approved for 2016. As discussed in greater detail below (Section II(A)) the primary core expense is salaries and benefits, comprising approximately 81% of the budget. Salary costs are expected to increase by approximately 5% ($342,471) over projected figures for 2016. The Fringe Benefit Rate is projected to increase from 44.25% to 51.52%, an increase of 7.27% over the 2016 rate.[2] Overall personnel costs (salaries and fringe benefits) for 2017 are expected to increase by 6% when compared to the latest estimate for 2016. Total operating expenses are expected to rise by 5% over the latest estimate for 2016.

As discussed in Section III, the DOC is recommending that the fee assessment for 2017 remain the same as in 2016, $148 for plenary admitted attorneys practicing 3 to 49 years. As explained in Section IV, a $148 registration fee is projected to generate revenues of $10,360,000.[3] Attorneys practicing 2 years or less pay $25, yielding another $80,000. Thus, total revenues from plenary admitted attorney registration fees are anticipated to be $10,440,000. When other fees are added ($2,233,380), total projected revenues for 2017 are estimated to be $12,673,380. Thus, revenues from registration fees and other sources are expected to increase by approximately 1% ($74,940) when compared to the latest estimate for 2016.

With total projected revenues of $12,673,380 and total expenses of $13,463,345, there will be a budgeted deficit for 2017 of $789,965. There was a budgeted deficit of $353,263 in

---

1 The Budget Subcommittee members are Co-Chair Richard Sackin, CPA, Co-Chair Maureen Kerns, Esq., Paris Eliades, Esq., Joel Rosen, Esq., Spencer Wissinger, III, CPA, and Daniel D. Lynn.
2 Please note typographical error (6.27%) at p. 4 of the Budget Narrative.
3 The fee discussed in this Report is for the disciplinary system only. Additional sums are added to this fee for the Lawyers' Fund for Client Protection, the Lawyers Assistance Program, and the Mandatory Continuing Legal Education Program.

2016, but the latest estimate for 2016 shows a deficit of $195,212. At the end of 2016, the reserve is projected to be $3,363,568 or 26.3% of the budget. The reserve was as high as 35.5% in 2012 and has since decreased by 9.2%. The reserve at the end of 2017 is projected to be $2,573,603 or 19.1% of the operating budget. Depending on the accuracy of current projections, budget reserves for 2018 and 2019 are projected to be 10.8% and 10.2%, respectively, thus approximating the DOC's goal of a 10% reserve. (please see Section III below for further discussion on the annual assessment and reserve projections).

The DOC believes that the proposed budget for 2017 is fiscally responsible and in keeping with goals of the attorney disciplinary system. The budget will provide the OAE and DRB with the resources needed to continue their high level of service to the bar and the public.

II. Expenses.

A. Salaries and Benefits.

The Department of the Treasury Office of Management and Budget has advised that there will be an increase in the fringe benefit rate between FY 2016 (44.25%) and FY 2017 (51.52% projected rate). Based on available information, salary costs for 2017 are projected at $7,194,459 (a 5% increase)[4] and benefits are projected at $3,706,585 (an 8.1% increase from the latest estimate for 2016). Thus, salaries and benefits for 2017 are projected to be $10,901,044 (86 full time positions) or approximately 81% of the budget.[5] As in 2016, and in keeping with actual averages, this budgeted number assumes a 3.5% vacancy factor.[6]

B. Notable Expenses.

1. Technology/Data Processing. On December 4, 2013, the OAE and DRB presented an *IT Strategic Plan - 2014 to 2017* (the

---

4 Salaries for represented staff in the disciplinary system are established through negotiated labor contracts. These contracts have yet to be renegotiated and ratified.

5 Salaries and benefits have historically constituted approximately 80% of the budget.

6 Since 2005, except for 2012 when there were an unusual number of planned retirements and a 5% rate was used, the vacancy rate had been budgeted at 2%.

"Plan") to the DOC. The Plan described the costs, benefits and timing of ongoing improvements and potential IT initiatives over several years. Implementation of the Plan continued in 2016, most significantly in the area of Electronic Filing ("e-Filing") and the InfoShare Case Management System, as well as the introduction of mobile technologies for Digital Voice Recordings and Random Audits. In 2017, the OAE/DRB Electronic Interface will be modernized and an e-Filing service will be created that will allow attorneys to respond to Ethics Grievances and Requests for Fee Arbitration online. Key enhancements and software updates will continue in 2017. It should be noted, however, that many of the initiatives in the Plan have been realized or are underway, resulting in significant technological advances meeting or exceeding expectations. It should be further noted that as a result of the continuing implementation of the Plan, in 2017 the OAE expects that it will be able to reduce its data processing costs by more than 24%, and overall OAE/DRB costs for data processing are projected to decrease by 29%.

The data processing initiatives described in the budget narrative will ensure that the disciplinary system keeps pace with technology as it strives for greater transparency while securing sensitive information and work-product in a cost-effective manner. The total OAE/DRB data processing budget for 2017 is $245,411 or $98,464 less than the amount budgeted for 2016. This decrease more than offsets increases in other expense categories.

2. Professional Services. Pursuant to R. 1:20-6(c), a complete stenographic record of all disciplinary hearings is required to be made by an official court reporter or by a court reporter designated by the Director. The DRB is required to order hearing transcripts in cases where an admonition is recommended, but the Board determines to treat the matter as a recommendation for greater discipline. In addition, transcripts of the oral arguments held before the DRB must be provided to the Supreme Court. Both the OAE and DRB anticipate an increase in the cost of transcripts as a result of the number of hearings, the number of hearing days, and/or the length of those hearings. In addition, attorneys are opting to defend themselves more vigorously and are less willing to enter into consents for discipline. The total OAE/DRB budgeted amount for transcripts in 2017 is $120,000 or $25,000 more than the amount budgeted for 2016.

3. **Meetings, Conferences, Education and Training.** The OAE and DRB estimate that the cost of meetings in 2017 will be $8,000. The budgeted amount in 2016 was $4,850. This increase is due in part to the higher cost of maintaining security during DRB oral arguments in the Supreme Court courtroom, resulting from lengthier oral arguments, as attorneys facing discipline mount more spirited and involved defenses. For a number of reasons, explained in the budget narrative, the cost of conferences, education and training in 2017 is projected to increase to $61,925. The budgeted amount for 2016 was $48,725. In addition to the typically increasing costs of attending a number of national and in-state training conferences, in 2017, as in every odd number year, the National Organization of Bar Counsel will be holding a weeklong training program specifically tailored to enhance the litigation and trial skills of disciplinary prosecutors.[7]

4. **Equipment.** The OAE and DRB annually replace personal computers, depending on age and condition, in accordance with Judiciary standards. This practice allows the disciplinary system to remain current with changing technical requirements while spreading the costs over a multi-year period. The OAE is now "caught up" on its replacement schedule and anticipates that its computer equipment expenses will decrease by 39% in 2017. The DRB will need to replace its shredder at a cost of approximately $4,000. Overall, total equipment costs for 2017 are estimated at $83,000. The budgeted amount for 2016 was $95,000, a decrease of approximately 13%.

III. The Annual Assessment and the Reserve.

In 2012, the DOC addressed the fact that reserves had been increasing steadily since 2009 when the annual assessment was increased from $126 to $140, and it recommended that the Court reduce the annual assessment to $135 for the 2012 budget year. The assessment was set at $135 in 2013 and was increased to $148 in 2014, where it has remained since. Budget reserves were as high as 35.5% in 2012, but since then have dropped by 9.2%. However, they have not been declining as quickly as the Committee had anticipated. In 2016 the reserves should drop to $3,363,568 or 26.3% of the budget. In 2017 with a registration

7 In prior years this training was offered in partnership with the National Institute for Trial Advocacy.

fee of $148, reserves are projected to decrease to $2,573,603 or 19.1% of the operating budget. It is estimated that, should the registration fee remain the same in 2018, the reserve will decrease to 10.8%. The DOC further projects that the reserves should drop to approximately 10.2% in 2019 if the registration fee is set at $165, which would mark the first increase in the annual assessment since 2014. That determination is, of course, two budget cycles in the future.

As is the case every year, New Jersey's annual assessment is reasonable in relation to other states. Comparing the eighteen "voluntary" states, which do not require mandatory bar association membership or impose malpractice insurance fees, and ranking them from the most expensive to the least expensive, New Jersey's fee ranks 10th lowest.[8] It should be further noted that of those states with lower registration fees, only one state regulates more attorneys than New Jersey.

IV. Revenue Projections.

Based on an annual assessment of $148, the total revenue projected for 2017 is $12,673,380. This is a 1% increase ($74,940) from the latest estimate for 2016. It is estimated that 70,000 attorneys practicing 3 to 49 years will pay the $148 fee while 3,200 attorneys practicing 2 years or less will pay the $25 fee. Thus, total receipts from plenary admitted attorneys paying the registration fee are projected to be $10,440,000, or approximately 82% of revenue.

Pro hac vice fees are estimated to be paid by 7,000 attorneys in 2017, generating $1,036,000 or approximately 8% of all revenue. Approximately 1,275 attorneys are projected to pay for in-house counsel licenses in 2017, generating $188,700 in revenue. Other significant sources of revenue include late fees for attorneys who fail to register in a timely manner ($320,000), prior year assessments that attorneys failed to pay ($275,000), and the recovery of the costs of disciplinary investigations and proceedings from disciplined attorneys ($220,000).

---

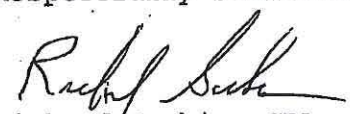
8 The average annual fee nationwide is $324, compared to only $212 in New Jersey, which includes other assessments as noted in footnote 2.

V. **Conclusion.**

The DOC has carefully reviewed and considered each item in the proposed 2017 budget and believes that the budget is fiscally responsible and ensures a continuing high level of services to the public and the bar. The Committee is ever mindful of the hard work of the OAE, DRB, and volunteers, as they endeavor to promote confidence in the profession, the disciplinary system, and the judiciary as a whole.

The DOC respectfully requests that the Court permit the publication of this Budget Report and the Budget Overview. The DOC recommends that, following the comment period, the Court approve the 2017 Attorney Disciplinary Budget.

Respectfully Submitted,



Richard Sackin, CPA
Chair

RS/et
Enclosures

cc: Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of New Jersey Courts
Steven Bonville, Esq., Chief of Staff, AOC
Mark Neary, Esq., Clerk of the Supreme Court
Gail G. Haney, Esq., Deputy Clerk of the Supreme Court
Disciplinary Oversight Committee
Shelley R. Webster, Director, Mgmt. & Adm. Svcs.
Linda McAdams, Ass't Chief, Mgmt. & Admin. Svcs.
Ellen Brodsky, Esq., Chief Counsel, DRB
Charles Centinaro, Esq., Director, OAE
Isabel McGinty, Esq., Statewide Ethics Coordinator, OAE
Susan Fleming, Office Administrator, OAE

1.1 2017 DISCIPLINARY BUDGET OVERVIEW

REVENUES:

Attorney Registration Fees:				
Practicing 3 - 49 years (@ $148)		$ 10,360,000		
Practicing 2 years (@ $25)		80,000		
Total Registration Fees			$ 10,440,000	
Other Fees				
Prior Year Payments		275,000		
Fee Arbitration Filing Fees		70,000		
Interest on Funds		32,000		
Disciplinary Costs Recovered		220,000		
In-House Counsel		188,700		
Pro Hac Vice Fees		1,036,000		
Multi-Jurisdictional Practice		23,680		
Reinstatement Fees		65,000		
Late Fees		320,000		
Other Revenue		3,000		
Total Other Fees			$ 2,233,380	
Total Projected **Revenues** 2017			**$ 12,673,380**	

EXPENSES:

Salaries & Benefits:				
Salaries at 96.5%		$ 7,194,459		
(Allows for 3.5% vacancy rate)				
Fringe Benefits at 51.52%		$ 3,706,585		
Total Salaries & Benefits			$ 10,901,044	
Operating Expenses:				
OFFICE EXPENSE		600,811		
HEARING FEES		159,000		
OTHER EXPENSES		176,425		
MAINTENANCE & FIXED EXPENSES		372,938		
SPECIAL PURPOSE		1,170,127		
Emoluments	539,500			
Contingencies	7,500			
Attorney Registration Costs	623,127			
EQUIPMENT		83,000		
Total Operating Expenses			$ 2,562,301	
Total Projected **Expenses** 2017			**$ 13,463,345**	
Revenues Less Expenses 2017				$ (789,965)
ADD: Reserve, End of 2016				$ 3,363,568
Reserve, End of 2017				**$ 2,573,603**
				19.1%