

2016 STATE OF THE ATTORNEY DISCIPLINARY SYSTEM REPORT



Hon. Stuart Rabner
Chief Justice
Supreme Court of New Jersey

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OFFICE OF ATTORNEY ETHICS



OF THE SUPREME COURT OF NEW JERSEY

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**TO: THE HONORABLE CHIEF JUSTICE STUART RABNER AND
ASSOCIATE JUSTICES OF THE NEW JERSEY SUPREME COURT**

It is my pleasure and privilege to present, on behalf of the New Jersey Office of Attorney Ethics, this thirty-second issue of the State of the Attorney Disciplinary System Report. Highlights of the report include:

- Thirteen point four percent (13.4%) more attorneys were disciplined in 2016 (169) than in 2015 (149).
- New investigations increased by 15.8% (1,379) from the filings in 2015 (1,191).
- New formal complaints (and other charging documents) increased by 19.2% percent (279) compared to 2015 (234).
- OAE's yearly average investigative time goal compliance decreased from 80% for 2015 to 78% for 2016.
- District Ethics Committees' yearly average time goal compliance for 2016 decreased by 4% to 71%.
- OAE ethics counsel appeared before the Supreme Court on 32 occasions for oral argument in 2016.
- District Fee Arbitration Committees handled a total of 1,508 cases involving close to \$11.5 million in legal fees during 2016.
- The Random Audit Compliance Program conducted a record 730 audits of law firms in 2016.
- Nine (9) lawyers were disciplined (including three disbarments) through the detection efforts of the Random Audit Compliance Program.
- As of December 31, 2016, the attorney population was 97,489 – one attorney for every 92 New Jersey citizens.
- The Garden State ranks 5th in the nation in the number of attorneys admitted to practice.
- New Jersey ranks 40th in the country (at \$212) in annual attorney licensing fees charged.

- Eight (8) lawyers were disciplined in 2016 due to the Trust Overdraft Notification Program.

The Office of Attorney Ethics and the District Ethics Committees are focused on improving compliance with the Court's time goals, and every effort is being made to maintain the trust of the public in the disciplinary, fee and random audit system.

Respectfully submitted,

A handwritten signature in cursive script that reads "Charles Centinaro".

Charles Centinaro, Director
Office of Attorney Ethics

TABLE OF CONTENTS

		Page
I.	The Year in Review	
	A. Case Processing	1
	B. Seventh Annual OAE Training Conference.....	2
	C. Discipline	2
II.	Attorney Disciplinary Process and Procedure	
	A. Grievances	3
	B. Investigations	3
	C. Complaints	5
	D. Hearings	5
III.	Sanctions	
	A. Types of Disciplinary Sanctions.....	7
	B. Final Discipline	7
	C. Emergent Action	8
	D. Total Discipline.....	9
IV.	Grounds for Final Discipline	
	A. Knowing Misappropriation	15
	B. Fraud and Misrepresentation.....	16
	C. Criminal Convictions	16
	D. Gross Neglect/Lack of Diligence/Incompetence	16
	E. Other Money Offenses	16
	F. Non-Cooperation with Ethics Authorities.....	16
	G. Unauthorized Practice of Law	16
	H. Conflict of Interest	17
	I. Lack of Communication	17
	J. Candor Toward Tribunal	17
	K. Ineligible Practicing Law	17
	L. Fees.....	17
	M. Money-Recordkeeping.....	17
V.	Other Related Actions	
	A. Disability-Inactive Status	31
	B. Contempt	31
	C. Diversions	31
	D. Reinstatement Proceedings	32
	E. Monitored Attorneys	32
VI.	Disciplinary Structure	
	A. District Ethics Committees.....	34
	B. Disciplinary Review Board	35
	C. Supreme Court of New Jersey.....	36
	D. Financing Attorney Discipline	36
	E. Office of Attorney Ethics	37
VII.	Attorney Fee Arbitration	
	A. History and Purpose	40
	B. Administration.....	40
	C. Structure	40
	D. Annual Caseload.....	43
	E. Nature of Cases	44
	F. Enforcement	45

	<u>Page</u>
VIII. Random Audit Program	
A. Purpose	46
B. Administration.....	47
C. Randomness and Selection.....	47
D. Standards for Accounting	47
E. Auditing Procedures	47
F. Compliance Through Education.....	48
G. Disciplinary Actions	48
IX. Attorney Registration	
A. Attorney Population	50
B. Admissions	50
C. Attorney Age	51
D. Other Admissions	52
E. Private Practice	53

TABLE OF FIGURES

<u>FIGURE</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
1	Changes in Investigations	4
2	Lawyer-Grievance Analysis	4
3	Changes in Complaints	5
4	Five-Year Sanction Trend	9
5	Yearly Discipline Report	10
6	2016 Disciplinary Summaries	18
7	Attorney Disciplinary System	33
8	2016-2017 District Ethics Committee Officers	34
9	2016-2017 District Fee Committee Officers	41
10	Changes in Fee Disputes	43
11	2016 RAP Sanctions	48
12	Attorneys Admitted	50
13	Year Admitted	51
14	Attorney Age Groups	52
15	Other Admissions	52
16	Admissions in Other Jurisdictions	53
17	Private Practice of New Jersey Law	54
18	Private Firm Structure	54
19	Private Firm Size	55
20	Number of Law Firms	55
21	Bona Fide Office Locations	56
22	Attorneys with Bona Fide Private Offices	56

I. THE YEAR IN REVIEW

A. CASE PROCESSING

In an effort to ensure swift justice and efficiency, the Supreme Court has established time goals for the thorough and fair completion of all disciplinary investigations and hearings. *R.1:20-8*.

1. Investigations

a. Time Goal Compliance

The OAE's compliance with the Supreme Court's time goals for investigating cases was 78% in 2016, down from 80% in 2015. The Ethics Committees' average time goal compliance for the year decreased by 4% to 71%.

b. Age of Investigations

The average age of the OAE's pending investigations increased from 169 days for 2015 to 173 days for 2016. The average age of the Ethics Committees' pending investigations increased from 145 days for 2015 to 163 days for 2016.

c. Backlog

The OAE's average backlog increased by 2% to 22% for 2016 and the percentage of investigations over one year old as of December 31, 2016, was 11%. The backlog of the Ethics Committees increased by 4% to 29%.

d. Investigations Added

In 2016, more new investigations were added to the joint docket of the OAE and Ethics Committees than in 2015. Specifically, 1,379 new investigations were commenced in 2016, as opposed to 1,191 investigations in 2015. Stated differently, new investigations increased by 15.8% in 2016.

2. Hearings

a. Age of Hearings

In 2016, the average age of the OAE's disposed hearings increased by 198 days, or 6.5 months. The average age of the Ethics Committees' disposed hearings in 2016 decreased by 35 days.

b. Complaints Filed

In 2016, the OAE and Ethics Committees filed more complaints in 2016 than in 2015. Two hundred and seventy-nine (279) complaints were added in 2016, representing an increase of 19.2% over the 234 complaints filed in 2015.

B. SEVENTH ANNUAL OAE TRAINING CONFERENCE

Improving efficiency is a top priority of the OAE, but not at the expense of quality and thorough investigations and fair prosecutions and adjudications. To help ensure and improve the quality and effectiveness of attorney regulation, the OAE supplements its regular training of the professionals and volunteers involved in attorney discipline by hosting an all-day training conference. The seventh annual conference was held at The Conference Center at Mercer County Community College on October 17, 2016.

Justice Faustino Fernandez-Vina, the keynote speaker at the 2016 OAE Training Conference, warmly welcomed the attendees. He recalled fondly his time as a past member of the District IV Ethics Committee, and reminded the attendees that public confidence in the ethics system must remain strong. He thanked the OAE for the Annual Training Conference, and noted that a full-day devoted to training was necessary. He further noted that it was impactful to see all of the “manpower” required to ensure the fair, impartial regulation of our great profession. He discussed our “noble trade,” and the unity of purpose for the volunteers and full-time ethics professionals. He specifically thanked the volunteers, who give selflessly to the District Ethics and Fee Committees. He lauded the ease of use for the public seeking help from the District Ethics or Fee Committees, and concluded by thanking all attendees for the prompt and even-handed review of complaints.

Justice Fernandez-Vina’s remarks were followed by nine workshops designed to meet the specific training needs of all those involved in the screening, investigation, prosecution, and adjudication of attorney disciplinary matters. A record 266 staff and volunteers attended the training conference.

C. DISCIPLINE

A total of 169 attorneys were sanctioned by the New Jersey Supreme Court in 2016. (See “Sanctions” at page 7). This number includes all attorneys on whom final discipline was imposed, as well as those against whom emergent action was taken. In 2015, 149 attorneys were sanctioned. Therefore, 13.4% more attorneys were disciplined than one year ago.

II. ATTORNEY DISCIPLINARY PROCESS AND PROCEDURE

A. GRIEVANCES

The attorney disciplinary process usually begins with the filing of a grievance against an attorney. Grievances come from various sources, including clients, other attorneys, judges and the OAE itself. On receipt of a grievance, a determination is made as to whether the facts alleged, if true, would constitute unethical conduct. If the facts alleged in the grievance would not constitute unethical conduct (for example, where the lawyer did not pay a personal bill), the case will not be docketed. If, on the other hand, a determination is made that the facts alleged in the grievance, if true, would constitute unethical conduct, and if the grievance is not otherwise properly declined, the grievance is docketed.

B. INVESTIGATIONS

1. *Clear and Convincing Evidence*

Docketed grievances are assigned for investigation to determine whether unethical conduct may have occurred and, if so, whether there is sufficient evidence to prove the charges to a clear and convincing evidence standard. Investigations include communicating with the respondent-attorney, the grievant and any necessary witnesses, as well as securing necessary records and documents.

2. *Confidentiality*

Pursuant to *R.1:20-9(b)*, all disciplinary investigations are confidential until and unless a formal complaint or other charging document has been filed and served upon the attorney-respondent. Thereafter, the pleadings and hearing are public, but other documents and records will nonetheless remain confidential. Disciplinary officials have a duty to maintain the confidentiality of the system and of all non-public documents. *R. 1:20-9(i)*. Once a formal complaint or other charging document is filed, the complaint and any other document filed thereafter becomes public (with minor limitations) but subject to protective orders in rare situations.

3. *Statewide Investigations*

Overall, the disciplinary system (OAE and Ethics Committees) began 2016 with a total of 1,068 investigations carried over from prior years. During the year, 1,379 new investigations were added for a total disposable caseload of 2,447. A total of 1,378 investigations were completed and disposed of, leaving a total of 1,069 pending investigations at year's end. Of that number, 219 were in untriable status, leaving an active pending investigative caseload of 850 matters.

During 2016, the number of grievances docketed and assigned for investigation increased by 15.8%, compared to the 1,191 new filings recorded in 2015. **(Figure 1)**.

Changes in Investigations

Year	Filings	Change
2016	1,379	15.8%
2015	1,191	-10.2%
2014	1,327	-1.0%
2013	1,340	-0.7%
2012	1,349	-

Figure 1

The number of attorneys against whom grievances are docketed for investigation is generally a very small percentage of the total lawyer population. In 2016, only 1.8% of the 75,137 active lawyers as of December 31, 2016 had grievances docketed against them. (**Figure 2**).

Lawyer-Grievance Analysis

Year	Filings	Lawyers*	Percent
2016	1,379	75,137	1.84%
2015	1,191	75,526	1.58%
2014	1,327	75,108	1.77%
2013	1,340	73,697	1.82%
2012	1,349	71,578	1.88%

* Active Lawyers – Source: Lawyers' Fund for Client Protection

Figure 2

4. Time Goals

The Supreme Court has established time frames in which investigations and hearings should be concluded. *R. 1:20-8*. These time goals call for standard investigations to be completed within six months and complex investigations within nine months from the date a grievance is docketed (until an investigative report is filed and the case is dismissed, diverted or a charging document is filed). Most cases handled by the Ethics Committees are classified as standard while almost all OAE cases are classified as complex. The actual time involved necessarily depends on a number of factors, including staffing, the cooperation of the grievant, the respondent and any other witnesses, as well as the complexity of the matter itself.

The average investigative time goal compliance rate for OAE cases for 2016 was 78%, down from 80% for 2015. The average time goal compliance rate at the Ethics Committee level decreased from 75% for 2015 to 71% for 2016.

The OAE's average age of pending investigations increased from 169 days for 2015 to 173 for 2016. The average age of pending investigations of the Ethics Committees also increased, from 145 days in 2015 to 163 days for 2016.

The OAE's average backlog of investigations increased from 20% for 2015 to 22% for 2016. The average backlog of the Ethics Committees increased from 25% for 2015 to 29% for 2016.

C. COMPLAINTS (AND OTHER CHARGING DOCUMENTS)

At the conclusion of the investigative process, a determination is made as to whether there is adequate proof of unethical conduct. If there is no reasonable prospect of proving unethical conduct to the requisite standard, the matter is dismissed. If, however, there is a reasonable prospect of proving unethical conduct by clear and convincing evidence, and the matter is not diverted (see “Other Related Actions” at page 30), a formal complaint is filed and served on the respondent-attorney, who has 21 days to file an answer.

1. *Statewide Formal Complaints*

The disciplinary system began calendar year 2016 with a total of 252 complaints carried over from prior years. During the year, 279 new complaints were added for a total disposable caseload of 531. A total of 219 complaints were disposed of through the hearing process, leaving 312 pending complaints at year’s end. Of that number, 18 were in untriable status, leaving an active pending caseload of 294 complaints.

The number of new formal complaints filed in 2016 (279) increased by 19.2% over 2015 (234). The number of complaints filed in each of the last five years is listed in **Figure 3**.

Changes in Complaints

Year	Filings	Change
2016	279	19.2%
2015	234	3.5%
2014	226	0.4%
2013	225	-5.5%
2012	238	-

Figure 3

D. HEARINGS

1. *Hearing Panels or Special Ethics Masters*

Once an answer is filed, a disciplinary hearing is scheduled and held. In both standard and complex cases, the matter is tried before a hearing panel consisting of three members, composed of two lawyers and one public member. In some complex cases, however, a special ethics master may be appointed by the Supreme Court to hear and decide the matter.

2. *Procedure*

In disciplinary hearings, the procedure followed is similar to that in court trials. A verbatim record of the entire proceeding is made. Testimony is taken under oath. Attendance of witnesses and the production of records may be compelled by subpoena. After the conclusion of the hearing, the panel or special ethics master deliberates and prepares a hearing report either dismissing the complaint, if it determines that the lawyer has not committed unethical conduct, or finding the lawyer to have committed unethical conduct, with the recommendation of the level of discipline.

3. *Public Hearings*

All hearings are open to the public except in rare circumstances where comprehensive protective orders have been entered.

4. *Age of Disposed Hearings*

In 2016, the average age of the OAE's disposed hearings increased by 198 days, from 458 days in 2015 to 656 days in 2016. The Ethics Committees, on the other hand, concluded their hearings an average of 35 days sooner than the previous year (301 days in 2016, compared to 336 days in 2015).

III. SANCTIONS

A. TYPES OF DISCIPLINARY SANCTIONS

There are two types of disciplinary sanctions. The first (and most common) type of disciplinary sanction is final discipline. The second type of disciplinary sanction is imposed as a result of emergent action.

B. FINAL DISCIPLINE

Final discipline is imposed by the Supreme Court. The Supreme Court imposes final discipline after the attorney is first afforded an opportunity for a disciplinary hearing either at the trial level and/or after the Disciplinary Review Board (Review Board) concludes appellate review (or original review in the case of motions and stipulations). The Supreme Court automatically schedules oral argument in all cases in which the Review Board has recommended disbarment. Other matters are argued only if the Supreme Court grants a party's petition for review or on the Supreme Court's own motion.

The OAE represents the public interest in all arguments before the Supreme Court. OAE attorneys appeared 32 times for oral argument in discipline cases in 2016. Arguments are streamed in real time over the Internet and can be accessed at the Judiciary's Website -- www.njcourtsonline.com -- by clicking on the WEBCAST icon.

In 2016, the Supreme Court imposed final discipline on 130 New Jersey attorneys. Prior years' totals were: 116 in 2015, 150 in 2014, 135 in 2013, and 139 in 2012. **Figure 5** at page 11 contains a list of all final and emergent action, as well as all reinstated attorneys for 2016.

1. *Forms of Final Discipline*

There are five primary forms of final disciplinary sanctions: disbarment, suspension (for a definite or indefinite term), censure, reprimand, and admonition.

a. Disbarment

Disbarment is the most severe form of discipline and may be imposed either by the Supreme Court after oral argument or with the respondent's consent. Disbarment in New Jersey is, for all practical purposes, permanent. *In re Wilson*, 81 N.J. 451, 456 n.5 (1979) and *R.1:20-15A(a)(1)*. Like New Jersey, three other states impose disbarment on a permanent basis in all cases (Indiana, Ohio and Oregon). Eight other jurisdictions have recognized the importance of permanency in some, but not all, disbarment cases (Arizona, Alabama, California, Connecticut, Florida, Kansas, Louisiana and Mississippi).

b. Suspension

Suspension precludes an attorney from practicing law for the period it is in effect. An attorney may not resume practicing at the end of the suspension until the Supreme Court orders reinstatement. There are two types of suspensions. Term suspensions prevent an attorney from practicing for a specific term between three months to three years. *R. 1:20-15A(a)(3)*.

Indeterminate suspensions may generally be imposed for a minimum of five years. *R. 1:20-15A(a)(2)*.

c. Censure

Censure is a condemnation of the attorney's misconduct that is imposed by Order of the Supreme Court. *R. 1:20-15A(a)(4)*.

d. Reprimand

A reprimand is a rebuke for an attorney's unethical conduct. *R. 1:15A(a)(5)*.

e. Admonition

Admonition, the least serious sanction, is a written admonishment meted out either by letter of the Review Board or by Order of the Supreme Court. *R. 1:20-15A(a)(6)*.

2. *Discipline Imposed by the Supreme Court*

The 130 final sanctions imposed in 2016 include 21 disbarments by Order of the Supreme Court, 15 disbarments by consent of the respondent, 31 term suspensions, no indefinite suspensions, 22 censures, 26 reprimands and 15 admonitions.

Comparisons of 2016 sanctions with the prior year are as follows: disbarments by Order of the Supreme Court increased by 250% (21 vs. 6); disbarments by consent decreased by 16.7% (15 vs. 18); term suspensions increased by 24% (31 vs. 25); censures increased by 15.8% (22 vs. 19); reprimands decreased by 7.1% (26 vs. 28); and admonitions decreased by 21.1% (15 vs. 19).

C. EMERGENT ACTION

Whenever the OAE believes a serious violation of the Rules of Professional Conduct has occurred and that an attorney "poses a substantial threat of serious harm to an attorney, a client or the public" (*R. 1:20-11*), it may file an application seeking the attorney's immediate temporary suspension from practice, pending ongoing investigation. The Supreme Court may either suspend the attorney temporarily or impose a temporary license restriction, which permits the lawyer to continue to practice, but places conditions on that privilege. Conditions may include oversight by a proctor of the attorney and/or trust account.

For 2016, a total of 39 attorneys were the subject of emergent sanctions (39 temporary suspensions). This represents an increase of 18.2% from the total in 2015, when 33 emergent actions were taken (33 temporary suspensions). Prior years' results were: 2014 (24 temporary suspensions); 2013 (35 temporary suspensions); and 2012 (40 temporary suspensions). During that five-year period, an average of 34 lawyers were subject to emergent action. The names of attorneys emergently disciplined are listed on page 13 [Figure 5].

In 2016, the leading reasons for emergent discipline were: non-payment of fee arbitration committee awards at 43.6% (17 cases); non-cooperation with disciplinary authorities and non-compliance with Supreme Court Orders at 25.6% (10 cases); non-payment of disciplinary costs at 12.8% (5 cases); the attorney’s conviction of a “serious crime” as defined in R.1:20-13 at 10.3% (4 cases); other at 5.1% (2 cases); and knowing misappropriation of clients’ trust funds at 3% (1 case).

D. TOTAL DISCIPLINE

In total, 169 attorneys were sanctioned by the New Jersey Supreme Court in 2016, whereas 149 attorneys were sanctioned in 2015 (representing an increase of 13.4%). Sanction totals for previous years were as follows: 174 in 2014; 170 in 2013; and 179 in 2012. The average number of sanctions over the past five years is 168. The number of attorneys sanctioned in 2016 is .6% higher than this five-year average.

Five-Year Sanction Trend

Year	Attorneys Disciplined
2016	169
2015	149
2014	174
2013	170
2012	179

Figure 4

OFFICE OF ATTORNEY ETHICS

YEARLY DISCIPLINE REPORT

(1/1/2016 to 12/31/2016)

DISBARMENT (21)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
ARMOUR, RAYMOND	1994	ESSEX	03/16/2016	03/16/2016
BULTMEYER, PAUL G	1972	BERGEN	02/03/2016	02/03/2016
CATALINE, ANNE P	1994	BURLINGTON	03/02/2016	03/02/2016
CHMURA, EUGENE E	1994	NEW YORK	09/28/2016	09/28/2016
COZZARELLI, FRANK J	1977	ESSEX	05/02/2016	05/02/2016
DIORIO, ROBERT C	1975	UNION	01/20/2016	01/20/2016
FREY, THOMAS GERARD	1989	MIDDLESEX	09/28/2016	09/28/2016
GAHWYLER, WILLIAM E JR	1990	BERGEN	06/15/2016	06/15/2016
GOLDMAN, ELIZABETH MICHELLE	1997	CAMDEN	01/20/2016	01/20/2016
HAMILL, JOHN F JR	1980	HUDSON	03/02/2016	03/02/2016
HARDY, ROLAND G JR	1978	GLOUCESTER	05/04/2016	05/04/2016
LEGOME, HARRIS C	1992	PENNSYLVANIA	09/29/2016	09/29/2016
MALANGA, ANTHONY F JR	1982	UNION	10/20/2016	10/20/2016
MORAS, HUGO L	1975	ESSEX	10/14/2016	10/14/2016
NOONAN, GREGORY R	1995	CAMDEN	10/14/2016	10/14/2016
O'HARA, JOHN J III	2005	MORRIS	03/01/2016	03/01/2016
PERCY, KIRILL	1996	FLORIDA	09/14/2016	09/14/2016
SCHER, WILLIAM G	1990	PASSAIC	11/09/2016	11/09/2016
TAN, HERBERT JONI	1998	BERGEN	04/13/2016	04/13/2016
WEIL, ROGER J	1979	SOMERSET	03/09/2016	03/09/2016
WILSON, WALTER N	1980	HUNTERDON	11/17/2016	11/17/2016

DISBARMENT BY CONSENT (15)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
CUTILLO, ARTHUR J	2005	BERGEN	09/06/2016	09/06/2016
DANESE, GREGORY	1974	HUNTERDON	03/11/2016	03/11/2016
DUBAL, SIDDHARTH G	2006	MIDDLESEX	01/26/2016	01/26/2016
FIELD, ARTHUR M	1977	FLORIDA	11/10/2016	11/10/2016
GARBER, MICHAEL DAVID	1986	MIDDLESEX	04/06/2016	04/06/2016
HAIRSTON, MAEBLE LOIS	1990	MONMOUTH	07/26/2016	07/26/2016
HENNESSEY, ROBERT LUKE	1987	HUDSON	05/03/2016	05/03/2016
HOROWITZ, VICTOR J	1982	HUNTERDON	09/06/2016	09/06/2016
KUSNIRIK, ANDREW MICHAEL III	1987	MERCER	11/07/2016	11/07/2016
NACHAMIE, BARTON	1977	NEW YORK	06/27/2016	06/27/2016
PARKIN, HARRY G	1972	MERCER	10/20/2016	10/20/2016
POWELL, JOHN REX	2007	FLORIDA	03/07/2016	03/07/2016
SAIDEL, SCOTT F	1993	FLORIDA	12/13/2016	12/13/2016
SHAPIRO, TERRY L	1974	ESSEX	04/20/2016	04/20/2016
TOSI, LAWRENCE G	1990	PASSAIC	11/01/2016	11/01/2016

SUSPENSION TERM (31)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
BUCKLEY, CHRISTOPHER J - 3 mo.	2010	HUDSON	09/20/2016	10/21/2016
CAOLA, VICTOR J - 3 mo.	1980	OCEAN	02/11/2016	05/18/2006
CHIZIK, JOSEPH S - 24 mo.	1976	BURLINGTON	09/08/2016	09/08/2016
COLLINS, JOHN J - 3 mo.	2005	HUDSON	09/20/2016	10/21/2016
DARIENZO, MARC - 3 mo.	1993	MONMOUTH	07/22/2016	08/22/2016
DAVIDSON, MARVIN S - 36 mo.	1969	ESSEX	11/03/2016	11/03/2016
DESOKY, AHMAD LOTF - 12 mo.	2007	BERGEN	05/05/2016	05/05/2016
DORFMAN, DAVID A - 12 mo.	1991	MERCER	07/07/2016	01/23/2012
EDELSTEIN, MARK - 3 mo.	2007	TEXAS	01/13/2016	02/12/2016
FRANCO, ROBERT ACHILLE - 12 mo.	1989	MORRIS	11/17/2016	11/17/2016
GIAMPAPA, ANTHONY J - 12 mo.	1973	ESSEX	10/07/2016	10/07/2016
GREENMAN, JONATHAN - 3 mo.	2003	BERGEN	10/07/2016	10/07/2016
KAPALIN, CHARLES BRIAN - 36 mo.	1982	ESSEX	12/08/2016	12/12/2014
MANDALE, MICHAEL Z - 12 mo.	2006	PENNSYLVANIA	12/07/2016	12/07/2016
MARTIN, JEFFREY K - 6 mo.	1981	DELAWARE	09/21/2016	11/18/2014
OURY, DENNIS J - 36 mo.	1975	FLORIDA	11/02/2016	11/17/2009
PALFY, MARC Z - 36 mo.	1999	MONMOUTH	07/22/2016	07/22/2016
PARAGANO, JOHN O - 3 mo.	1990	UNION	11/17/2016	12/16/2016
PARK, JAE HOON - 3 mo.	1997	MIDDLESEX	07/22/2016	08/22/2016
PHILLIPS, DUANE T - 12 mo.	1993	ATLANTIC	03/10/2016	03/10/2016
PROSKURCHENKO, KSENIA V - 6 mo.	2008	UNION	05/04/2016	05/04/2016
ROBINSON, CHERI S WILLIAMS - 3 mo.	2001	PENNSYLVANIA	11/02/2016	11/02/2016
RUBIN, MERRILL N - 24 mo.	1983	NEW YORK	12/07/2016	12/07/2016
SALUTI, GERALD M - 12 mo.	1992	MONMOUTH	07/22/2016	05/29/2014
SIMPKINS, DARRYL W - 36 mo.	1984	SOMERSET	03/01/2016	03/30/2016
SISON, VICTOR G - 3 mo.	1992	HUDSON	11/17/2016	12/16/2016
SMITH, NESTOR - 3 mo.	2002	ATLANTIC	10/06/2016	11/04/2016
SUAREZ-SILVERIO, ARTURO S - 12 mo.	2002	ESSEX	10/06/2016	11/01/2016
VELAHOS, EFTHEMOIS D - 6 mo.	1991	GLOUCESTER	05/26/2016	05/26/2016
WARREN, DONALD E - 3 mo.	1996	MERCER	12/05/2016	01/06/2017
WEICHSEL, JOHN L - 3 mo.	1972	BERGEN	11/17/2016	12/16/2016

CENSURE (22)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
ALBANO, JOSEPH	1987	BERGEN	06/16/2016	06/16/2016
BATCHA, FRANCIS BRADFORD	1994	MONMOUTH	07/22/2016	07/22/2016
BERAN, BARRY J	1981	CAMDEN	03/29/2016	03/29/2016
BOLTON, MICHAEL DENNIS	1989	SOMERSET	09/08/2016	09/08/2016
CROTTY, FRANCIS P	1975	BERGEN	11/04/2016	11/04/2016
DIAZ, ANDRES J	1981	ESSEX	12/08/2016	12/08/2016
DOWNS, THOMAS E IV	1975	MIDDLESEX	03/09/2016	03/09/2016
FARRELL, RAYMOND J	1980	MONMOUTH	05/04/2016	05/04/2016
FORTUNATO, ROBERT ALFONSO	1996	BERGEN	05/19/2016	05/19/2016

FRANK, BARRY N	1977	BERGEN	11/02/2016	11/02/2016
GELLER, LARRY S	1980	ESSEX	12/07/2016	12/07/2016
GOIRAN, PHILIP ALEXANDER	1995	COLORADO	04/26/2016	04/26/2016
GREENMAN, JONATHAN	2003	BERGEN	05/19/2016	05/19/2016
GREENMAN, SAL	1993	BERGEN	05/19/2016	05/19/2016
KLAMO, JOHN ANDREW	1982	CAMDEN	06/15/2016	06/15/2016
LOWDEN, SUSAN A	1991	CAMDEN	09/21/2016	09/21/2016
MOSES, KEITH O	1990	HUDSON	05/19/2016	05/19/2016
NADEL, RAYMOND S	1982	CAMDEN	12/07/2016	12/07/2016
PRIBULA, ADAM S	2007	MORRIS	03/04/2016	03/04/2016
SPADORA, JOHN C	1970	HUDSON	04/21/2016	04/21/2016
STASIUK, GEORGE P	1990	PASSAIC	02/12/2016	02/12/2016
ZIELYK, ANDREY V	1986	MORRIS	09/08/2016	09/08/2016

PUBLIC REPRIMAND (26)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
ALTAMURO, STEPHEN	1985	GLOUCESTER	07/21/2016	07/21/2016
BAIK, HAE YEON		PENNSYLVANIA	03/04/2016	03/04/2016
BAILEY, ERIC B	2006	ESSEX	01/27/2016	01/27/2016
BASHIR, MUHAMMAD	1987	UNION	05/18/2016	05/18/2016
BRADY, MARK HENDERSON	1984	FLORIDA	09/21/2016	09/21/2016
CAMERON, JOSE M	1978	MIDDLESEX	06/27/2016	06/27/2016
CLAUSEN, PAUL FRANKLIN	1982	HUNTERDON	01/13/2016	01/13/2016
FRENCH, ROBIN L	1991	HUDSON	10/07/2016	10/07/2016
GONZALEZ, OSUALDO	1987	HUDSON	07/21/2016	07/21/2016
GORDON, GERALD	1971	MIDDLESEX	12/08/2016	12/08/2016
GUZMAN, FRANCISCO S	2001	HUDSON	12/07/2016	12/07/2016
KELLY, JOSEPH P	1967	MORRIS	06/22/2016	06/22/2016
KLINEBURGER, RICHARD F	1995	CAMDEN	12/02/2016	12/02/2016
LAWLOR, WILLIAM J III	1989	OCEAN	05/18/2016	05/18/2016
LEVINE, WALTER D	1965	MORRIS	04/20/2016	04/20/2016
LOIGMAN, LARRY S	1977	MONMOUTH	03/09/2016	03/09/2016
LONG, DOUGLAS M	1999	GLOUCESTER	11/04/2016	11/04/2016
MEHTA, NIRAV	1997	BURLINGTON	11/04/2016	11/04/2016
NICOSIA, NICHOLAS	2005	SUSSEX	11/04/2016	11/04/2016
PAVEZ, JEANNET E	2004	ESSEX	03/07/2016	03/07/2016
PAYTON, QUEEN E	2001	BURLINGTON	11/17/2016	11/17/2016
PRIGNOLI, ROBERT B	1989	MONMOUTH	03/04/2016	03/04/2016
RUSH, WILLIAM J	2002	ESSEX	06/02/2016	06/02/2016
SHIN, EUNGNAM PETER	1998	NEW YORK	05/05/2016	05/05/2016
VOLLBRECHT, MICHAEL JOHN	2010	UNION	03/09/2016	03/09/2016
WOLFE, THOMAS M	2002	MIDDLESEX	11/04/2016	11/04/2016

ADMONITION (15)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
CAPPIO, CHRISTOPHER G	2007	PENNSYLVANIA	03/24/2016	03/24/2016
CHRISTIE, CATHLEEN J	1998	MONMOUTH	10/21/2016	10/21/2016
DURST, THOMAS S.	1999	MERCER	07/27/2016	07/27/2016
FRANCOIS, JEAN WATSON E	2009	HUDSON	09/22/2016	09/22/2016

FROST, MARK B.	PHV	UNKOWN	05/23/2016	05/23/2016
HELFRIFTH, GEORGE P. JR.	1978	ESSEX	02/24/2016	02/24/2016
IBEZIM, SEBASTIAN ONYI JR	1997	ESSEX	07/27/2016	07/27/2016
KOBRIN, CRAIG JOSEPH	1993	UNION	02/02/2016	02/02/2016
LA ZARE, JILL A	2001	UNION	05/24/2016	05/24/2016
MARMERO, ALBERT K	2003	GLOUCESTER	07/29/2016	07/29/2016
NISH, ROBERT J	1975	MORRIS	09/22/2016	09/22/2016
PENBERTHY, JOHN C III	1990	CAMDEN	03/24/2016	03/24/2016
PHILIP, GENIA C	2000	ESSEX	11/21/2016	11/21/2016
STEWART, CLIFFORD G	1983	ESSEX	05/24/2016	05/24/2016
ZOECKLEIN, CARL G	1990	PASSAIC	09/22/2016	09/22/2016

TOTAL FINAL DISCIPLINE.....130

TEMPORARY SUSPENSION (39)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
AUTRY, WAYNE ANTONIO	2001	ESSEX	03/10/2016	04/11/2016
BOLTON, MICHAEL DENNIS	1989	SOMERSET	08/02/2016	09/02/2016
BUSICHIO, EDWARD P	1976	UNION	12/01/2016	12/30/2016
BYRNE, JAMES PETER	1991	HUDSON	11/03/2016	12/02/2016
CRESCI, PETER JONATHAN	1992	HUDSON	11/17/2016	11/17/2016
DI CIURCIO, JOHN DAVID	1997	CAMDEN	02/05/2016	03/07/2016
DUTT, SUNILA D	2012	VIRGINIA	10/31/2016	10/31/2016
DWYER, LOUIS C JR	1970	CAPE MAY	03/03/2016	03/03/2016
FRANK, BARRY N	1977	BERGEN	11/02/2016	11/02/2016
FRANK, BARRY N	1977	BERGEN	11/03/2016	12/02/2016
GORMAN, MATTHEW M	2012	BERGEN	04/11/2016	05/11/2016
GORMAN, MATTHEW M	2012	NEW YORK	09/28/2016	10/28/2016
GROSSBARTH, JOEL A	1993	UNION	03/03/2016	03/03/2016
HENNESSEY, ROBERT LUKE	1987	HUDSON	03/11/2016	03/11/2016
HIRSCH, GLEN D	1987	NEW YORK	10/06/2016	10/06/2016
KAPLAN, RACHEL DALE	1992	BERGEN	05/31/2016	06/30/2016
KIM, YOUNG MIN	2006	BERGEN	06/15/2016	06/15/2016
LAZEROWITZ, JAY I	1983	BERGEN	01/27/2016	01/27/2016
LEINER, ROBERT H	1994	CAMDEN	05/10/2016	06/10/2016
LLOYD, JAMES DAVID	1996	UNION	02/22/2016	03/23/2016
MC WHIRK, KEITH M	1999	PENNSYLVANIA	04/28/2016	04/28/2016
NAZMIYAL, BENJAMIN	2010	BERGEN	05/13/2014	06/14/2016
NAZMIYAL, BENJAMIN	2010	BERGEN	06/28/2016	07/27/2016
OSBORNE, MICHAEL	1999	MIDDLESEX	02/02/2016	03/03/2016
PERSKIE, NICOLE LEIGH	2013	ATLANTIC	09/21/2016	09/21/2016
PRIBULA, ADAM S	2007	MORRIS	02/22/2016	03/23/2016
RESNICK, MICHAEL L	1988	MORRIS	10/06/2016	10/06/2016
REYES, ARCADIO J	1991	MARYLAND	06/02/2016	06/02/2016
ROBERTS, RICHARD M	1971	ESSEX	02/03/2016	03/03/2016
ROBERTS, RICHARD M	1971	ESSEX	11/01/2016	12/01/2016
ROY, DANIEL J	1975	ESSEX	03/10/2016	04/11/2016
RYS, LAURA M	1993	SOMERSET	03/24/2016	04/25/2016
SAINT-CYR, ELAINE T	1993	MORRIS	09/28/2016	10/28/2016
SALUTI, GERALD M	1992	MONMOUTH	08/02-2016	09/02/2016

SALZMAN, ERIC	2007	ESSEX	05/31/2016	06/30/2016
SAMSON, DAVID N	1965	ESSEX	07/28/2016	07/28/2016
STASIUK, GEORGE P	1990	PASSAIC	03/30/2016	03/30/2016
STEINCOLOR, DEBORAH	1994	ESSEX	11/17/2016	11/17/2016
VELAHOS, EFTHEMOIS D	1991	GLOUCESTER	02/22/2016	03/23/2016

TOTAL TEMPORARY DISCIPLINE.....39

REINSTATEMENTS (12)

<u>ATTORNEY</u>	<u>SUSPENDED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
BEVACQUA, VINCENT E	1/7/2016	ESSEX	4/8/2016	4/8/2016
CASALE, MICHAEL A	05/17/2013	ESSEX	08/01/2016	08/01/2016
DI CIURCIO, JOHN DAVID	03/07/2016	CAMDEN	03/10/2016	03/10/2016
KIM, DANIEL DONK-MIN	07/31/2015	NEW YORK	02/24/2016	02/24/2016
LEINER, ROBERT H	06/10/2016	CAMDEN	07/07/2016	07/07/2016
LUCIANO, MICHAEL A	11/17/2016	MORRIS	11/17/2016	11/17/2016
RIVERO, MARIA J	10/09/2015	HUDSON	01/12/2016	01/12/2016
ROSENTHAL, SCOT D	02/06/2012	PASSAIC	08/01/2016	08/01/2016
ROWEK, MICHAEL A	9/24/2013	PASSAIC	05/20/2016	05/20/2016
ROY, DANIEL J	04/11/2016	ESSEX	09/07/2016	09/07/2016
SACHAR, JONATHAN EDWARD	06/13/2014	CAPE MAY	02/03/2016	02/03/2016
WINSTON, ERIC M	5/1/2015	MONMOUTH	6/27/2016	6/27/2016

TOTAL REINSTATEMENTS.....12

IV. GROUNDS FOR FINAL DISCIPLINE

The type of misconduct committed in final discipline cases is as follows:

A. KNOWING MISAPPROPRIATION

Knowing misappropriation was the most common reason why attorneys were disciplined in 2016. More than fifteen percent (15.4%) of the 130 attorneys disciplined in 2016 knowingly misappropriated trust funds.

Knowing misappropriation cases are of special importance in this state. New Jersey maintains a uniform and unchanging definition of this offense as set forth in the landmark decision of *In re Wilson*, 81 N.J. 451 (1979). It is simply taking and using a client's money knowing that it is the client's money and that the client has not authorized its use. Knowing misappropriation cases, involving client trust/escrow funds, mandate disbarment.

1. *Trust Overdraft Notification*

New Jersey has the most pro-active financial programs of any state in the country, including the Trust Overdraft Notification Program (Overdraft Program) and Random Audit Compliance Program (RAP). The Overdraft Program requires that all financial institutions report to the OAE whenever an attorney trust account check is presented against insufficient funds. During the 32 years of its existence, the Overdraft Program has been the sole source for the discipline of 199 New Jersey lawyers. Almost one half of the attorneys (48%) so disciplined were disbarred. In 2016, eight (8) attorneys were detected and disciplined through this program:

- Siddharth G. Dubal from Middlesex County was disbarred by consent;
- Robert A. Fortunato from Bergen County was censured;
- Larry Geller from Essex County was censured;
- Nicholas Nicosia from Sussex County was reprimanded;
- Clifford G. Stewart from Essex County was admonished;
- Herbert J. Tan from Bergen County was disbarred;
- Lawrence G. Tosi from Passaic County was disbarred by consent; and
- Efthemos D. Velahos from Gloucester County was suspended.

2. *Random Audit Compliance Program*

RAP began conducting audits in 1981. While not designed primarily to detect misappropriation, audits have resulted in the detection of some serious financial violations. Over the 35 years of its operation, a total of 190 attorneys, detected solely by this program, have been disciplined for serious ethical violations. Fifty-six percent (56%) of those attorneys were disbarred or suspended. In 2016, nine (9) attorneys were disciplined for committing serious financial violations:

- Frank J. Cozzarelli of Essex County was disbarred;
- Robert C. Diorio of Union County was disbarred;
- Jonathan Greenman of Bergen County was censured;
- Sal Greenman of Bergen County was censured;

- Andrew M. Kusnirik, III of Mercer County was disbarred by consent;
- Douglas Long of Gloucester County was reprimanded;
- Albert Marmero of Gloucester County was admonished;
- Jeannet E. Pavez of Essex County was reprimanded; and
- John C. Spadora of Hudson County was censured.

B. FRAUD AND MISREPRESENTATION

In second place this year was the grouping of fraud and misrepresentation (whether resulting from criminal or disciplinary findings), which accounted for 13.8% of all final discipline cases (18 of 130 cases). In 2015, this group was ranked fifth at 8.6%.

C. CRIMINAL CONVICTIONS

Criminal Convictions (excluding misappropriation, fraud and drug convictions) was the third most common reason why attorneys were disciplined in 2016. More than 12 percent (12.3%) (16 of 130 cases) of the attorneys disciplined in 2016 were convicted of crimes.

D. GROSS NEGLIGENCE/LACK OF DILIGENCE/INCOMPETENCE

In fourth place was the category of “Gross Neglect/Lack of Diligence/Incompetence” at 11.5% (15 of 130 cases). Attorneys who engage in grossly negligent conduct or who lack diligence or act incompetently are a clear danger to the public. This category was the third most frequent reason for lawyer sanctions in 2015.

E. OTHER MONEY OFFENSES

In fifth place was the category of “Other Money Offenses” at 9.2% (12 of 130 cases). This category includes negligent or reckless misappropriation, serious trust account recordkeeping deficiencies, and failure to safeguard funds and escrow violations. In 2015, this category was in second place.

F. NON-COOPERATION WITH ETHICS AUTHORITIES

The category of “Non-Cooperation with Ethics Authorities” came in sixth place at 6.2% (8 of 130 cases). Attorneys have an ethical obligation under RPC 8.1(b) and *R.1:20-3(g)(3)* to cooperate during the investigation, hearing and processing of disciplinary matters. Some lawyers are disciplined for non-cooperation even though the grievance originally filed against them was ultimately dismissed because there was no proof of unethical conduct. The disciplinary system could not properly function and endeavor to meet its goals for timely disposition of cases without the attorney’s cooperation.

G. UNAUTHORIZED PRACTICE OF LAW

Tied for sixth place was the Unauthorized Practice of Law, which is defined by RPC 5.5 to include not only an attorney practicing New Jersey law after his/her license to practice here has been revoked, but also when an attorney admitted here assists a non-lawyer in the performance of activity that constitutes the unauthorized practice of law.

H. CONFLICT OF INTEREST

“Conflict of Interest” came in seventh place, accounting for 5.4% (7 of 130 cases) of all final discipline cases. This group was in eighth place in 2015.

I. LACK OF COMMUNICATION

In eighth place is the category of "Lack of Communication" at 3.8% (5 of 130 cases). Lawyers are ethically required by RPC 1.4 to "keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information." They also must "explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation." This group was tied for eighth place in 2015.

J. CANDOR TOWARD TRIBUNAL

Candor toward tribunal came in ninth place at just over three percent (3.1%) (4 of the 130 cases). RPC 3.3 prohibits lawyers from knowingly making false statements of material fact or law to a tribunal, from failing to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting an illegal, criminal or fraudulent act by the client, and failing to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel.

Tied for tenth place for 2016, each at 2.3% (3 of 130 cases), are the categories of Ineligible Practicing Law, Fees and Money-Recordkeeping.

K. INELIGIBLE PRACTICING LAW

The grouping “Ineligible Practicing Law” was in tenth place this year at 2.3% (3 of 130 cases). This violation arises when lawyers continue to engage in the practice of law after they are ordered by the Supreme Court to cease practicing because they have failed (a) to make payment of the mandatory annual attorney registration licensing fee; (b) to submit updated IOLTA information; or (c) to comply with CLE requirements. This grouping has been in the top ten grounds for discipline in 2004, 2006, 2008, 2009, 2011, 2012, 2013, 2014 and 2015.

L. FEES

Lawyers are required under RPC 1.5 to charge no more than a reasonable fee. When a fee becomes grossly excessive or violates other related rules, such as the requirement to have a fee agreement in writing, discipline is imposed.

M. MONEY-RECORDKEEPING

All lawyers are required to comply with the provisions of *R.1:21-6* (“Recordkeeping”) of the Court Rules, RPC 1.15(d).

Summaries of each of the 130 final discipline cases can be found in **Figure 6**.

2016 Disciplinary Summaries

Joseph Albano – Censured on June 16, 2016 (225 *N.J.* 368) for gross neglect, pattern of neglect, lack of diligence and lack of communication. Christina Blunda Kennedy appeared before the DRB for the OAE and the respondent appeared pro se.

Stephen Altamura – Reprimanded on July 21, 2016 (225 *N.J.* 602) for violating *RPC 8.4(c)*, conduct involving dishonesty, fraud, deceit or misrepresentation. Respondent has no prior disciplinary history. Jason D. Saunders represented the OAE and the respondent was pro se.

Raymond Armour - Disbarred on March 16, 2016 (224 *N.J.* 387) for knowing misappropriation of client funds, after respondent's willful blindness to an employee's continued misuse of client funds fostered misappropriation. Hillary Horton appeared before the Supreme Court and Alan L. Zegas represented respondent. The respondent was previously disciplined: Admonished in 2012.

Hae Yeon Baik - Reprimanded by consent on March 4, 2016 (224 *N.J.* 260) for violating *RPC 1.5(b)* (failure to set forth in writing the basis of a fee), *RPC 1.15(a)* (failure to hold a client's property separate from the lawyer's own property, to keep funds in a separate account in a New Jersey bank, and to keep such records for seven years), *RPC 1.15(c)* (failure to keep separate property in which the lawyer and another person claim interests), *RPC 1.15(d)* (failure to comply with Rule 1:21-6 recordkeeping rules), *RPC 5.5(a)(1)* (unauthorized practice of law), *RPC 8.4(b)* (a criminal act that reflects adversely on the lawyer's honesty, trustworthiness and fitness as a lawyer), and Rule 1:21-6 (recordkeeping) and N.J.S.A. 2C:21-22 (criminalizing unauthorized practice of law in New Jersey). Isabel McGinty represented the OAE and respondent was represented by Suzanne McSorley.

Eric B. Bailey - Reprimanded on January 27, 2016 (224 *N.J.* 100) for violations of *RPC 1.3* (diligence); *RPC 1.4(b)* (failure to communicate); and *RPC 8.1* (failure to cooperate with disciplinary authorities). Frederick B. Polak represented District XII and respondent was pro se on a motion for certification of the record.

Muhammad Bashir - Reprimanded on May 18, 2016 (225 *N.J.* 8) for failure to set forth in writing the rate or basis of the fee and failure to cooperate with ethics authorities in violation of *RPC 1.5(b)* and *RPC 8.1(b)*. Respondent was previously disciplined: Reprimanded in 1992 and admonished in 2001. Richard Sparaco appeared

before the DRB for District IIIB and respondent was pro se.

Francis B. Batcha - Censured on July 22, 2016 (225 *N.J.* 608) for participating in a real estate transaction in which the HUD-1 form did not accurately reflect the terms of the closing. Respondent violated *RPC 8.4(c)* (conduct involving dishonesty, fraud, deceit or misrepresentation). Maureen G. Bauman represented the OAE and Matthew Marrone represented the respondent.

Barry J. Beran - Censured on March 29, 2016 (224 *N.J.* 388) for violating *RPC 1.8(e)* (providing financial assistance to clients in connection with pending or contemplated litigation), *RPC 1.15(a)* (failure to safeguard funds), *RPC 1.15(b)* (failure to promptly disburse funds), and *RPC 1.15(d)* (recordkeeping violations). Timothy J. McNamara represented the OAE and David H. Dugan, III, represented respondent on a motion for discipline by consent granted by the Disciplinary Review Board.

Michael Dennis Bolton - Censured on September 8, 2016 (226 *N.J.* 471), for violating *RPC 8.1(b)* (failure to cooperate with disciplinary authorities) and Rule 1:20-3(g)(3). Timothy J. McNamara represented the OAE and respondent failed to appear. Respondent was temporarily suspended in 2016 for failure to pay a fee arbitration award.

Mark Henderson Brady - Reprimanded on September 20, 2016 (226 *N.J.* 587), for violating *RPC 1.15(a)* (negligent misappropriation of escrow funds), and *RPC 8.4(c)* (conduct involving dishonesty, fraud, deceit or misrepresentation). Christina Blunda Kennedy represented the OAE and respondent was pro se.

Christopher J. Buckley - Suspended for three months on September 20, 2016, effective October 21, 2016 (226 *N.J.* 478), following his guilty plea in the Superior Court of New Jersey to disorderly persons simple assault, contrary to N.J.S.A. 2C:12-1(a). Hillary Horton represented the OAE on a motion for final discipline and Leo J. Hurley represented the respondent.

Paul G. Bultmeyer - Disbarred on February 3, 2016 (224 *N.J.* 145) following his conviction in the United States District Court for the District of New Jersey to conspiracy to commit wire fraud, contrary to 18 U.S.C. § 1349, conduct which violated *RPC 8.4(b)* (criminal act that reflects adversely on a lawyer's honesty, trustworthiness

or fitness as a lawyer), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation). Respondent admitted to diverting millions of dollars held by his payroll company (Ameripay) to pay the tax and payroll obligations of other clients, and using investor funds from another company (Sherbourne) to cover the shortfall in Ameripay without notifying the Sherbourne investors. More than eight million dollars in restitution was ordered. Hillary Horton represented the OAE on a motion for final discipline and respondent was pro se.

Jose M. Cameron - Reprimanded on June 27, 2016 (225 *N.J.* 370) for violations of R. 5:3-5(b); *RPC* 1.5(a) (unreasonable fee); *RPC* 1.16(d) (failure to return unused portion of retainer); and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). John J. Zefutic represented District VIII and respondent was pro se on a motion for discipline by consent. The respondent was previously disciplined: Admonished in 2007 and reprimanded in 2014.

Victor J. Caola – Suspended for three months retroactive to May 18, 2006 through August 18, 2006 (224 *N.J.* 211) on February 11, 2016 by way of Disciplinary Stipulation for failing to communicate with a client; failure to explain matter to the extent reasonably necessary to permit the client to make informed decisions about the representation; unreasonable fee; failure to cooperate with disciplinary authorities; and conduct involving dishonesty, fraud, deceit and misrepresentation. Additionally, Respondent was returned to disability inactive status effective August 19, 2006.

Christopher Cappio - Admonished on March 24, 2016 (*Unreported*) for violating *RPC* 1.3 (diligence) and *RPC* 1.4(b) (failure to keep client reasonably informed) following respondent's neglect of a bankruptcy client. Katrina Vitale represented District IV on the motion for discipline by consent and respondent was pro se.

Anne P. Cataline – Disbarred on a certified record on March 2, 2016 (224 *N.J.* 256) for gross neglect, lack of diligence, failure to communicate with client, failure to safeguard funds, conduct involving dishonesty, fraud, deceit or misrepresentation and knowing misappropriation clients' funds by using them for purposes unrelated to the clients' matter and without their knowledge or permission. Christina Blunda Kennedy appeared before the Supreme Court for the OAE and respondent failed to appear.

Joseph S. Chizik - Suspended for two years on September 8, 2016 (226 *N.J.* 473) on two certified records for violating *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to communicate with the client), *RPC* 8.1(b) (failure to cooperate with disciplinary authorities), *RPC*

8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and *RPC* 8.4(d) and Rule 1:20-20 (conduct prejudicial to the administration of justice). HoeChin Kim represented the OAE, and respondent was represented by James J. Gerrow, Jr. Respondent was previously disciplined: Private reprimand (admonition) in 1988; Reprimand in 1997; Reprimand in 2013; and Three-month suspension in 2014.

Eugene E. Chmura - Disbarred on September 28, 2016 (226 *N.J.* 544) following his New York disbarment for the knowing misappropriation of client funds, contrary to New Jersey *RPC* 1.15(a) (knowing misappropriation); *RPC* 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects); *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and the principles of In re Wilson, 81 *N.J.* 451 (1979) and In re Hollendonner, 102 *N.J.* 21 (1985). Hillary Horton represented the OAE on a motion for reciprocal discipline and respondent was pro se.

Cathleen J. Christie - Admonished on November 29, 2016 (*Unreported*) for representing six clients in civil and criminal matters during a period in which she was ineligible to practice law due to nonpayment of the annual assessment to the New Jersey Lawyers' Fund for Client Protection. Jason D. Saunders represented the OAE and Matthew W. Young represented respondent in a Stipulation of Facts before the Disciplinary Review Board.

Paul G. Clausen - Reprimanded on January 13, 2016 (224 *N.J.* 30) for gross neglect, failing to act diligently in representing a client and failing to keep the client reasonably informed about the status of the matter. Valerie Ann Jackson appeared before the DRB for District VIII and respondent appeared pro se. Respondent was previously reprimanded in 2013.

John J. Collins - Suspended for three months on September 20, 2015, effective October 21, 2016 (226 *N.J.* 514), following his guilty plea in the Superior Court of New Jersey to three disorderly persons offenses: two counts of simple assault, contrary to N.J.S.A. 2C:12-1(a), and one count of criminal mischief, contrary to N.J.S.A. 2C:17-3(b)(1). Hillary Horton represented the OAE on a motion for final discipline and John McGill III represented the respondent.

Frank J. Cozzarelli - Disbarred on May 2, 2016 (225 *N.J.* 16) for the knowing misappropriation of client funds, contrary to New Jersey *RPC* 1.15(a) (knowing misappropriation); *RPC* 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects); *RPC* 8.4(c) (conduct

involving dishonesty, fraud, deceit or misrepresentation), and the principles of In re Wilson, 81 N.J. 451 (1979) and In re Hollendonner, 102 N.J. 21 (1985). The Supreme Court ultimately ruled that respondent's incident of major depression failed to satisfy the requisite standard for legal insanity as required by In re Jacob, 95 N.J. 132 (1984). Maureen G. Bauman represented the OAE and S.M. Chris Franzblau represented respondent. The respondent was previously disciplined: Suspended for thirteen months in 2005. This matter was discovered solely as a result of the Random Audit Program.

Francis P. Crotty - Censured on November 4, 2016 (227 N.J. 50), for violating *RPC* 1.3 (failure to act with due diligence and promptness in representing a client), *RPC* 1.4 (b) (failure to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information), *RPC* 1.4(c) (failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation), *RPC* 3.3(a)(1) (making a false statement of material fact or law to a tribunal), *RPC* 3.3(a)(5) (failure to disclose to the tribunal a material fact knowing that the omission is reasonably certain to mislead the tribunal), *RPC* 5.5(a)(1) (practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction), *RPC* 7.1(a)(1) (a lawyer shall not make false or misleading communications about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks a professional involvement), *RPC* 7.5(a) (a lawyer shall not use a firm name, letterhead, or other professional designation that violates *RPC* 7.1), and *RPC* 8.4(c) (conduct involving dishonesty, deceit, or misrepresentation). Kevin P. Kelly, Esq., represented District IIA and Joseph P. Rem, Jr., Esq., represented respondent on a motion for discipline by consent granted by the Disciplinary Review Board.

Arthur J. Cutillo - Disbarred by consent on September 6, 2016 (226 N.J. 469) following his guilty plea in the United States District Court for the Southern District of New York to one count of conspiracy to commit securities fraud, contrary to 18 U.S.C. §317, and one count of securities fraud, contrary to 15 U.S.C. §78j(b) and 15 U.S.C. §78ff. Hillary Horton represented the OAE and Edward J. Dimon represented the respondent.

Gregory Danese - Disbarred by consent on March 11, 2016 (224 N.J. 276). Respondent acknowledged that he was aware that the OAE alleged that he knowingly misappropriated funds belonging to a client for whom he had a power of attorney, and that if he went to a hearing on that matter, he could not successfully defend himself against those charges. Timothy J. McNamara represented the OAE and Petar Kuridza, represented the respondent.

Marc D'Arienzo - Suspended for three months on July 22, 2016 (225 N.J. 604) for failing to keep the client reasonably informed about the status of the matter and failing to communicate the basis or rate of the fee in writing. Louis Miron appeared before the DRB for District XII and respondent appeared pro se. The respondent was previously disciplined: Suspended for three months in 1999, admonished in 2001 and 2004, censured in 2011, reprimanded in 2013 and censured in 2014.

Marvin S. Davidson – Suspended for three years on November 3, 2016 (227 N.J. 135) for failing to safeguard funds, recordkeeping violations, failing to cooperate with disciplinary authorities, conduct prejudicial to the administration of justice and violating Rule 1:20-20. Christina Blunda Kennedy appeared before the Supreme Court for the OAE and Ronald M. Gutwirth appeared for the respondent. Respondent was previously suspended for three months in 1995, reprimanded in 2005, suspended for six months twice in 2010 and suspended for one year in 2012.

Ahmad L. Desoky – Suspended for one year, effective immediately, on May 5, 2016 (224 N.J. 453) following his guilty plea in United States District Court for the District of New Jersey to four counts of criminal contempt or the aiding and abetting of such conduct, contrary to 18 U.S.C. § 401.3. Respondent failed to satisfy the terms and conditions of a consent decree signed between his family's sports nutrition company and the United States Attorney's Office to cease marketing food products that were prepared, packed, or held under unsanitary conditions. Hillary Horton represented the OAE and respondent was pro se on a motion for final discipline before the DRB.

Andres J. Diaz - Censured on December 8, 2016 (227 N.J. 233) for failing to timely comply with his obligation to file a *R. 1:20-20* affidavit, contrary to *RPC* 8.1(b) (failure to cooperate with ethics authorities), and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). The Court also ordered that respondent remain suspended from the practice of law pursuant to the Court's order of February 28, 2013, and pending his compliance with the fee arbitration determination and his payment of a \$500 sanction to the Disciplinary Oversight Committee. Hillary Horton represented the OAE on a motion for certification of the record. The respondent was previously disciplined: Reprimanded in 1997.

Robert C. Diorio - Disbarred on January 20, 2016 (224 N.J. 32), for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.5(a) (charging an unreasonable fee), *RPC* 1.15(a) (failure to safeguard funds), *RPC* 1.15(b) (failure to properly disburse funds), *RPC* 1.15(d)

and Rule 1:21-6 (recordkeeping violations), *RPC* 8.1(b) (failure to reply to a lawful demand for information from a disciplinary authority), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and the principles set forth in In re Wilson, 81 *N.J.* 451 (1979) and In re Hollendonner, 102 *N.J.* 21 (1985). Timothy J. McNamara represented the OAE and Respondent failed to appear. Respondent was previously disciplined: Censured in 2010.

David A. Dorfman – Suspended for one year on July 7, 2016, retroactive to January 23, 2012 (225 *N.J.* 531) for his New York misconduct following a legal malpractice judgment, including eventually a criminal conviction for contempt of court, in violation of *RPC* 3.3(a)(1) (false statement of material fact or law to a tribunal), *RPC* 8.4(b) (commission of a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer), and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). Hillary Horton represented the OAE on a motion for reciprocal discipline and John Bowens represented respondent.

Thomas E. Downs IV – Censured on a certified record on March 9, 2016 (224 *N.J.* 272) for failure to keep a client reasonably informed, failing to provide in writing the rate of basis of attorney’s fee, failing to return unearned portion of retainer, failing to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation. Vikrant Advani appeared before the DRB for the District VIII Ethics Committee and respondent failed to appear. The respondent was previously disciplined: Admonished in 2013.

Siddharth G. Dubal - Disbarred by consent on January 26, 2016, (224 *N.J.* 35) for the knowing misappropriation of client trust funds. Michael J. Sweeney represented the OAE and Frederick J. Dennehy represented the respondent. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

Thomas Sandberg Durst - Admonished on July 27, 2016 (*Unreported*) for failing to promptly return an unearned retainer, failure to keep a client reasonably informed, and failure to cooperate during the investigation of the matter. Christina Lynn Saveriano represented District VII and respondent was pro se on a disciplinary stipulation before the Disciplinary Review Board.

Mark Edelstein – Three-month suspension effective February 12, 2016 (224 *N.J.* 31). Respondent executed a disciplinary stipulation admitting violations of *RPC* 1.15(d) (recordkeeping), *RPC* 5.3(a) (failure to supervise a non-lawyer), *RPC* 7.1(a)(1) (making a false or misleading communication about the lawyer’s services),

RPC 7.5(d) (false or misleading law firm name, and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Jason D. Saunders appeared on behalf of the OAE and respondent was pro se.

Raymond J. Farrell – Censured on a certified record on May 4, 2016 (224 *N.J.* 452) for neglecting a client matter, failing to diligently represent the client’s interests in a real estate matter, allowing a default judgment to be entered against her due to his inaction and failing to cooperate with disciplinary authorities. Michael J. Sweeney represented the OAE and respondent was pro se.

Arthur M. Field – Disbarred by consent on November 10, 2016 (227 *N.J.* 76) for Securities Fraud, Conspiracy and Forgery. Christina Blunda Kennedy represented the OAE and the respondent appeared pro se. Respondent was previously admonished in 1999.

Robert A. Fortunato – Censured on May 19, 2016 (225 *N.J.* 3) for violating *RPC* 1.15(a) (negligent misappropriation of client funds), *RPC* 1.15(b) (failure to promptly notify clients or third parties of receipt of funds in which they have an interest and to promptly disburse those funds), *RPC* 1.15(d) and Rule 1:21-6 (recordkeeping violations) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Jason D. Saunders represented the OAE and respondent was pro se on a Disciplinary Stipulation submitted to the DRB.

Robert A. Franco - Suspended for one year on November 17, 2016 (227 *N.J.* 155) for violating *RPC* 1.15 (failure to promptly notify clients or third person of receipt of funds in which they have an interest and to promptly disburse those funds), *RPC* 1.15(c) (failure to segregate disputed funds), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Respondent is to remain suspended pursuant to the Order filed January 29, 2013, and pending his compliance with the fee settlement agreement in District Docket X-20120-0021F and his payment of the sanction of \$500 to the Disciplinary Oversight Committee. HoeChin Kim represented the OAE before the Court and Robyn M. Hill represented respondent. Respondent was previously disciplined: Suspended for 3 months in 2012; temporarily suspended in 2013.

Jean Watson E. Francois - Admonished on September 22, 2016 (*Unreported*) for violating *RPC* 1.4(b) (failure to keep client reasonably informed) and *RPC* 1.5(b) (failure to communicate legal fee in writing) following respondent’s representation of a client in municipal court on a traffic violation. Robert J. Logan represented District XII on the motion for discipline by consent and respondent was pro se.

Barry N. Frank – Censured on November 2, 2016 (227 *N.J.* 57) for failing to cooperate with disciplinary authorities in violation of *RPC* 8.1(b) during the investigation of five separate grievances. Order also temporarily suspended Mr. Frank until such time as he cooperates with the OAE’s investigation of his conduct in the underlying grievances. Andrea R. Fonseca-Romen appeared before the Supreme Court for the OAE and Respondent failed to appear.

Robin L. French - Reprimanded on October 5, 2016 (226 *N.J.* 593), for violating *RPC* 5.5(a) (unauthorized practice of law). Damian Christian Shammis represented the District XB Ethics Committee before the DRB and Gerard E. Hanlon, represented the Respondent.

Thomas G. Frey - Disbarred on September 26, 2016 (226 *N.J.* 545) for violating *RPC* 8.4(b) (commission of a criminal act that reflects adversely on a lawyer’s honesty, trustworthiness or fitness as a lawyer), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Steven Zweig represented the OAE and Thomas G. Frey was *pro se*. The respondent was previously disciplined: Reprimanded in 2007.

Mark B. Frost - Admonished on July 27, 2016 (*Unreported*) for violating *RPC* 1.7(a)(1) and (a)(2) by engaging in a concurrent conflict of interest during *pro hac vice* representation of three employee plaintiffs suing the City of Paterson Fire Department in an employment discrimination action. The Disciplinary Review Board also determined that respondent violated recordkeeping rules by depositing legal fees into an attorney trust account. Christina Blunda Kennedy represented the OAE and Mark S. Kancher represented respondent.

William E. Gahwyler – Disbarred on June 17, 2016 (225 *N.J.* 332) on a certified record for the knowing misappropriation of escrow funds in violation of *RPC* 1.15(a) and the principles of *In re Hollendonner*, 102 *N.J.* 21 (1985). Respondent was previously disciplined: Censured in 2008 and 2012 and suspended for one year in 2013. Jason D. Saunders handled the matter for the OAE and respondent was *pro se*.

Michael D. Garber –Disbarred by consent on April 6, 2016 (224 *N.J.* 390). Respondent’s conduct involved the knowing misappropriation of escrow funds in violation of *RPC* 1.15(a) and the principles of *In re Hollendonner*, 102 *N.J.* 21 (1985). Jason D. Saunders represented the OAE and Warren L. Fink represented the respondent.

Larry S. Geller – Censured on December 7, 2016 (227 *N.J.* 228) for violating *RPC* 1.15(a) (failure to safeguard funds), *RPC* 1.15(b) (failure to promptly disburse funds to the client or third party); *RPC* 1.15(d) and Rule 1:21-6

(recordkeeping violations). Jason D. Saunders appeared before the DRB for the OAE and respondent appeared *pro se*. The respondent was previously disciplined: Reprimanded in 2003. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

Anthony J. Giampapa - Suspended for one year on October 7, 2016 (226 *N.J.* 594) on a certified record for failing to comply with a New Jersey Supreme Court Order that required the respondent to file an affidavit of compliance for suspended or disbarred attorneys in accordance with Rule 1:20-20 affidavit thereby violating *RPC* 8.1(b) (failure to reply to a lawful demand for information from a disciplinary authority), *RPC* 8.4(d) (conduct prejudicial to the administration of justice), and Rule 1:20-20. Hillary Horton represented the OAE and respondent was *pro se*. The respondent was previously disciplined: Suspended in 2013; censured in 2009 and 2008; and admonished in 2007.

Philip Alexander Goiran – Censured on April 26, 2016 (224 *N.J.* 446) following a motion for discipline by consent. Respondent committed a criminal act which reflected adversely on his honesty, trustworthiness or fitness by committing a third-degree assault on his father-in-law in Colorado following a domestic altercation. Respondent’s conduct was the result of significant stress caused by his marital separation and respondent took measures to make amends with his in-laws following the altercation. Hillary Horton handled the matter for the OAE and respondent was *pro se*.

Elizabeth Michelle Goldman - Disbarred on January 20, 2016 (224 *N.J.* 33) following her New Jersey Superior Court criminal conviction to second-degree robbery, contrary to N.J.S.A. 2C:15-1(a). Respondent robbed a bakery by simulating a weapon with her finger and making threats to the employees. Hillary Horton and Al Garcia represented the OAE on a motion for final discipline and respondent did not appear.

Osualdo Gonzalez - Reprimanded on July 21, 2016 (225 *N.J.* 603) for violating *RPC* 1.15(b) (negligent misappropriation) and *RPC* 1.15(d) (failure to comply with recordkeeping requirements of Rule 1:21-6). Jason D. Saunders represented the OAE and Respondent was *pro se*. Respondent was previously disciplined: Admonition in 2014 for violations of *RPC* 1.4(b), *RPC* 1.2(a), and *RPC* 1.5(b).

Gerald Gordon - Reprimanded on December 8, 2016 (227 *N.J.* 234) for failing to act diligently in representing a client, failing to keep the client reasonably informed about the status of the matter and failing to cooperate with disciplinary authorities. Timothy J. Little appeared before the DRB for District VIII and respondent appeared pro se.

Jonathan Greenman - Censured on May 19, 2016 (225 *N.J.* 11), for violating *RPC* 8.1(b) and Rule 1:20-3(g)(3) (failure to cooperate with disciplinary authorities). Timothy J. McNamara represented the OAE and Respondent failed to appear.

Jonathan Greenman - Suspended for three months on October 5, 2016, (226 *N.J.* 595) for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to keep a client reasonably informed about the status of a matter), *RPC* 1.5(b) (failure to set forth in writing the rate or basis of a fee), *RPC* 1.5(c) (failure to prepare a fee agreement in a contingency matter), *RPC* 8.1(b) (failure to cooperate with disciplinary authorities,) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). David L. Rutherford, Esq., represented the District IIA Ethics Committee and Jonathan Greenman, Esq. appeared *pro se*. The respondent was previously disciplined: Censured in 2016 and admonished in 2014.

Sal Greenman - Censured on May 19, 2016 (225 *N.J.* 10), for violating *RPC* 8.1(b) and Rule 1:20-3(g)(3) (failure to cooperate with disciplinary authorities). Timothy J. McNamara represented the OAE and Respondent failed to appear.

Francisco S. Guzman - Reprimanded on December 7, 2016 (227 *N.J.* 232), for violating *RPC* 1.1(b) (pattern of neglect) and *RPC* 1.3 (lack of diligence) in three matters. Daniel Patrick D'Alessandro, Esq., represented District VI Ethics Committee and Vladimir Rene, Esq., represented Respondent.

Maeble L. Hairston – Disbarred by consent on July 26, 2016 (225 *N.J.* 613) following her guilty plea to one count of racketeering, in violation of N.J.S.A. 2C:41-2 in the Morris County Superior Court. This charge was subsequently downgraded to a third degree offense and respondent was required to surrender her law license. Respondent admitted to defrauding mortgage lenders of over \$1,000,000 by diverting closing funds and filing false settlement statements. Charles Centinaro represented the OAE and James N. Butler, Jr., represented the respondent.

John F. Hamill, Jr. – Respondent was disbarred on March 2, 2016 (224 *N.J.* 257) on a certified record from the OAE. Respondent committed violations of *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4 (failure to communicate), *RPC* 3.3(a)(1) (false statements of material fact or law to a tribunal), *RPC* 8.1(b) (failure to cooperate), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), *RPC* 8.4(d) (conduct prejudicial to the administration of justice), and *RPC* 1.15(a) (knowing misappropriation of client funds, and

the principles of In re Wilson 81 *N.J.* 451 (1979). Respondent was previously reprimanded in 2004. Maureen G. Bauman Esq. handled the matter for the OAE. Respondent was self-represented.

Roland G. Hardy – Disbarred on May 4, 2016 (224 *N.J.* 557) for knowing misappropriation in violation of *RPC* 1.15(a) and the principles of In re Hollendonner, 102 *N.J.* 21 (1985) and In re Wilson, 81 *N.J.* 21 (1985). Andrea R. Fonseca-Romen appeared before the Supreme Court for the OAE and Jay J. Blumberg appeared on behalf of respondent.

George P. Helfrich, Jr. - Admonished on February 24, 2016 (*Unreported*) for violating *RPC* 1.4(b) (failure to keep client reasonably informed); *RPC* 3.3(b) (lack candor with the court); and *RPC* 3.4(c) (disobeying an obligation under the rules of a tribunal) by failing to notify the trial judge that his client and witnesses were unavailable for trial on certain dates. Stuart D. Minion represented District VC on a motion for discipline by consent and respondent was *pro se*.

Robert L. Hennessey - Disbarred by consent on May 3, 2016 (224 *N.J.* 492). Respondent acknowledged that he was aware that the OAE alleged that he knowingly misappropriated client trust account funds, and that if he went to a hearing on that matter, he could not successfully defend himself against those charges. Timothy J. McNamara represented the OAE and Alan L. Zegas represented the respondent.

Victor J. Horowitz – Disbarred by consent on September 6, 2016 (226 *N.J.* 467) for committing health care fraud, and filing a false federal tax return, in violation of *RPC* 8.4(b) and *RPC* 8.4(c) Christina Blunda Kennedy represented the OAE and Marc Garfinkle represented the respondent.

Sebastian Onye Ibezim, Jr. - Admonished on July 27, 2016 (*Unreported*) for violating *RPC* 1.3 (diligence); *RPC* 1.4(b) (failure to keep client reasonably informed) and *RPC* 1.4(c) (failure to explain the matter to the extent reasonably necessary) by failing to act promptly in a personal injury matter and failing to keep the client informed about important events in the case. Carla M. Silva represented District VA on a motion for discipline by consent and Juliana E. Blackburn represented the respondent. The respondent was previously discipline: Admonished in 2015 and 2014.

Charles Brian Kapalin - Suspended for three years on December 8, 2016, effective December 12, 2014 (227 *N.J.* 224), following his guilty plea in the United States District Court for the District of New Jersey to one count of conspiring to smuggle contraband into a federal detention

facility, contrary to 18 U.S.C. §317 and 18 U.S.C. §1791(a). Respondent admitted using his status as a defense attorney to secure meetings with inmates who were part of the scheme to smuggle marijuana and tobacco into the institution. Hillary Horton represented the OAE on a motion for final discipline and Robert J. DeGroot appeared on behalf of the respondent.

Joseph P. Kelly - Reprimanded on June 22, 2016 (225 *N.J.* 335) on a certified record from District VC for violations of *RPC* 1.3 (diligence); *RPC* 1.4(b) (failure to communicate with a client); and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). Pablo Blanco represented District VC and respondent was pro.

John A. Klamo - Censured on June 15, 2016 (225 *N.J.* 331) for violating *RPC* 1.2 (failure to abide by a client's decision about the scope and objectives of the representation), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to communicate with client), *RPC* 3.2 (failure to expedite litigation), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Jean S. Chetney represented District IV before the DRB, and the respondent was represented by Steven K. Kudatzky. The respondent was previously disciplined: Reprimanded in 1996 and suspended for three months in 2013.

Richard F. Klineburger - Reprimanded on December 2, 2016 (227 *N.J.* 206), for violating *RPC* 1.1(a) (gross neglect) and *RPC* 1.4(b) (failure to keep client reasonably informed about the status of the matter). Michael J. Sweeney represented the OAE on a motion for discipline by consent and Petar Kuridza represented the respondent.

Craig Joseph Kobrin - Admonished on February 2, 2016 (*Unreported*) for violating *RPC* 1.15(b) (promptly notify and deliver third-party funds) and *RPC* 1.15(c) (commingling) by failing to promptly disburse funds to his client's doctor following successful litigation of a personal injury matter. Carl Peer represented District XII and Michael Alvarez represented the respondent.

Craig Joseph Kobrin - Admonished on February 2, 2016 (*Unreported*) for violating *RPC* 1.8(e) (financial assistance to a client) for providing an altruistic cash "advance" to a personal injury client. Paul Steven Danner represented District VA and Michael Alvarez represented the respondent.

Andrew Michael Kusnirik, III - Disbarred by consent on November 7, 2016 (227 *N.J.* 59) for the knowing misappropriation of trust funds. Michael J. Sweeney represented the OAE and Respondent was represented by Marc D. Garfinkle. This matter was discovered solely as a result of the Random Audit Program.

William J. Lawlor III - Reprimanded on a certified record on May 18, 2016 (225 *N.J.* 2) for violating *RPC* 1.15(b) (failure to promptly deliver funds to client) and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). HoeChin Kim represented the OAE and respondent was *pro se*.

Jill Anne LaZare - Admonished on May 24, 2016 (*Unreported*) for violating *RPC* 3.3(a)(1) (knowingly making a false statement of material fact or law to a tribunal); *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); and *RPC* 8.4(d) (conduct prejudicial to the administration of justice) following respondent's representation of a plaintiff-husband in a divorce action. Respondent resisted informing opposing counsel and the trial judge about the source of a document used during trial. Carl L. Peer represented District XII and Robin M. Hill represented the respondent.

Harris C. Legome - Disbarred on October 3, 2016 (226 *N.J.* 590), for violating *RPC* 1.5(a) (unreasonable and excessive fee), *RPC* 1.5(c) (failure to provide client with a writing in a contingent fee case), *RPC* 1.7(a)(2) (concurrent conflict of interest), *RPC* 1.7(b) (failure to obtain informed written consent after full disclosure of conflict), *RPC* 1.8(a) (conflict of interest by acquiring a pecuniary interest adverse to a client), *RPC* 1.8(c) (preparation of an instrument providing a substantial gift from client to lawyer), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Timothy J. McNamara represented the OAE and Joseph P. Grimes represented respondent.

Walter D. Levine - Reprimanded on April 20, 2016 (224 *N.J.* 441), for violating *RPC* 1.9(a) (representing a client in the same or a substantially related matter in which the client's interests are materially adverse to a former client, without obtaining the former client's consent), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Douglas Ehrenworth represented District XA and Samuel N. Reiken represented respondent.

Larry S. Loigman - Reprimanded on March 9, 2016 (224 *N.J.* 271) for violating *RPC* 3.1 (bringing a frivolous claim) and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). Lawrence H. Shapiro appeared before the DRB for District IX, Maureen G. Bauman appeared before the Supreme Court for the OAE and David H. Dugan, III appeared for the respondent at both levels. The respondent was previously disciplined: Reprimanded in 1989.

Douglas M. Long - Reprimanded on November 4, 2016 (227 *N.J.* 49). Respondent signed a stipulation of

discipline by consent in which it was agreed that he violated *RPC* 1.15(a) (failure to safeguard property of clients or third parties and negligent misappropriation); *RPC* 1.15(d) and Rule 1:21-6 (recordkeeping violations); and *RPC* 5.3(a) and (b) (failure to supervise a non-lawyer assistant). Jason D. Saunders represented the OAE and K. Roger Plawker represented the respondent. This matter was discovered solely as a result of the Random Audit Program.

Susan A. Lowden – Censured on September 21, 2016 (226 *N.J.* 586) for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to communicate with client), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) in a matrimonial matter where respondent failed to file a divorce complaint for over five years and misrepresented to the client that she had sent a complaint to the court for filing in 2012 when she had not. Maryann J. Rabkin represented District IV and respondent was pro se. Respondent was previously disciplined: Reprimanded in 2014.

Anthony F. Malanga, Jr. - Disbarred on October 20, 2016 (227 *N.J.* 2) for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.4(b) and (c) (failure to communicate with clients), *RPC* 1.7(a)(1) (conflict of interest), *RPC* 1.8(e) (provision of financial assistance to clients in connection with pending or contemplated litigation), *RPC* 1.15(c) (failure to keep disputed property separate and intact until dispute was resolved), *RPC* 3.2 (failure to expedite litigation), *RPC* 8.4(b) (commission of a criminal act that reflects on the attorney's honesty, trustworthiness or fitness as a lawyer), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), *RPC* 8.4(d) (conduct prejudicial to the administration of justice), and the principles of *In re Wilson*, 81 *N.J.* 451 (1979). HoeChin Kim appeared before the Supreme Court for the OAE and Robyn M. Hill represented respondent.

Michael Z. Mandale - Suspended for one year on December 7, 2016 (227 *N.J.* 222) for representing numerous clients, largely in tax matters, following his administrative suspension in Pennsylvania, neglecting those matters, engaging in the unauthorized practice of law by engaging new clients during his period of ineligibility, and for failing to cooperate with the Pennsylvania disciplinary authorities "at every step in its process." Hillary Horton represented the OAE on a motion for reciprocal discipline and Craig M. Robinson appeared on behalf of the respondent.

Albert K. Marmera – Admonished on July 29, 2016 (*Unreported*). Respondent signed a stipulation of discipline by consent in which it was agreed that he violated *RPC* 1.15(a) (failure to safeguard property of

clients or third parties and negligent misappropriation); *RPC* 1.15(d) and Rule 1:21-6 (recordkeeping violations); and *RPC* 5.3(a) and (b) (failure to supervise a nonlawyer assistant). Jason D. Saunders represented the OAE and K. Roger Plawker represented the respondent. This matter was discovered solely as a result of the Random Audit Program.

Jeffrey K. Martin - Suspended for six months on September 21, 2016 (226 *N.J.* 588), based upon discipline imposed by the Supreme Court of the State of Delaware for unethical conduct that in New Jersey constitutes violations of *RPC* 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), *RPC* 5.3(a) (failure to supervise a non-lawyer assistant), *RPC* 5.4(a) (paying to or sharing fees with a suspended or disbarred attorney), *RPC* 5.5(a)(2) (assisting in the unauthorized practice of law), *RPC* 8.4(d) (conduct prejudicial to the administration of justice), and Rule 1:20-20(b)(13). Steven J. Zweig represented the OAE and respondent was pro se.

Nirav Kurt Mehta – Reprimanded on November 4, 2016 (227 *N.J.* 53) on a motion for discipline by consent granted by the Disciplinary Review Board. Respondent acknowledged submitting a false document to the District IIIB Ethics Committee investigator in response to the grievance, in violation of *RPC* 8.1(a) (false statement of material fact in connection with a disciplinary matter) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). John M. Hanamirian represented the District IIIB Ethics Committee and E. Carr Cornog, III represented the respondent.

Hugo L. Moras - Disbarred on October 14, 2016 (226 *N.J.* 598), for violating *RPC* 1.4(b) (failure to communicate with client), *RPC* 1.5(b) (failing to set forth in writing the rate or basis of the fee), *RPC* 1.5(c) (failure to prepare a written fee agreement in a contingent fee case), *RPC* 1.16(d) (failure to protect a client's interests on termination of the representation), and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). Steven J. Zweig represented the OAE and respondent failed to appear. Respondent was previously disciplined: Suspended for six months in 1993; temporarily suspended and reprimanded in 1997; reprimanded in 2005; suspended for three months in 2013; and suspended for one year in 2015.

Keith O.D. Moses - Censured on May 19, 2016 (225 *N.J.* 4) for improperly entering into a business transaction with a client, contrary to *RPC* 1.8(a) (conflict of interest). Respondent engaged in a real estate transaction with a client he had represented in another capacity, without the appropriate protections for the client, causing harm to the client. Maureen G. Bauman represented the OAE and

respondent was pro se. The respondent was previously disciplined: Admonished in 2002; reprimanded in 2011; reprimanded in 2012; reprimanded in 2013; and suspended for three-months in 2014.

Barton Nachamie - Disbarred by consent on June 27, 2016 (225 *N.J.* 371) following his plea of guilty in the State of New York to grand larceny in the third degree (two counts) a class D felony, and falsifying business records in the first degree (five counts) a class E felony. Respondent was notified by the OAE that a case had been docketed against him and Respondent advised that he wished to consent to disbarment. Michael J. Sweeney represented the OAE and Respondent was represented by Paul B. Bergman.

Raymond S. Nadel - Censured on December 7, 2016 (___ *N.J.* ___) for engaging in the unauthorized practice of law by representing more than seventy-five Delaware residents in personal injury cases involving Delaware-registered vehicles while not being admitted to practice in Delaware. Hillary Horton represented the OAE on a motion for reciprocal discipline and David H. Dugan III represented the respondent. The respondent was previously disciplined: Reprimanded in 1997.

Nicolas Nicosia – Reprimanded by Consent on November 4, 2016 (227 *N.J.* 52) for negligently failing to safeguard funds and recordkeeping violations. Christina Blunda Kennedy appeared before the DRB for District VI and respondent appeared pro se. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

Robert J. Nish - Admonished on September 22, 2016 (*Unreported*) for violating RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) following respondent's failure to notify his adversary in regard to the return of a deposit in a real estate transaction. William C. Mack represented District XA on the motion for discipline by consent and Peter N. Gilbreth represented respondent.

Gregory R. Noonan – Disbarred on October 14, 2016 (226 *N.J.* 596) for knowing misappropriation of client funds in violation of RPC 1.15(a) and the principles of In re Wilson, 81 *N.J.* 21 (1985). Andrea R. Fonseca-Romen appeared before the Supreme Court for the OAE and respondent was pro se.

John J. O'Hara, III - Disbarred on March 1, 2016 (224 *N.J.* 255), for violating RPC 1.1(a) (gross neglect), RPC 1.1(b) (pattern of neglect), RPC 1.3 (lack of diligence), RPC 1.4(b) (failure to keep a client reasonably informed about the status of the matter), RPC 1.4(c) (failure to permit a client to make informed decisions regarding the

representation), RPC 3.4(c) (knowingly disobeying an obligation under the Rules of a tribunal), RPC 5.5(a)(1) (practicing law while suspended), RPC 8.1(b) (failure to cooperate with disciplinary authorities), and RPC 8.4(d) (conduct prejudicial to the administration of justice). Timothy J. McNamara represented the OAE and Respondent failed to appear.

Dennis J. Oury - Suspended for three years on November 2, 2016, effective November 17, 2009 (227 *N.J.* 47), following his guilty plea in the United States District Court for the District of New Jersey to conspiracy to defraud the Borough of Bergenfield of money, property, and honest services, contrary to 18 *U.S.C.* §1349, and failure to file a federal tax return for tax year 2006, contrary to 26 *U.S.C.* §7203. Hillary Horton represented the OAE on a motion for final discipline and John M. Carbone represented the respondent.

Marc Z. Palfy - Suspended for three years on July 22, 2016 (225 *N.J.* 611) for neglecting and mishandling multiple bankruptcy matters, a personal injury matter, and practicing while ineligible, misconduct encompassing two five-count complaints. Maureen G. Bauman handled the matter on behalf of the OAE and Douglas S. Crawford represented the respondent. The respondent was previously disciplined: Censured in 2014 and suspended for three months in 2015.

John O. Paragano - Suspended for three months on November 17, 2016, effective December 16, 2016 (227 *N.J.* 136), following his guilty plea in the Superior Court of New Jersey to the disorderly persons offense of simple assault, in violation of *N.J.S.A.* 2C:1a(1), conduct that violates RPC 8.4(b) (commission of a criminal act that reflects adversely on honesty, trustworthiness or fitness as a lawyer). Michael J. Sweeney represented the OAE on a motion for final discipline and Gerard E. Hanlon represented respondent. The respondent was previously disciplined: Censured in 2007.

Jae Hoon Park - Suspended for three months on July 22, 2016, effective August 22, 2016 (225 *N.J.* 609), for his violation of RPC 8.4(b) (criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer) following his guilty plea to third-degree aggravated assault, contrary to *N.J.S.A.* 2C:12-1(b)(7). Respondent attempted to cause serious bodily harm to his mother by forcing her to take a dangerous quantity of prescription pills. Hillary Horton represented the OAE on a motion for final discipline and Gerald D. Miller represented the respondent.

Harry G. Parkin - Disbarred by consent on October 20, 2016 (227 *N.J.* 187), following his conviction in the United States District Court for the District of New Jersey

(USDNJ), of attempted extortion under color of official right, induced by wrongful use of fear of economic harm (18 U.S.C. §1951(a)). Steven J. Zweig represented the OAE and Lindsay L. Burbage represented respondent.

Jeannet E. Pavez – Reprimanded on March 7, 2016 (224 *N.J.* 267) for violating *RPC* 1.7(a) (concurrent conflict of interest); *RPC* 1.15(b) (failure to promptly notify clients of receipt of funds in which they have an interest and to promptly disburse these funds); and *RPC* 1.15(d) (failure to comply with the recordkeeping requirements of R.1:21-6. Maureen G. Bauman represented the OAE on a motion for discipline by consent granted by the DRB and respondent was pro se. This matter was discovered solely as a result of the Random Audit Program.

Queen E. Payton – Reprimanded on November 17, 2016 (227 *N.J.* 158), for violating *RPC* 5.5(a)(2) (assisting a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law); *RPC* 8.4(a) (knowingly assisting another to violate the *RPC*s); *RPC* 8.4(d) (conduct prejudicial to the administration of justice); and Rule 1:20-20 (failure to file compliance affidavit). Jason D. Saunders appeared before the DRB for the OAE and respondent waived appearance. The respondent was previously disciplined: Reprimanded in 2011 and admonished in 2005.

John C. Penberthy - Admonished on March 24, 2016 (*Unreported*) for violating *RPC* 5.5(a) (unauthorized practice of law) following respondent's representation of clients during a period during which he was ineligible to practice law due to his failure to complete and self-report his compliance with Continuing Legal Education requirements. Gilbert J. Scutti represented District IV on the motion for discipline by consent and respondent was pro se.

Kirill Percy - Disbarred on September 14, 2016 (226 *N.J.* 475) following his guilty plea in the United States District Court for the Southern District of New York to one count of conspiracy to defraud the United States government, contrary to 18 U.S.C. §371, and to one count of health care fraud, in the United States District Court for the Eastern District of New York, contrary to 18 U.S.C. §1347. Hillary Horton represented the OAE and respondent was pro se.

Genia C. Philip - Admonished on November 21, 2016 (*Unreported*) for lack of diligence and failure to keep client reasonably informed in a single divorce matter. Shelia Ann Woolson represented District VA and John McGill, III represented respondent.

Duane T. Phillips - Suspended for one year on March 10, 2016 (224 *N.J.* 274) for violating *RPC* 5.5(a) (practicing

law while suspended) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Respondent continued to represent a matrimonial client during his term of suspension and failed to disclose that representation in his Rule 1:20-20 affidavit filed with the OAE. HoeChin Kim represented the OAE and respondent was *pro se*. The respondent was previously disciplined: Admonished in 2010, censured in 2011 and in 2013, and suspended for three months in 2014.

John Rex Powell - Disbarred by consent on March 7, 2016 (224 *N.J.* 266), following respondent's conviction in the U.S. District Court for the Southern District of Indiana of one count of engaging in child pornography enterprise and two counts of sexual exploitation of a minor. Michael J. Sweeney represented the OAE and Matthew S. Toll represented the respondent.

Adam S. Pribula - Censured on March 4, 2016 (224 *N.J.* 264), for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (failure to act with reasonable diligence and promptness in representing a client), *RPC* 1.4(b) (failure to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information), *RPC* 1.15(b) (failure to promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive), and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). Carl J. DiPiazza represented District XA and Brian J. Fruehling represented respondent on a motion for discipline by consent granted by the Disciplinary Review Board.

Robert P. Prignoli – Reprimanded on March 4, 2016 (224 *N.J.* 263) for violating *RPC* 1.3 (lack of diligence); *RPC* 1.4(b) (failure to keep a client reasonably informed about the status of a matter); and *RPC* 1.15(b) (failure to promptly deliver to the client or third party any funds that the client or third party is entitled to receive) in a real estate matter. Maureen G. Bauman represented the OAE on a motion for discipline by consent granted by the DRB and E. Carr Cornog, III represented respondent.

Ksenia V. Proskurchenko - Suspended for six months May 4, 2016 (224 *N.J.* 493) on a certified record for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.1(b) (pattern of neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to communicate with client), *RPC* 1.16(d) (failure to refund unearned fee on termination of the representation), and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). Prior to reinstatement to the practice of law, Respondent is to refund the \$1375 retainer to her client in the *Franchetti* matter and submit proof to the Office of Attorney Ethics of her successful completion of four credit hours of continuing legal education courses in attorney ethics. HoeChin Kim represented the OAE

and respondent was represented by Warren J. Martin, Jr. Respondent was previously disciplined: Censured in 2015.

Cheri S. Williams Robinson - Suspended for three months on two certified records on November 2, 2016 (227 *N.J.* 45) for violating *RPC* 1.4(b) (failure to communicate with client) and *RPC* 8.1(b) (failure to cooperate with disciplinary authorities). Respondent also was ordered to remain suspended until she paid the outstanding fee arbitration award in District Docket No. IV-2014-0058F and the sanction of \$500 to the Disciplinary Oversight Committee, per the Court's Order of June 4, 2015. Michael J. Silvanio represented District IV and respondent was pro se. Respondent was previously disciplined: Temporary suspension in 2015; Reprimand in 2015.

Merrill N. Rubin - Suspended for two years on December 7, 2016 (224 *N.J.* 229), following his guilty plea in the Superior Court of New York to one count of tax evasion, in violation of the Criminal Tax Fraud Act, N.Y. Tax Law, §1804, conduct that in New Jersey violates *RPC* 8.4(b) (commission of a criminal act that reflects adversely on the lawyers' honesty, trustworthiness, or fitness as a lawyer), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Steven J. Zweig represented the OAE and the Respondent was pro se.

William J. Rush - Reprimanded on June 2, 2016 (225 *N.J.* 15) for violating *RPC* 1.3 (lack of diligence), *RPC* 1.15(a) (commingling funds and recordkeeping violations), *RPC* 1.15(b) (failure to promptly notify clients or third parties of receipt of funds in which they have an interest and to promptly disburse those funds), *RPC* 1.15(d) (failure to comply with the recordkeeping requirements of Rule 1:21-6), and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation) in two real estate transactions. HoeChin Kim appeared before the DRB for the OAE and Glenn R. Reiser appeared on behalf of respondent.

Scott F. Sidel - Disbarred by consent on December 13, 2016 (227 *N.J.* 151) for respondent's criminal conviction of one count of conspiracy to commit money laundering, to tamper with a witness, and to obstruct justice in the U.S. District Court for the Southern District of Florida. HoeChin Kim represented the OAE, and Dena M. Seiden of Florida represented the respondent. Respondent has a disciplinary history: Suspended for 6 months in 2001; Temporarily suspended in 2013.

Gerald M. Saluti, Jr. - Suspended for one year, effective May 29, 2014, on July 22, 2016 (225 *N.J.* 606), for violating *RPC* 1.1((a) (gross neglect); *RPC* 1.2 (a) (failure

to abide by client's instructions); *RPC* 1.3 (lack of diligence); *RPC* 1.4(b) (failure to keep client reasonably informed about the status of a matter); *RPC* 1.5(b) (failure to communicate in writing the basis or rate of fee); *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); *RPC* 8.4(d) (conduct prejudicial to the administration of justice); and *RPC* 8.4(e) (stating or implying an ability to influence a government agency or official, or achieve results by means that violate the *RPCs* or other law). David M. Dugan represented District VA and Robert P. Donovan represented respondent. Respondent was previously disciplined: Admonished in 2007; reprimanded in 2013; and suspended for three months in 2014.

Gerald M. Saluti, Jr. - Imposing no additional discipline (224 *N.J.* 454) on May 5, 2016 for violating *RPC* 1.5(b) (failure to provide client with a writing setting forth the basis or rate of the fee), in view of the fact that said violation would not have increased the three-month term of suspension ordered on January 31, 2014, had the violation been considered with that matter. David M. Dugan represented District VA and Robert P. Donovan represented respondent.

William G. Scher - Disbarred on November 9, 2016 (227 *N.J.* 56) on a motion for reciprocal discipline based on respondent's affidavit of resignation in the State of New York for conduct that in New Jersey violates *RPC* 1.15(a) (knowing misappropriation of funds); *RPC* 8.1(a) (knowingly making a false statement of material fact to disciplinary authorities); *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation, and the principles of In re Wilson, 81 *N.J.* 451 (1979) and In re Hollendonner, 102 *N.J.* 21 (1985). Charles Centinaro appeared before the Supreme Court for the OAE and the respondent appeared pro se.

Terry L. Shapiro - Disbarred by consent on April 20, 2016, (224 *N.J.* 443) after respondent acknowledged that he knowingly misappropriated client funds, and that if he went to a hearing on that matter, he could not successfully defend himself against those charges. Timothy J. McNamara represented the OAE and Robert Ramsey represented the respondent.

Eungnam Peter Shin - Reprimanded on May 5, 2016 (224 *N.J.* 455) for misrepresenting to the bankruptcy court that his client, the creditor, had taken a required credit counseling course when, in fact, his client had not taken the course. Hillary Horton represented the OAE and respondent was pro se on a motion for reciprocal discipline before the DRB.

Darryl W. Simpkins - Suspended for three years on March 1, 2016, effective March 30, 2016 (224 *N.J.* 253),

for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to keep a client reasonably informed about the status of a matter), *RPC* 8.4(b) (commission of a criminal act that reflects adversely on the attorney's honesty, trustworthiness or fitness as a lawyer) and *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation). Timothy J. McNamara represented the Office of Attorney Ethics before the Supreme Court and John McGill, III represented respondent.

Victor G. Sison – Suspended for three months on November 17, 2016, effective December 16, 2016 (227 *N.J.* 138), for engaging in ticket fixing while a municipal court judge, in violation of *RPC* 8.4(b) and (d). Jason D. Saunders appeared before the Disciplinary Review Board for the OAE and Salvatore T. Alfano represented the respondent.

Nestor Smith - Suspended for three months on October 6, 2016, effective November 4, 2016 (228 *N.J.* 22) for failure to abide by his client's decision, lack of diligence; failure to keep his client reasonably informed, failure to comply with reasonable requests for information, and failure to explain the matter to the extent reasonably necessary to allow the client to make an informed decision; knowingly making false statements of material fact to disciplinary authorities; engaging in a criminal act; engaging in conduct involving fraud, dishonesty, deceit and misrepresentation; and engaging in conduct prejudicial to the administration of justice. Christina Blunda Kennedy appeared before the DRB for the OAE and David Dugan appeared for the respondent.

John C. Spadora – Censured on April 21, 2016 (224 *N.J.* 445) for commingling funds, recordkeeping violations, and failure to cooperate with disciplinary authorities. Respondent, at the time of the complaint, had approximately \$165,000 in unidentified funds in his trust account that he claimed were “unidentified legal fees,” which must be cleared while respondent is monitored. Missy Urban handled the matter at the hearing stage, Hillary Horton argued it before the DRB for the OAE, and Robert J. Pompliano represented respondent. This matter was discovered as a result of the Random Audit Compliance Program.

George P. Stasiuk - Censured on a certified record on February 12, 2016 (___*N.J.*___) for abandoning an employment discrimination client without working on her case, and for failing to return an unearned \$6,500 retainer. The Court Order required that Stasiuk must refund the retainer within 30 days of the filing date of the Order or be temporarily suspended until he so complied. Hillary Horton represented the OAE before the Court and respondent was pro se.

Clifford G. Stewart - Admonished on May 24, 2016 (*Unreported*) for record keeping violations which did not impact client funds. Andrea R. Fonseca-Romen represented the OAE and respondent was pro se. This matter was discovered as a result of the Trust Overdraft Notification Program. The respondent was previously disciplined: Admonished in 2014.

Arturo Suarez-Silverio - Suspended for one year on October 6, 2016 (226 *N.J.* 547), based upon discipline imposed by the United States Court of Appeals for the Third Circuit for unethical conduct that in New Jersey constitutes violations of *RPC* 1.1(a) (gross neglect), *RPC* 1.1(b) (pattern of neglect), *RPC* 1.3 (lack of diligence), *RPC* 3.3(a)(1) (false statement of fact or law to a tribunal), *RPC* 3.4(c) (knowingly disobeying an obligation under the rules of a tribunal), and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). Steven J. Zweig represented the OAE and Lee A. Gronikowski represented respondent. The respondent was previously disciplined: Admonished in 2009.

Herbert J. Tan - Disbarred April 20, 2016 (224 *N.J.* 438) on two certified records for numerous ethics violations stemming from ten docketed matters, including multiple violations of *RPC* 1.1(a) (gross negligence), *RPC* 1.1(b) (pattern of negligence), *RPC* 1.2(d) (counseling a client to engage in conduct that the lawyer knows to be fraudulent), *RPC* 1.3 (failure to act with reasonable diligence and promptness in representing a client), *RPC* 1.4(b) (failure to keep a client reasonably informed about the status of the matter or to comply with reasonable requests for information from a client), *RPC* 1.5(c) (failure to advise the client that the fee may be based on the reasonable value of his services and failure to account for the application of his non-refundable retainer to any contingent fee award), *RPC* 1.15(d) (recordkeeping violations), *RPC* 1.16(d) (failing to protect a client's interests on termination of the representation), *RPC* 3.1 (filing a frivolous claim), *RPC* 3.2 (failing to expedite litigation), *RPC* 5.5(a) (unauthorized practice of law), *RPC* 7.1(a) (misleading communications), *RPC* 8.1(b) (failure to respond to a lawful demand for information from a disciplinary authority), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and *RPC* 8.4(d) (engaging in conduct prejudicial to the administration of justice). HoeChin Kim appeared before the Supreme Court for the OAE and respondent, who failed to appear, was pro se. Respondent was previously disciplined: Reprimanded in 2006; reprimanded in 2010; censured in 2011 (also ordered to submit a proctor's name to the OAE); temporarily suspended in 2013 (for failing to submit the name of a proctor); reprimanded in 2014; and suspended for one year in 2015.

Lawrence G. Tosi - Disbarred by consent on November 1, 2016 (227 *N.J.* 43) for knowing misappropriation of client funds. Michael J. Sweeney represented the OAE and Glenn R. Reiser represented the respondent. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

Efthemois D. Velahos – Suspended for six-months on May 26, 2016 (225 *N.J.* 165) following a motion for discipline by consent. Respondent’s conduct involved a multitude of ethical violations in mortgage modification matters in violation of *RPC* 1.15(a) (commingling), *RPC* 1.15(d) (recordkeeping), *RPC* 1.16(a)(1) (failure to withdraw from representation), *RPC* 5.3 (failure to supervise), *RPC* 5.5(a)(1) (practicing while administratively ineligible) *RPC* 5.5 (unauthorized practice of law), *RPC* 7.1, 7.3, 7.4, 7.5 (false or misleading advertising), *RPC* 8.1 (misrepresentation to disciplinary authorities), *RPC* 8.4(b) (commit a criminal act), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); *RPC* 8.4(d) (conduct prejudicial to the administration of justice). Respondent was previously disciplined: Censured in 2014. Jason D. Saunders handled the matter for the OAE and respondent was represented by Teri Lodge.

Michael J. Vollbrecht - Reprimanded on March 9, 2016 (224 *N.J.* 273), for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.4(b) (failure to communicate with client), *RPC* 3.2 (failure to expedite litigation), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and *RPC* 8.4(d) (conduct prejudicial to the administration of justice). Timothy J. McNamara represented the OAE and Respondent was pro se.

Donald E. Warren - Suspended for three months on December 5, 2016, effective January 6, 2017 (227 *N.J.* 226), for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.7(a)(2) and *RPC* 1.8(a) (conflict of interest). Timothy J. McNamara represented the OAE and Antonio J. Toto represented respondent on a motion for discipline by consent granted by the Disciplinary Review Board.

John L. Weichsel - Suspended for three months, effective December 16, 2016 (227 *N.J.* 141), for failing to safeguard funds, failing to comply with recordkeeping requirements of R. 1:21-6, failing to supervise a non-lawyer employee and knowingly making a false statement of material fact in connection with a disciplinary matter. Christina Blunda Kennedy appeared before the DRB for the OAE and Edward S. Zizmor represented the respondent. The respondent was previously disciplined: Admonished in 2010 and reprimanded in 2012.

Roger J. Weil – Disbarred on March 9, 2016 (224 *N.J.* 269) for knowing misappropriation of escrow funds by using them for purposes unrelated to the escrow and without the owner’s knowledge or permission, failure to promptly turn over funds, knowingly making a false statement of material fact, and conduct involving dishonesty, fraud, deceit or misrepresentation and the principles of In re Hollendonner, 102 *N.J.* 21 (1985). . Christina Blunda Kennedy appeared before the Supreme Court for the OAE and Gerard E. Hanlon appeared for respondent.

Walter N. Wilson - Disbarred on a certified record on November 17, 2016 (227 *N.J.* 140), for violating *RPC* 1.1(a) (gross neglect), *RPC* 1.3 (lack of diligence), *RPC* 1.8(a) (improper business transaction with a client), *RPC* 1.15(a) (knowing misappropriation), *RPC* 8.1(b) and Rule 1:20-3(g)(3) (failure to cooperate with disciplinary authorities), *RPC* 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation), and the principles of In re Hollendonner, 102 *N.J.* 21 (1985), and In re Wilson, 81 *N.J.* 451 (1979). Reid Adler represented the OAE and respondent appeared pro se. Respondent was previously admonished in 2015.

Thomas M. Wolfe - Reprimanded on November 4, 2016 (227 *N.J.* 54) for failing to respond to the client’s reasonable requests for information and about the status of the matter and failing to take the steps to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Risa A. Kleiner appeared before the DRB for District VIII and Pamela Lynn Brause represented respondent. Respondent was previously admonished in 2013.

Andrey V. Zielyk - Censured on a certified record on September 8, 2016 (226 *N.J.* 472) for violating *RPC* 8.1(b) (failure to cooperate with disciplinary authorities) and Rule 1:20-3(g)(3). Michael J. Sweeney represented the OAE and respondent was pro se. The respondent was previously disciplined: Admonished in 2013; censured in 2015; and temporarily suspended in 2015.

Carl G. Zoecklein - Admonished on September 22, 2016 (*Unreported*) for violating *RPC* 1.3 (diligence); *RPC* 1.4(b) (inadequate communication with a client); and *RPC* 8.1(b) (failure to cooperate with an ethics investigation) by neglecting a client matter in a real estate dispute and not initially responding to requests for information from the investigator. Charles R. Cohen represented District IIA on the disciplinary stipulation and Salvatore T. Alfano represented respondent.

V. OTHER RELATED ACTIONS

The attorney disciplinary system also handles a significant number of other related actions involving New Jersey attorneys. During 2016, a total of 108 such actions were undertaken, including: transfers to disability-inactive status; prosecutions for contempt of a Supreme Court Order to cease practicing law by suspended or disbarred lawyers; diversionary actions by which attorneys who commit “minor unethical conduct” may avoid discipline if they complete specific conditions; reinstatement proceedings where suspended attorneys seek to again practice law; and matters where disciplined lawyers are monitored for a period of time after discipline is imposed.

A. DISABILITY-INACTIVE STATUS

Disability-Inactive Status is imposed by the Supreme Court where an attorney lacks the mental or physical capacity to practice law. *R. 1:20-12*. While often imposed in conjunction with an attorney disciplinary investigation or prosecution, this status is, by itself, non-disciplinary in nature. During 2016, a total of four (4) attorneys were the subject of a disability-inactive Order. This represents a decrease from 2015 when five (5) attorneys were so transferred. Prior years’ results were: 2014 – 2; 2013 – 6; and 2012 – 2. During this 5-year period, an average of 3.8 lawyers per year on average were placed into disability-inactive status.

B. CONTEMPT

Prosecutions for contempt of Supreme Court orders under *R. 1:20-16(j)* is another category of cases entrusted to the OAE. These actions involve the improper, continued practice of law by suspended and disbarred attorneys. The OAE may file and prosecute an action for contempt before the Assignment Judge of the vicinage where the respondent engaged in the prohibited practice of law. It also has the authority to file disciplinary complaints against offending attorneys seeking sanctions for their violations. There were no prosecutions for contempt of Supreme Court orders in 2016.

C. DIVERSIONS

The diversionary program allows attorneys who have committed “minor unethical conduct” to be diverted from the disciplinary system. “Minor unethical conduct” is behavior that would likely warrant no more than an admonition (the least serious sanction) if the matter proceeded to a hearing. Determinations to divert matters of minor unethical conduct are made only by the OAE Director. A grievant is given ten days’ notice to comment prior to the OAE Director’s final decision to divert the case, but a grievant cannot appeal the Director’s diversion decision.

Diversion may take place only if the attorney acknowledges the misconduct and agrees to take remedial steps (sometimes beneficial to the grievant) to assure future compliance with the Rules. The primary purpose of diversion is education and the productive resolution of disputes between clients and attorneys outside of the disciplinary process. It permits the disciplinary system to focus resources on more serious cases. Diversion conditions generally do not exceed a period of six months. If successfully completed, the

underlying grievance is dismissed with no record of discipline. If diversion is unsuccessful, a disciplinary complaint is filed and prosecuted.

During calendar year 2016, a total of 51 matters were approved for diversion by the OAE Director. By the end of the year, 50 diversions were successfully completed and 26 were still pending from 2016 and prior years. Occasionally, some respondents agree to diversion and then fail to complete the agreed conditions. This year, two (2) respondents failed to complete the conditions of diversion. These matters were returned to the district committee for the filing of a formal complaint. In 2015, 60 diversions were approved. During the last five years, an average of 61 diversions was approved. The most common diversion offenses for 2016 were: Money—Recordkeeping (15); Money – Other (11); and Money—Commingle (9).

The condition most commonly imposed in diversion cases required the attorney to complete the New Jersey State Bar Association's Ethics Diversionary Education Course (49). Other required conditions included: completion of a course in New Jersey Trust and Business Accounting (38); letter of apology (1); additional continuing legal education (1); fee refund/restitution (1); and substance abuse counselling (1). Last year, attendance at the Bar Association's Diversionary Course was also the primary remedial condition (56).

D. REINSTATEMENT PROCEEDINGS

A suspended attorney may not practice again until the attorney first files a reinstatement application, and the Supreme Court grants the request by order. The application is reviewed by the OAE, the Review Board and the Supreme Court. There is no procedure for a disbarred attorney to apply for reinstatement since disbarment is permanent. *In re Wilson*, 81 N.J. 451, 456 n.5 (1979) and *R. 1:20-15A(a)(1)*. Where the attorney is suspended for over six months, a reinstatement petition may not be made until after expiration of the time period provided in the suspension Order. *R. 1:20-21(a)*. Where the suspension is for six months or less, the attorney may file a petition and publish the required public notice 40 days prior to the expiration of the suspension period. *R. 1:20-21(b)*. The Supreme Court reinstated twelve (12) attorneys in 2016, which was 43% fewer than in 2015.

E. MONITORED ATTORNEYS

The Supreme Court imposes monitoring conditions on some attorneys, either in connection with interim or final sanctions imposed in disciplinary proceedings, or as a result of previous reinstatement proceedings. There are several types of practice conditions. A proctorship is imposed on those attorneys who need intensive guidance and oversight by a seasoned practitioner. *Rule 1:20-18* imposes specific reporting responsibilities on both the respondent and the proctor, including weekly conferences, the maintenance of time records, and instructions regarding proper financial recordkeeping. Another typical condition is the submission of an annual or quarterly audit report covering attorney trust and business records. Sometimes random periodic drug testing at the attorney's expense is imposed. Finally, some attorneys are required to take ethics or substantive law courses. As of December 31, 2016, forty-one (41) attorneys were subject to monitoring.

VI. DISCIPLINARY STRUCTURE

The attorney disciplinary system consists of three levels: 1) the Office of Attorney Ethics and District Ethics Committees, 2) the Disciplinary Review Board, and 3) the Supreme Court of New Jersey.

Attorney Discipline System

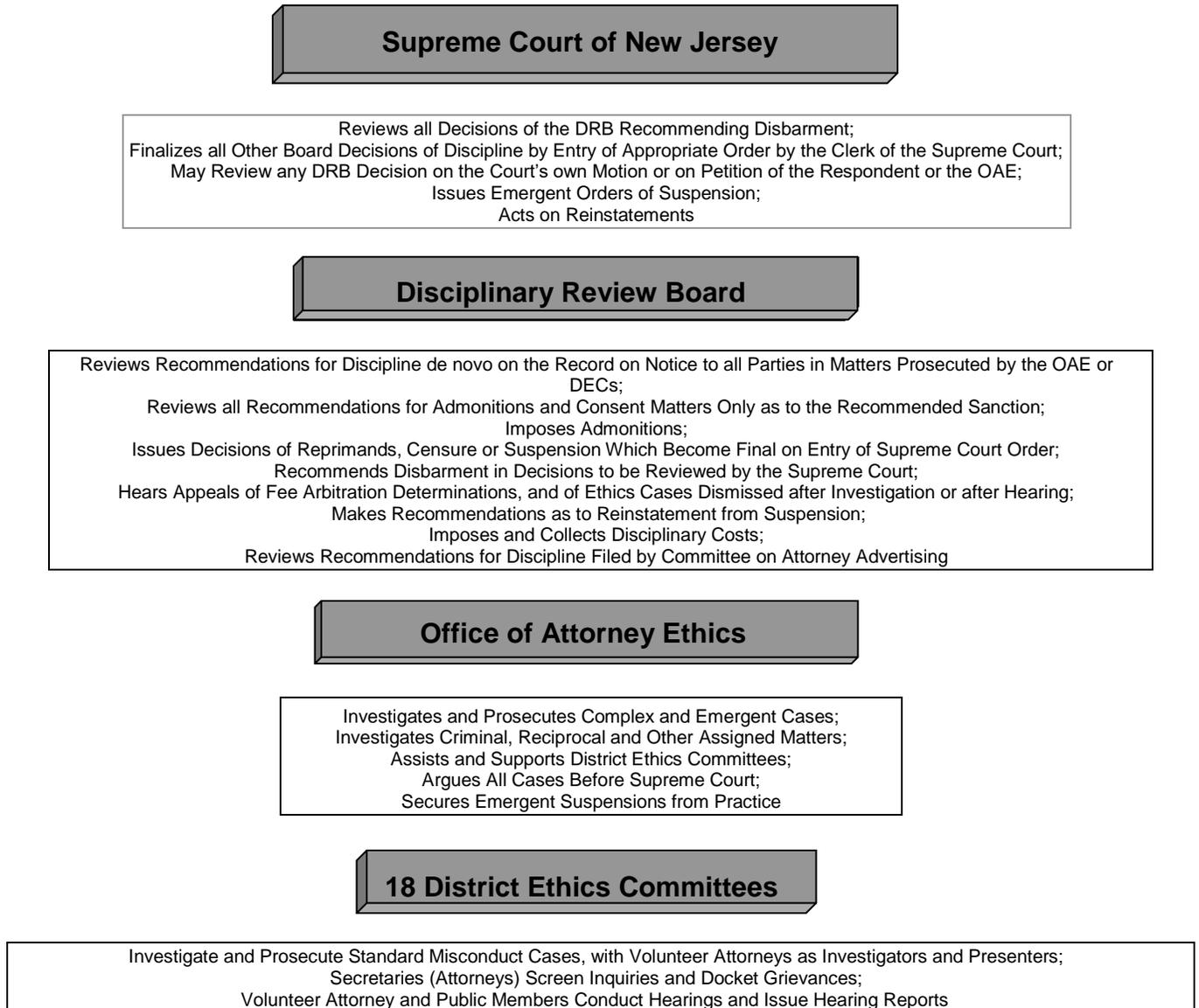


Figure 7

A. DISTRICT ETHICS COMMITTEES (DECs)

The first level consists of 18 regionalized volunteer District Ethics Committees (DECs), with the OAE providing support and guidance, in accord with Court Rules. The District Ethics Committees are generally established along single or multiple county lines.

1. *Members and Officers of the DECs*

The DECs consist of volunteer members who investigate, prosecute and decide disciplinary matters. As of September 1, 2016, there were 619 volunteers (515 attorneys and 104 public members) serving *pro bono* across the state. The DEC leadership consists of three officers (all attorneys): a chair, who serves as the chief executive officer responsible for all investigations; a vice chair, who is responsible for all cases in the hearing stage; and a secretary, who is not a member of the DEC and who serves as the administrator of that DEC. The secretary receives and screens all inquiries and grievances. The secretary functions as the DEC's link to the public, fielding all calls from members of the public and the Bar and providing information about the grievance and disciplinary process. While secretaries receive an annual emolument to defray the expenses related to their duties, they are nonetheless volunteers, as are all of the members of the DECs.

2016-2017 District Ethics Committee Officers

CHAIR	VICE CHAIR	SECRETARY
District I - Atlantic, Cape May, Cumberland and Salem Counties		
David S. DeWeese, Esq.	Carl N. Tripician, Esq.	Jacqueline Hawkins Stiles, Esq.
District IIA – Bergen – North		
William I. Strasser, Esq.	Evelyn R. Storch, Esq.	Nina C. Remson, Esq.
District IIB - Bergen County – South		
Eileen P. Mulroy, Esq.	Bong June Kim, Esq.	Nina C. Remson, Esq.
District IIIA - Ocean County		
Jerome Turnbach, Esq.	Linda Rehrer, Esq.	Steven Secare, Esq.
District IIIB - Burlington County		
Swati M. Kothari, Esq.	Michael J. Wietrzychowski	Cynthia S. Earl, Esq.
District IV - Camden and Gloucester Counties		
Christopher L. Soriano, Esq.	Daniel Q. Harrington, Esq.	John M. Palm, Esq.
District VA - Essex County – Newark		
David M. Dugan, Esq.	Deborah Berna Fineman, Esq.	Natalie S. Watson, Esq.
District VB - Essex County - Suburban Essex		
Kelly M. Mattheiss, Esq.	Kevin C. Orr, Esq.	Paula I. Getty, Esq.
District VC - Essex County - West Essex		
Martin Bearg, Esq.	Joshua David Sanders, Esq.	Jay M. Silberner, Esq.
District VI - Hudson County		
Ilene S. Miklos, Esq.	Christine Fitzgerald, Esq.	Jack Jay Wind, Esq.
District VII - Mercer County		
Peter F. Kelly, Esq.	Andrea Dobin, Esq.	David A. Clark, Esq.
District VIII - Middlesex County		
Willard C. Shih, Esq.	Howard Duff, Esq.	Barry J. Muller, Esq.
District IX - Monmouth County		
Mark B. Watson, Esq.	Lourdes Lucas, Esq.	Joseph M. Casello, Esq.

District XA – East Morris and Sussex Counties		
Helen E. Tuttle, Esq.	Diana C. Manning, Esq.	Caroline Record, Esq.
District XB – West Morris and Sussex Counties		
Catherine Riordan, Esq.	H. Lockwood Miller, III, Esq.	Caroline Record, Esq.
District XI - Passaic County		
Deborah Jean Massaro, Esq.	Carmen Elsa Cortes-Sykes, Esq.	Michael Pasquale, Esq.
District XII - Union County		
Michael Margello, Esq.	Glen J. Vida, Esq.	Michael F. Brandman, Esq.
District XIII - Hunterdon, Somerset and Warren Counties		
Timothy P. McKeown, Esq.	Lisa M. Fittipaldi, Esq.	Donna P. Legband, Esq.

Figure 8

2. *Investigations*

Attorney members are assigned to investigate and, if necessary, prosecute grievances docketed with a DEC.

3. *Complaints*

Formal complaints are filed only where the DEC Chair determines that there is a reasonable prospect of proving charges against the attorney-respondent by clear and convincing evidence.

4. *Hearing Panels*

Three-member hearing panels comprised of two attorneys and one public member of a DEC decide cases after formal complaints have been filed.

5. *Office of Attorney Ethics*

The OAE is responsible for overseeing the operations of all DEC's. The OAE also separately investigates and prosecutes serious, complex and emergent matters statewide, as discussed more fully in the "Office of Attorney Ethics" section below.

B. DISCIPLINARY REVIEW BOARD

The second level of the disciplinary system involves the Disciplinary Review Board (Review Board), which is the intermediate appellate tribunal in disciplinary matters. It is usually composed of nine members. Five are lawyers (Chair Bonnie C. Frost, Esq., Vice Chair Edna Y. Baugh, Esq., Peter J. Boyer, Esq., Bruce W. Clark, Esq. and Anne C. Singer, Esq.), one is a retired Assignment Judge (Hon. Maurice J. Gallipoli) and three are public members (Mr. Robert C. Zmirich, Mr. Thomas J. Hoberman and Ms. Eileen Rivera). All Review Board members volunteer their time to the system. The Review Board meets monthly (except August and December) in public session at the Richard J. Hughes Justice Complex, Trenton, to hear oral arguments on recommendations for discipline.

The Review Board's primary responsibility is to review reports by hearing panels and special ethics masters finding unethical conduct and recommending discipline, and to decide OAE motions for final or reciprocal discipline. If a matter comes to it on a recommendation for admonition, the Review Board may issue a written letter of admonition without scheduling oral argument. Matters in which the recommended discipline is a reprimand, censure, suspension or disbarment are routinely scheduled for oral argument. The respondent may appear pro se or by counsel. The presenter of an

Ethics Committee or OAE Ethics Counsel appears to prosecute the matter. If the Review Board determines that a reprimand or greater discipline should be imposed, its written decision is reviewed by the Supreme Court, which then issues the final Order imposing discipline.

The Review Board also decides other matters, including appeals from dismissals after investigation or hearing and appeals of fee arbitration determinations. It also acts on requests by suspended attorneys to be reinstated to practice. Here, the Review Board's recommendation goes to the Supreme Court to either grant or deny reinstatement.

OAE ethics counsel appeared before the Review Board during 2016 to argue a total of 77 separate matters. The Review Board's review is *de novo* on the existing record and no testimony is taken.

C. SUPREME COURT OF NEW JERSEY

The Supreme Court of New Jersey is the third and highest level of the disciplinary system. Under the State Constitution, the Supreme Court of New Jersey has exclusive authority over the regulation of the practice of law. *N.J. Const.* art. VI, Section II, ¶3. The Supreme Court sets the terms for admission to the practice of law and regulates the professional conduct of attorneys.

The Supreme Court is composed of the Chief Justice and six Associate Justices. Supreme Court Justices are appointed by the Governor and confirmed by the State Senate for an initial term of seven years. On reappointment, they are granted tenure until they reach the mandatory judicial retirement age of 70. The current Chief Justice, Stuart Rabner, was appointed to the Supreme Court in 2007. The other members of the Supreme Court are Justice Jaynee LaVecchia (appointed in 2000; tenured in 2007); Justice Barry T. Albin (appointed in 2002; tenured in 2009); Justice Anne M. Patterson (appointed in 2012); Justice Faustino J. Fernandez-Vina (appointed in 2014); Justice Lee A. Solomon (appointed in 2014); and Justice Walter F. Timpone (appointed in 2016).

The Supreme Court hears oral arguments in disciplinary matters at the Richard J. Hughes Justice Complex. Only the Supreme Court can order disbarment of an attorney. In all other matters, the decision or recommendation of the Review Board becomes final on the entry of a disciplinary order by the Supreme Court, unless the Court grants a petition for review or issues an order to show cause on its own motion.

The OAE represents the public interest in all cases before the Supreme Court. During 2016, OAE ethics counsel appeared a total of 32 times for oral argument in disciplinary cases. Arguments are televised in real time via streaming video technology over the Internet. Arguments can be accessed from the Judiciary's Website at www.njcourtsonline.com by clicking on the WEBCAST icon.

D. FINANCING ATTORNEY DISCIPLINE

1. Annual Attorney Registration Fee

The attorney disciplinary system in New Jersey is funded exclusively from the Supreme Court's annual mandatory registration assessment on lawyers. No taxpayers' money is used. The assessment constitutes dedicated funds earmarked exclusively for the attorney discipline and fee arbitration systems. *R.1:20-2(b)*. The annual billing also funds the Lawyers' Fund for Client Protection, *R.1:28-2* (which reimburses clients whose monies have been taken by lawyers through dishonest conduct), as well as the Lawyers'

Assistance Program (which helps lawyers with alcohol, substance abuse and other problems). For calendar year 2016, the total annual fee assessed for most lawyers (those admitted between 5 to 49 years) was \$212. Of this amount, \$148 was earmarked for attorney discipline, \$50 for the Lawyers' Fund, \$10 for Lawyers' Assistance, and \$4 for Continuing Legal Education.

2. *Comparison to Other Jurisdictions*

New Jersey attorneys pay among the lowest mandatory annual registration fees in the country. A July 1, 2016, survey prepared by the OAE for the National Organization of Bar Counsel, Inc., showed that New Jersey ranked 5th in attorney size (with 97,187 attorneys) out of 51 United States jurisdictions. The survey also demonstrated that the Garden State ranked 40th (at \$212) in the amount of mandatory fees required to practice. In 2015, New Jersey ranked 7th in attorney size and 40th in mandatory fees.

3. *Disciplinary Oversight Committee*

The Supreme Court established a Disciplinary Oversight Committee (Oversight Committee) and charged it with the responsibility to oversee the administration and financial management of the disciplinary system. *R. 1:20B*. One of its primary functions is to review annually the budgets proposed by the OAE and the Review Board and to make recommendations to the Supreme Court in that respect.

The Oversight Committee for 2016 consisted of six attorneys (Maureen E. Kerns, Esq., Vice-Chair, Paris P. Eliades, Esq., Hon. Joel Rosen, Debra Stone, Esq., Hon. Nesle A. Rodriguez, J.S.C. and Matthew O'Malley, Esq.) and five public members (Mr. Richard Sackin, CPA, Chair, Mr. Alonzo Brandon, Jr., Mr. Luis J. Martinez; Mr. Spencer V. Wissinger, III, CPA and Mr. Daniel D. Lynn) all of whom serve *pro bono*.

The annual disciplinary budget for calendar year 2016 was \$12,974,963. Fifty-eight percent (58%) was allocated to the OAE and 19% to the Review Board. The balance was apportioned as follows: District Ethics Committees (7%), Random Audit Compliance Program (8%), Attorney Registration Program (4%), District Fee Arbitration Committees (3%) and Oversight Committee (1%).

E. OFFICE OF ATTORNEY ETHICS

The Supreme Court created the OAE on October 19, 1983, as the investigative and prosecutorial arm of the Supreme Court in discharging its constitutional authority to supervise and discipline New Jersey attorneys. *N.J. Const.* art VI, Section II, ¶3.

The OAE has programmatic responsibility for 18 District Ethics Committees, which investigate and prosecute grievances alleging unethical conduct against attorneys. It also administers 17 District Fee Arbitration Committees (Fee Committees), which hear and determine disputes over legal fees between attorneys and clients. Likewise, the OAE conducts the Random Audit Compliance Program, which undertakes random audits of private law firm trust and business accounts to ensure that mandatory recordkeeping practices are followed. The OAE also oversees the collection and analysis of Annual Attorney Registration Statement data, which provides demographic and private practice information about all New Jersey lawyers, including trust and business accounts.

Importantly, the OAE also is vested with exclusive investigative and prosecutorial jurisdiction in certain types of matters, such as emergent, complex or serious disciplinary cases, matters where an attorney has been criminally charged, cases where an attorney is the subject of reciprocal discipline from another United States jurisdiction, matters

involving allegations against a sitting Superior Court or Appellate Division judge concerning conduct while the judge was an attorney, multijurisdictional practice matters, charges against in-house counsel, cases where Ethics Committees have not resolved an investigation within a year, and any case referred by the Review Board or the Supreme Court. *R. 1:20-2(b)*.

1. *OAE Legal Group*

The Supreme Court appoints the OAE Director. On recommendation of the Director, the Supreme Court appoints other ethics counsel. The Director hires all other staff, subject to the approval of the Chief Justice. The OAE Legal Group consists of a Director, First Assistant, three Assistant Ethics Counsel and eight Deputy Ethics Counsel.

2. *Administrative Group*

The work of the OAE is ably supported by its Administrative Group. It includes the OAE Administrator, who is responsible for human resources, facilities management, budgeting and accounting services, attorney registration program, reception and public information. She is assisted by an Office Coordinator. Information technology consists of a manager and a network administrator.

3. *Support Group*

The OAE's Support Group consists of a legal assistant, as well as secretarial and clerical positions. These positions support attorneys, investigators, auditors and administrative personnel. In addition to secretarial/support services, a number of these staff positions provide information to the public, attorneys and others; issue Certificates of Ethical Conduct; transcribe interviews and demand audits; computerize and update information on all disciplinary cases docketed statewide; enter the results of decisions by the Supreme Court and the Review Board into OAE systems; enter attorney registration data; support the Trust Overdraft Program and the approved trust depositories program; coordinate the use of special ethics masters; administer OAE pool vehicles; and perform bookkeeping functions, together with many other important tasks without which the statewide disciplinary system could not operate.

4. *Complex Investigative Group*

The OAE's Complex Investigative Group consists of forensic disciplinary auditors and disciplinary investigators, assisted by an investigative aide. William M. Ruskowski is the Chief of Investigations. He is assisted by Assistant Chief Jeanine E. Verdel and Assistant Chief Barbara M. Galati.

The Complex Investigative Group primarily conducts statewide investigations of complex, serious and emergent matters, reciprocal discipline and criminal and civil charges made against New Jersey lawyers. Cases often involve misappropriation of trust funds, unethical financial and fraudulent conduct, recidivist attorneys and related white-collar misconduct. The group also handles matters where the OAE seeks temporary suspensions of attorneys to protect the public and the Bar.

5. *District Ethics Group*

The OAE District Ethics Group (OAE's DEC Group) supports the efforts of the 18 volunteer Ethics Committees throughout the state. Assistant Ethics Counsel Isabel K. McGinty, who serves as the OAE's Statewide Ethics Coordinator, spearheads this group, with Deputy Statewide Ethics Coordinator William B. Ziff. Both are supported by an administrative assistant, a secretary, and a clerk/hearings administrator.

The responsibilities of the OAE's DEC Group are broad and include: recruitment of all volunteer members, including screening, appointment and replacement as necessary; conducting annual orientation training and conducting annual meetings of all officers; preparing the District Ethics Committee Manual; providing monthly computer listings of all pending cases to officers; and handling statewide general correspondence, including complaints about processing from grievants and respondents. The Group also assesses conflicts arising at the district level and transfers cases as necessary; continuously communicates with officers regarding committees' compliance with Supreme Court time goals; compiles and reviews monthly and quarterly overgoal case reports from officers; periodically follows-up with volunteer investigators and hearing panel chairs, as necessary; and provides legal and procedural advice to the DEC volunteer members. The Group also prepares periodic updates to educate members; issues Certificates of Appreciation to outgoing members; recommends policies necessary to secure goals set by the Supreme Court; and consults with the OAE Director on an ongoing basis.

VII. ATTORNEY FEE ARBITRATION

A. HISTORY AND PURPOSE

The New Jersey Supreme Court has long recognized that disputes between clients and their attorneys are not always matters of ethics, but sometimes involve other issues linked to the reasonableness of the fee charged by the attorney in relation to the overall services rendered by that attorney. To assist in the resolution of these fee disagreements, the Supreme Court established a fee arbitration system, which relies on the services of volunteers (attorneys and non-attorneys) serving on 17 District Fee Arbitration Committees (Fee Committees). These volunteers screen and adjudicate fee disputes between clients and attorneys over the reasonableness of the attorney's fee.

New Jersey's fee system requires that the attorney notify the client of the fee arbitration program's availability prior to bringing a lawsuit for the collection of fees. If the client chooses fee arbitration, the attorney must arbitrate the matter. For those matters that involve questions of ethics, in addition to the fee dispute, the ethics issues may still be addressed on the conclusion of the fee arbitration proceedings, and the OAE makes sure that both types of proceedings will proceed forward on a timely basis.

The fee arbitration system was established in New Jersey in 1978 as just the second mandatory statewide program in the country, behind Alaska. Fee arbitration offers clients and attorneys an inexpensive, fast and confidential method of resolving fee disagreements. Even today, New Jersey remains one of only a handful of states with a mandatory statewide fee arbitration program. Other such programs exist in Alaska, California, District of Columbia, Maine, New York, Montana, North Carolina, South Carolina and Wyoming.

B. ADMINISTRATION

The OAE administers the district fee arbitration system, pursuant to the Rules of the New Jersey Supreme Court. Assistant Ethics Counsel Jason D. Saunders was the OAE's Statewide Fee Arbitration Coordinator in 2016. The OAE Fee Arbitration Unit was staffed during 2016 by an administrative assistant, with clerical support. The OAE Fee Arbitration Unit provides assistance to the district fee secretaries and to committees in all aspects of fee arbitration cases. As of the start of the term of service on September 1, 2016, there were 340 members of district committees (232 attorneys and 108 public members, in addition to the 17 district fee secretaries, all of whom are attorneys) serving *pro bono* across the state.

C. STRUCTURE

The fee arbitration process is a two-tiered system. The fee arbitration hearings are conducted before hearing panels of the 17 District Fee Arbitration Committees (**Figure 9**), with appeals heard before the Disciplinary Review Board of the Supreme Court.

2016-2017 District Fee Committee Officers

Figure 9

CHAIR	VICE CHAIR	SECRETARY
District I – Atlantic, Cape May, Cumberland and Salem Counties		
Sara Beth Johnson, Esq.	Gregory J. Mutchko, Esq.	Michael A. Pirolli, Esq.
District IIA – North Bergen County		
Bert Binder, Esq.	John W. McDermott, Esq.	Terrence J. Corrison, Esq.
District IIB – South Bergen County		
Laura A. Nunnink, Esq.	Rosemarie Anderson, Esq.	Michael J. Sprague, Esq.
District IIIA – Ocean County		
Marianna C. Pontoriero, Esq.	Eli L. Eytan, Esq.	Lisa E. Halpern, Esq.
District IIIB – Burlington County		
Jay B. Feldman, Esq.	Michael A. Taylor, Esq.	Albert M. Afonso, Esq.
District IV – Camden and Gloucester Counties		
Patrick J. Madden, Esq.	William E. Haddix, Esq.	Daniel McCormack, Esq.
District VA – Essex County - Newark		
Elizabeth A. Kenny, Esq.	Remi L. Spencer, Esq.	Jodi Rosenberg, Esq.
District VB – Essex County – Suburban Essex		
Anthony Mazza, Esq.	Jane F. Wolk, Esq.	Harvey S. Grossman, Esq.
District VC – Essex County – West Essex		
Rufino Fernandez, Jr., Esq.	Arthur G. Margeotes, Esq.	Peter J. Kurshan, Esq.
District VI – Hudson County		
Brunilda Bonilla, Esq.	Melissa L. Longo, Esq.	Marvin R. Walden Jr., Esq.
District VII – Mercer County		
Christine V. Bator, Esq.	Howard S. Rednor, Esq.	William P. Isele, Esq.
District VIII – Middlesex County		
Marianne W. Greenwald, Esq.	Donna M. Jennings, Esq.	William P. Isele, Esq.
District IX – Monmouth County		
Robert W. O’Hagan, Esq.	Vincent E. Halleran, Esq.	Robert J. Saxton, Esq.
District X – Morris and Sussex Counties		
Marita S. Erbeck, Esq.	Amy L. Miller, Esq.	Patricia L. Veres, Esq.
District XI – Passaic County		
Peter J. Lefkowitz, Esq.	Santiago D. Orozco, Esq.	Jane E. Salomon, Esq.
District XII – Union County		
Ann M. Merritt	Diene Hernandez-Rodriguez, Esq.	Carol A. Jeney, Esq.
District XIII – Hunterdon, Somerset and Warren Counties		
Robert F. Simon, Esq.	John C. Macce, Esq.	Olivier J. Kirmser, Esq.

1. *Filing for Fee Arbitration*

The process begins when a client submits a completed Attorney Fee Arbitration Request Form to the district fee secretary of the Fee Committee in a district where the attorney maintains an office. The client must submit the two-page form, along with the \$50 filing fee, for the process formally to commence. Both the client and attorney are required to pay the \$50 administrative filing fee, unless an indigency waiver is requested of the Director.

The district secretary must determine whether the Fee Committee has jurisdiction to hear the fee dispute. For example, if the fee is disputed in a matter in which no attorney's services have been rendered for more than six years, then the district secretary must decline jurisdiction. The district secretary may decline jurisdiction as a matter of discretion in cases where the total fee charged exceeds \$100,000, excluding out-of-pocket expenses and disbursements. The categories of cases wherein the district secretary must or may decline jurisdiction are specified in *R. 1:20A-2*.

After the district secretary docket the case, the secretary will send the Attorney Fee Response Form to the attorney, who must return the completed form and the \$50 filing fee within the time limit set by Court Rule. The attorney and the client both have the opportunity to submit any documentation and/or records relevant to the matter, including the attorney's bill, any written fee agreement, and any time records. If the attorney named by the client should allege that any other attorney or law firm should be liable for all or a part of the client's claim, the original attorney may take steps to have that attorney or firm joined in the proceedings, in accord with *R. 1:20A-3(b)(2)*. Thereafter, the matter would be set down for a fee arbitration hearing.

2. *Arbitration Hearings*

In cases involving fees of \$3,000 or more, the matter is typically heard before panels of at least three members, usually composed of two attorneys and one public member. Fee Committees have been composed of both attorneys and public members since April 1, 1979. If the total amount of the fee charged is less than \$3,000, the hearing may be held before a single attorney member of the Fee Committee.

Hearings are scheduled on at least ten days' written notice. There is no discovery. All parties have the power of subpoena, however, subject to rules of relevancy and materiality. No stenographic or other transcript of the proceedings is maintained. The burden of proof in fee matters is on the attorney to prove, by a preponderance of the evidence, that the fee charged is reasonable.

Following the hearing, the panel or single arbitrator prepares a written arbitration determination, with a statement of reasons annexed, to be issued within thirty days. The Rules provide for the parties to receive the Arbitration Determination from the district secretary within thirty days of the conclusion of the hearing.

3. *Appeals*

The Court Rules allow a limited right of appeal to the Disciplinary Review Board, under *R. 1:20A-3(c)*. The limited grounds for appeal are:

- 1) failure of a member to be disqualified in accordance with *R. 1:12-1*;
- 2) substantial failure of the Fee Committee to comply with procedural requirements of the Court Rules or other substantial procedural unfairness that led to an unjust result;
- 3) actual fraud on the part of any member of the Fee Committee; and
- 4) palpable mistake of law by the Fee Committee, which led to an unjust result.

Either the attorney or the client may take an appeal within 21 days after receipt of the Fee Committee's written determination by filing a notice of appeal in the form prescribed by the Disciplinary Review Board. All appeals are reviewed by the Disciplinary Review Board on the record. Its decision is final. There is no right of appeal to the Supreme Court. Following expiration of the time limit for filing the appeal, and unless the decision of the

Fee Committee has been reversed on appeal by the Disciplinary Review Board, the decision of the Fee Committee in the form of the written Arbitration Determination becomes final and binding on the parties. *R.1:20A-2(a)*.

D. ANNUAL CASELOAD

In 2016, Fee Committees handled a total of 1,508 matters, including new cases filed and those that reached a disposition during that year. The committees began the year with 522 cases pending from 2015. During the year, 986 new matters were added. **Figure 10.** A total of 979 cases were disposed of, leaving a balance of 529 matters pending at year's end. At the conclusion of 2016, the average number of cases pending before each of the 17 Fee Committees was 31.1 cases per district, but that number includes all matters, even those filed in late December.

The 986 new filings received in 2016 involved claims against roughly 1.3% of the active New Jersey attorney population (75,137). Some areas of practice (matrimonial, in particular) involve high billings for legal fees, following protracted litigation which may involve years of billings. Many such cases are filed as fee arbitration disputes per year.

Changes in Fee Disputes

Year	Filings	Change
2016	986	-2.8%
2015	1,014	-15.1%
2014	1,194	13.8%
2013	1,049	17.2%
2012	895	--

Figure 10

For a more nuanced view of what these numbers may indicate, the number of fee arbitration cases filed with the district committees each year (986 in 2016) may be compared with the hundreds of thousands of legal matters filed with the courts, and the hundreds of thousands of non-litigated matters (real estate, wills, business transactions and government agency matters, etc.) handled annually in other forums. The number of fee arbitration filings is a very small percentage of the total attorney-client transactions. This comparison supports the conclusion that clients sought fee arbitration of the attorneys' bills in a very small percentage of the total cases handled in the year by all New Jersey attorneys on their clients' behalf.

1. Financial Results

During 2016, District Fee Committees arbitrated matters involving a total of almost \$11.5 million in legal fees this year, which represents an 11% decrease from the \$12.9 million in legal fees handled during 2015. In addition, some cases are resolved by the attorneys themselves as of the time that the client commences the process, with no further action needed by the District Fee Committee.

Of the cases that proceeded to a hearing, Fee Committees conducted 484 hearings during 2016, involving more than \$12.1 million in total attorneys' fees charged. In 32% of the cases (157 hearings), the hearing panels upheld the attorney fees in full. In the balance of 68% of the fee cases (325 hearings), the hearing panels reduced the attorney fees by a total of \$1.4 million, which represents close to 21% of the total billings subject to reduction (\$1.4 million out of the total of \$6.9 million subject to reduction).

For an overview of the amounts at issues, the 325 cases in which the attorney fee was reduced by the hearing panel may be broken into the following categories:

- \$0 to \$1,000 – 97 cases
- \$1,001 to \$2,000 – 64 cases
- \$2,001 to \$5,000 – 78 cases
- \$5,000 to \$10,000 – 56 cases

\$10,001 to \$20,000 – 21 cases
\$20,001 to \$50,000 – 8 cases
Over \$50,000 – 1 case

For *all* cases which proceeded to a hearing with an Arbitration Determination issued by the hearing panel, the average amount billed was \$22,458. The median amount billed was \$10,379. The average amount of the reductions in all cases which proceeded to an Arbitration Determination was \$4,372, with a median reduction amount of \$2,038.

It should be noted that the parties reached settlement without a hearing in an additional 222 cases, including 5 in which the amount of the attorney fees in dispute exceeded \$50,000. The total fees at issue in the cases settled by the parties involved close to \$629,000 in attorney fees. The attorneys agreed to a reduction in fees without going to a hearing in 129 of those cases (58.1% of the total cases settled by stipulation).

2. *Age of Caseload*

The length of time that it may take for a fee arbitration case to proceed to disposition may depend on many factors, including the availability of the parties, the panelists, the witnesses, and any interpreter (if needed) for the hearing, as well as whether the hearing may be completed on a single hearing date. The parties may seek to submit additional documentation following the hearing, which would then be available to both sides for review and additional argument, if needed and allowed by the hearing panel. Changes in leadership of the district committees may affect the pace of dispositions, particularly when new attorneys have been appointed to the position of district secretary in some of the districts with the largest caseloads in the State. Fluctuations in the number of cases filed also affect disposition rates, because of the limits on the number of cases that may be expected within reason to proceed to a hearing before the panels of volunteers in any given month.

Of the 979 cases that proceeded from file-opening to case-closing in calendar year 2016, almost 68.8% reached disposition in fewer than 180 days (673 out of 979 total cases). The Fee Committees resolved 81 fewer cases in that interval than during the preceding calendar year, when 754 cases out of a total caseload of 1,133 were resolved in under 180 days. The data for 2016 shows that the Fee Committees resolved almost 13.6% fewer cases overall than during the preceding calendar year. Two hundred and sixty-three (263) of the total cases resolved during 2016 were resolved within 60 days of filing. For 2015, 325 cases were resolved that quickly.

E. NATURE OF CASES

The categories of legal services for which clients seek fee arbitration highlight the importance of the fee arbitration system in particular practice areas. The system has proven to be a very effective and efficient method for resolving attorney fee disputes, while avoiding litigation between the parties as to the fee dispute.

Over the past five years, family actions (including matrimonial, support and custody cases) have consistently generated the most fee disputes (34%) on average. Criminal matters (including indictable, quasi-criminal and municipal court cases) ranked second in frequency (15%). Third place was filled by General Litigation at 10.6%. Real Estate, at roughly 4.9%, came in fourth place, and Contract Matters came in fifth place at 3.7%. The overall filings fit into an additional 20 legal practice areas.

F. ENFORCEMENT

The Fee Arbitration Unit follows up when a client reports that he or she has not been paid by the attorney the full amount of the refund owed, as set forth by the Arbitration Determination or a stipulation of settlement. This follow-up has been required in 20 to 30 cases per year, over the past five years. The OAE issues a warning letter if the attorney has not paid the full amount of the fee award within the 30-day payment period. If the attorney thereafter does not send payment in full to the client within the 10-day period specified in the warning letter, the OAE may file a motion for the temporary suspension of the attorney. The motion would be heard by the Disciplinary Review Board, which would then send the recommendation of suspension to the Supreme Court. The Supreme Court has ordered an average of eight attorneys to be suspended each year over the past five years as a result of such motions, with the attorneys' terms of suspension continued until they submitted proof of payment in full to the clients, along with the payment of any additional monetary sanction relating to the costs of the enforcement proceedings.

VIII. RANDOM AUDIT PROGRAM

A. PURPOSE

1. *Safeguarding Public Confidence*

The Supreme Court of New Jersey has been a national leader in protecting the public by actively auditing attorney trust accounts for compliance with mandatory fiduciary rules. New Jersey's Random Audit Compliance Program (RAP) has been conducting financial compliance audits of law firms since July 1981. New Jersey is the state with the largest lawyer population in the country to conduct a random auditing program. Only eight other states have operational random programs. In order of implementation, they are: Iowa (1973), Delaware (1974), Washington (1977), New Hampshire (1980), North Carolina (1984), Vermont (1990), Kansas (2000) and Connecticut (2007).

Pursuant to *R.1:21-6*, all private law firms are required to maintain trust and business accounts and are subject to random audit reviews. On average, at any given time, clients allow New Jersey lawyers to hold almost three billion dollars in primary attorney trust accounts ("IOLTA" trust accounts) alone. Even more money is controlled by Garden State law firms in separate attorney trust and other fiduciary accounts in connection with estates, guardianships, receiverships, trusteeships and other fiduciary capacities. Both public protection and the public's trust in lawyers require a high degree of accountability.

Over 35 years after RAP first began, the conclusion is that the overwhelming majority of private New Jersey law firms (98.6%) account for clients' funds honestly and without incident. While technical accounting deficiencies are found and corrected, the fact is that only 1.4% of the audits conducted over that period have found serious ethical violations, such as misappropriation of clients' trust funds. Since law firms are selected randomly for audit on a statewide basis, the selections and, therefore, the results are representative of the handling of trust monies by private practice firms. These results should give the public and the Bar great trust and confidence in the honesty of lawyers and their ability to handle monies entrusted to their care faithfully.

2. *Auditing Objectives*

The central objectives of the Random Audit Program are to insure compliance with the Supreme Court's stringent financial recordkeeping rules and to educate law firms on the proper method of fulfilling their fiduciary obligations to clients under *R.1:21-6*. Another reason underlying the program is a by-product of the first — deterrence. Just knowing there is an active audit program is an incentive not only to keep accurate records, but also to avoid temptations to misuse trust funds. While not quantifiable, the deterrent effect on those few lawyers who might be tempted otherwise to abuse their clients' trust is undeniably present. Random audits serve to detect misappropriation in those relatively small number of law firms where it occurs.

B. ADMINISTRATION

The OAE administers RAP. In 2016, the RAP staff was managed by Chief Auditor Robert J. Prihoda, Esq., C.P.A., who joined the OAE in 1981. Other staff included Assistant Chief Auditor Mary E. Waldman, who is a Certified Fraud Examiner; two Senior Random Auditors: Mimi Lakind, Esq. and Karen J. Hagerman, a Certified Fraud Examiner; and three Random Auditors: Tiffany Keefer, Liliana Kaminski and William Colangelo.

C. RANDOMNESS AND SELECTION

A primary key to the integrity of RAP lies in the assurance that no law firm is chosen for audit except by random selection using a computer program based on a Microsoft Corporation algorithm for randomness. The identifier used for the law firm in the selection process is the main law office telephone number. The Supreme Court approved this methodology in 1991 as the fairest and most unbiased selection process possible, because it insures that each law firm, regardless of size, has an equal chance of being selected.

D. STANDARDS FOR ACCOUNTING

New Jersey Recordkeeping Rule 1:21-6 has provided attorneys with detailed guidance on handling trust and business accounts for more than 47 years. It is the uniform accounting standard for all audits. This Rule, which incorporates generally accepted accounting practices, also specifies in detail the types of accounting records that must be maintained and their location. It also requires monthly reconciliations, prohibits overdraft protection and the use of ATM's for trust accounts, and requires a seven-year records retention schedule.

All private law firms are required to maintain a trust account for all clients' funds entrusted to their care and a separate business account into which all funds received for professional services must be deposited. Trust accounts must be located in New Jersey. These accounts must be uniformly designated "Attorney Trust Account." Business accounts are required to be designated as either an "Attorney Business Account," "Attorney Professional Account" or "Attorney Office Account." All required books and records must be made available for inspection by random audit personnel. The confidentiality of all audited records is maintained at all times.

E. AUDITING PROCEDURES

1. Scheduling

Random audits are always scheduled in writing ten days to two weeks in advance. While the audit scheduled date is firm, requests for adjournments are given close attention.

2. Record Examination

The auditor conducts an initial interview with the managing attorney followed by the examination and testing of the law firm's financial recordkeeping system. At the conclusion of the audit, which averages one full day, the auditor offers to confer with the managing attorney in an exit conference to review and explain the findings. At that time, the attorney is given a deficiency checklist, which highlights corrective action that must be taken. Even in the case where no corrections are necessary to bring the firm into compliance with the Rule, the auditor may suggest improvements that will make the firm's job of monitoring client funds easier.

3. Notice of Deficiency

The deficiency checklist is followed by a letter confirming the exit conference and describing any shortcomings for which corrective action is necessary. An acknowledgement of receipt and a response of corrections, and in some instances a certification, must be filed with RAP within 45 days of the date of the letter, specifying how each deficiency has, in fact, been rectified. If the confirming letter is received from the attorney, the case is closed. If the letter is not received, a final ten-day letter advises that, if no confirming letter is received within ten days, a disciplinary complaint will be issued. When a complaint is filed, discipline is the uniform result. *In re Schlem*, 165 N.J. 536 (2000).

F. COMPLIANCE THROUGH EDUCATION

Rule 1:20-1(c) mandates that all attorneys submit and update annual attorney registration information, and private practitioners must list their primary trust and business accounts and certify compliance with the recordkeeping requirements of *R.1:21-6*. Attorney registration information must now be submitted and kept updated online, on the website of the New Jersey Judiciary. The Random Audit Compliance Program also publishes a brochure entitled *New Jersey Attorney's Guide to the Random Audit Program and Attorney Trust Accounts and Recordkeeping*. Since 1996, that brochure is sent to all law firms with the initial random scheduling letter. Detailed information on the program is also available on the OAE's website.

G. DISCIPLINARY ACTIONS

Each year RAP's staff of experienced auditors uncovers a small, but significant, number of cases of lawyer theft and other serious financial violations. This past year, the following nine attorneys, detected solely by RAP, were disciplined by the Supreme Court (**Figure 11**).

Figure 11

2016 RAP Sanctions				
Attorney	County	Sanction	Citation	Violation
Frank J. Cozzarelli	Essex	Disbarred	225 N.J. 16 (2016)	Knowing Misappropriation
Robert C. Diorio	Union	Disbarred	224 N.J. 32 (2016)	Knowing Misappropriation
Jonathan Greenman	Bergen	Censured	225 N.J. 11 (2016)	Failure to Cooperate with Disciplinary Authorities
Sal Greenman	Bergen	Censured	225 N.J. 10 (2016)	Failure to Cooperate with Disciplinary Authorities
Andrew M. Kusnirik, III	Mercer	Disbarred by Consent	227 N.J. 59 (2016)	Knowing Misappropriation
Douglas Long	Gloucester	Reprimand	227 N.J. 49 (2016)	Failure to Safeguard Funds and Negligent Misappropriation
Albert Marmero	Gloucester	Admonished	N/A	Failure to Safeguard Funds and Negligent Misappropriation
Jeannet E. Pavez	Essex	Reprimand	224 N.J. 267 (2016)	Conflict of Interest

John C. Spadora	Hudson	Censured	224 N.J. 445 (2016)	Commingling and Recordkeeping Violations
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During the 35 years of RAP's operation, serious financial misconduct by 190 attorneys was detected solely as a result of being randomly selected for audit. These attorneys received the following discipline: 91 attorneys were disbarred; 16 were suspended for periods of three months to two years; 12 were censured; 49 were reprimanded; and 22 received admonitions. The vast majority of the matters detected were very serious disciplinary cases that resulted in disbarment or suspension. Disbarred (91) and suspended (16) attorneys account for almost six in ten of all attorneys disciplined as a result of RAP's efforts (56%). However, discipline alone does not adequately emphasize the full importance of RAP's role over the past 35 years and the monies potentially saved as a result by the Lawyers' Fund for Client Protection (Fund). One need only contemplate how many more millions of dollars might have continued to be misappropriated during this period if RAP had not detected and commenced the process which resulted in the imposition of discipline on these attorneys. Moreover, deterrence is a general goal in all true random programs (e.g., bank examiner's audits, DWI checkpoints, etc.). While it is not easy to quantify either the number of attorneys who were deterred or the tens of millions of dollars in thefts that may have been prevented due to a credible and effective random program, the positive effect is, nevertheless, an important and undeniable component of this effort.

IX. ATTORNEY REGISTRATION

A. ATTORNEY POPULATION

As of the end of December 2016, there were a total of 98,039 attorneys admitted to practice in the Garden State according to figures from the Lawyers' Fund for Client Protection (**Figure 12**). Historically, New Jersey has been among the faster growing lawyer populations in the country. This may be attributable to its location in the populous northeast business triangle between New York, Philadelphia and Washington, D.C. The total number of lawyers added to the bar population increased by 0.31% in 2016. With a general population of 8,944,469, there is now one lawyer for every 92 Garden State citizens.

According to a July 1, 2016 survey compiled by the OAE for the National Organization of Bar Counsel, Inc., a total of 2,088,192 lawyers were admitted to practice in the United States. New Jersey ranked 5th out of 51 jurisdictions in the total number of lawyers admitted, or 4.65% of the July national total.

Attorneys Admitted

Year	Number
1948	8,000
1960	9,000
1970	11,000
1980	21,748
1990	43,775
2000	72,738
2010	87,639
2016	98,039

Figure 12

B. ADMISSIONS

As of December 31, 2016, the attorney registration database counted a total of 98,039¹ New Jersey-admitted attorneys. Forty-three percent (43%) were admitted since 2001 and 25% were admitted between 1991-2000. The other thirty-two percent (32%) were admitted in 1990 or earlier.

Breakdowns by periods are: 1950 and earlier - 147 (.15%); 1951-1960 - 756 (.77%); 1961-1970 - 2,783 (2.8%); 1971-1980 - 8,880 (9.1%); 1981-1990 - 19,005 (19.4%); 1991-2000 - 24,197 (24.6%); 2001-2010 - 25,409 (25.9%); and 2011-2016 - 16,862 (17.2%).

¹ This figure does not equal the total attorney population as calculated by the Lawyers' Fund for Client Protection because the Lawyers' Fund total does not include those attorneys who were suspended, deceased, disbarred, resigned, revoked or placed on disability-inactive status after the attorney registration statements were received and tabulated.

YEAR ADMITTED		
Year	Number	Percent
<1950	147	0.15%
1951-1955	265	0.27%
1956-1960	491	0.50%
1961-1965	887	0.90%
1966-1970	1,896	1.93%
1971-1975	3,983	4.06%
1976-1980	4,897	4.99%
1981-1985	7,707	7.86%
1986-1990	11,298	11.52%
1991-1995	12,659	12.91%
1996-2000	11,538	11.77%
2001-2005	11,427	11.66%
2006-2010	13,982	14.26%
2011-2015	15,398	15.71%
2016	1,464	1.49%
Totals	98,039	100.00%

Figure 13

C. ATTORNEY AGE

Of the 98,039 attorneys for whom some registration information was available, 97,778 (99.7%) provided their date of birth. A total of 261 attorneys (0.3%) did not respond to this question.

Attorneys in the 30-39 age range comprised the largest group of attorneys admitted to practice in New Jersey at more than twenty-five percent (25.2% or 24,638). The 40-49 year category comprised 22.8% or 22,268 lawyers. Twenty-two percent (22% or 21,497) were between the ages of 50-59. The fewest numbers of attorneys were in the following age groupings: 29 and under (6.5% or 6,404), 60-69 (15.1% or 14,796) and 70 and older (8.3% or 8,175). **(Figure 14)**

AGE GROUPS		
Age	Number	Percent
< 25	82	0.08%
25-29	6,322	6.47%
30-34	12,695	12.98%
35-39	11,943	12.21%
40-44	9,961	10.19%
45-49	12,307	12.59%
50-54	11,277	11.53%
55-59	10,220	10.45%
60-64	8,271	8.46%
65-69	6,525	6.67%
70-74	4,218	4.31%
75-80	1,968	2.01%
> 80	1,989	2.03%
Totals	97,778	100.00%

Figure 14

D. OTHER ADMISSIONS

Close to seventy-six percent (75.6%) of the 98,039 attorneys for whom some registration information was available were admitted to other jurisdictions. Slightly over twenty-four percent (24.4%) of all attorneys were admitted only in New Jersey. **(Figures 15 & 16)**

OTHER ADMISSIONS		
Admissions	Attorneys	Percent
Only In New Jersey	23,950	24.43%
Additional Jurisdictions	74,089	75.57%
Totals	98,039	100.00%

Figure 15

ADMISSIONS IN OTHER JURISDICTIONS

Jurisdiction	Admissions	Percent	Jurisdiction	Admissions	Percent
New York	44,099	46.55%	Nevada	113	0.12%
Pennsylvania	26,251	27.71%	West Virginia	109	0.12%
District of Col.	6,745	7.12%	Vermont	91	0.10%
Florida	3,384	3.57%	South Carolina	90	0.10%
California	1,918	2.02%	Rhode Island	83	0.09%
Connecticut	1,627	1.72%	Kentucky	82	0.09%
Massachusetts	1,447	1.53%	Oregon	76	0.08%
Maryland	1,217	1.28%	New Mexico	74	0.08%
Delaware	827	0.87%	Hawaii	72	0.08%
Illinois	735	0.78%	Alabama	64	0.07%
Virginia	732	0.77%	Virgin Islands	56	0.06%
Texas	613	0.65%	Kansas	52	0.05%
Georgia	545	0.58%	Iowa	41	0.04%
Colorado	461	0.49%	Oklahoma	36	0.04%
Ohio	429	0.45%	Arkansas	35	0.04%
North Carolina	325	0.34%	Utah	32	0.03%
Michigan	286	0.30%	Montana	30	0.03%
Arizona	273	0.29%	Puerto Rico	29	0.03%
Minnesota	186	0.20%	Alaska	27	0.03%
Missouri	174	0.18%	Mississippi	24	0.03%
Washington	170	0.18%	Idaho	15	0.02%
Tennessee	146	0.15%	North Dakota	14	0.01%
Wisconsin	144	0.15%	South Dakota	7	0.01%
Louisiana	132	0.14%	Guam	4	0.00%
Maine	122	0.13%	Nebraska	4	0.00%
New Hampshire	116	0.12%	Wyoming	0	0.00%
Indiana	115	0.12%	Invalid Responses	252	0.27%
			Total Admissions	94,731	100.00%

Figure 16

E. PRIVATE PRACTICE

Of the 98,039 attorneys on whom registration information was tabulated, 37,462 stated that they engaged in the private practice of New Jersey law, either from offices within New Jersey or at locations elsewhere. For a detailed breakdown of the locations of offices (primarily New Jersey, Pennsylvania, New York and Delaware), see **Figure 17**. Thirty-eight percent (38.2%) of the attorneys engaged in the private practice of New Jersey law, while almost 62% (61.8%) did not practice in the private sector.

Of those who engaged in the private practice of New Jersey law, more than fifty-nine percent (59.4%) practiced full-time, twenty percent (20.2%) rendered legal advice part-time, and twenty percent (19.9%) engaged in practice occasionally (defined as less than 5% of their time). Less than .5 percent (.47%) of responses were unspecified.

Private Practice of New Jersey Law

Response	Number	Percent
NO	60,577	61.8%
YES	37,440	38.2%
Full-time	22,271	
Part-time	7,567	
Occasionally	7,449	
Unspecified	175	
Total	98,039	100%

Figure 17

1. *Private Practice Firm Structure*

Of the 37,462 attorneys who indicated they were engaged in the private practice of New Jersey law, 98.1% (36,721) provided information on the structure of their practice. More than thirty-two percent (32.3%) of the responding attorneys practiced in sole proprietorships (sole practitioners (10,683) plus sole stockholders (1,167)). The next largest group were partners at 29.6% (10,860), associates at 28.2% (10,353), followed by attorneys who were of counsel with 6.9% (2,537), and other than sole stockholders with 3% (1,121).

Private Firm Structure

PRIVATE PRACTICE STRUCTURE		
Structure	Number	Percent
Sole Practitioner	10,683	29.09%
Sole Stockholder	1,167	3.18%
Other Stockholders	1,121	3.05%
Associate	10,353	28.19%
Partner	10,860	29.57%
Of Counsel	2,537	6.91%
Total	36,721	100.00%

Figure 18

2. *Private Practice Firm Size*

More than ninety-nine percent (99.6% or 37,284) of those attorneys who identified themselves as being engaged in the private practice of law indicated the size of the law firm of which they were a part. Close to thirty-one percent (30.7% or 11,456) said they practiced alone; 9.1% (3,391) worked in two-person law firms; 13.2% (4,928) belonged to law firms of 3-5 attorneys; 27.7% (10,314) were members of law firms with 6-49 attorneys, and 19.3% (7,195) worked in firms with 50 or more attorneys.

PRIVATE FIRM SIZE		
Firm Size	Number	Percent
One	11,456	30.73%
Two	3,391	9.10%
3 to 5	4,928	13.22%
6 to 10	3,604	9.67%
11 to 19	2,854	7.65%
20 to 49	3,856	10.34%
50 >	7,195	19.30%
Total	37,284	100.00%

Figure 19

3. *Private Practice Law Firm Number*

No exact figures exist on the number of law firms that engage in the private practice of New Jersey law. Nevertheless, a reasonably accurate estimate can be made based on the 37,462 attorneys who indicated they engaged in the private practice of New Jersey law. A total of 37,284 (99.6%) indicated the size of their law firm. In each firm size category that was non-exclusive (i.e., other than 1 or 2), the total number of attorneys responding was divided by the mid-point in that category. For firms in excess of 50 attorneys, the total number of attorneys responding was divided by 50. Three-quarters of all law firms (75%) were solo practice firms, while just 5.8% had 6 or more attorneys.

NUMBER OF LAW FIRMS				
Size Of Law Firm	Number Of Attorneys	Firm Size Midpoint	Number Of Firms	Individual Category %
One	11,456	1	11,456	74.98%
Two	3,391	2	1,696	11.10%
3 to 5	4,928	4	1,232	8.06%
6 to 10	3,604	8	451	2.95%
11 to 19	2,854	15	190	1.25%
20 to 49	3,856	35	110	0.72%
50 >	7,195	50	144	0.94%
Total	37,284		15,278	100.00%

Figure 20

4. *Bona Fide New Jersey Offices*

New Jersey attorneys are no longer required to maintain a bona fide office in New Jersey. Nevertheless, more than seventy-five percent (75.1%) of New Jersey attorneys (28,145) have a bona fide office in the state. Almost twenty-five percent (24.8%) of New Jersey

attorneys (9,286) had offices located in other jurisdictions: New York 10.8% (4,040), Pennsylvania 12.3% (4,619), Delaware less than 1% (116), and various other United States jurisdictions represent 1.4% (511). This data is not available for 31 attorneys (.08% or 31).

BONA FIDE PRIVATE OFFICE		
State	Number	Percent
New Jersey	28,145	75.13%
Pennsylvania	4,619	12.33%
New York	4,040	10.78%
Delaware	116	0.31%
Other	511	1.36%
No State Listed	31	0.08%
Total	37,462	100%

Figure 21

5. *Bona Fide Private Office Locations*

Of the 28,145 attorneys engaged in private practice of New Jersey law from offices located within this state, 99.9% (28,141) indicated the New Jersey County in which their primary bona fide office was located, while 4 attorneys did not. Essex County housed the largest number of private practitioners with 15.8% (4,435), followed by Bergen County with 12.7% (3,563). Morris County was third at 11.7% (3,344), and Camden County was fourth with 9.2% (2,543).

ATTORNEYS WITH BONA FIDE OFFICES					
County	Number	Percent	County	Number	Percent
Atlantic	649	2.31%	Middlesex	1,802	6.40%
Bergen	3,563	12.66%	Monmouth	2,038	7.24%
Burlington	1,404	4.99%	Morris	3,344	11.66%
Camden	2,543	9.18%	Ocean	768	2.73%
Cape May	173	0.61%	Passaic	845	3.00%
Cumberland	173	0.61%	Salem	54	0.19%
Essex	4,435	15.77%	Somerset	1,016	3.61%
Gloucester	390	1.39%	Sussex	220	0.78%
Hudson	1,041	3.70%	Union	1,494	5.31%
Hunterdon	312	1.11%	Warren	142	0.50%
Mercer	1,735	6.17%	No County Listed	1	0.01%
Total			28,142	100.00%	

Figure 22