

NOTICE TO THE BAR

Re: Proposed 2010 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2010 Attorney Discipline Budget has been submitted to the Supreme Court for action. The Court has directed that the Report and an Overview of the proposed 2010 Attorney Discipline Budget be published for comment.

Those seeking to comment should do so in writing by December 14, 2009, as follows:

Via mail:

Clerk of the Supreme Court
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, New Jersey 08625-0970

Via electronic mail:

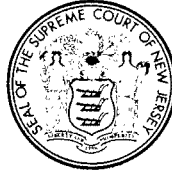
Comments.mailbox@judiciary.state.nj.us

Mark Neary, Esq.
Clerk of the Supreme Court

Dated: November 10, 2009

**SUPREME COURT OF NEW JERSEY
DISCIPLINARY OVERSIGHT COMMITTEE**

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SUPREME COURT CLERK'S OFFICE
RICHARD J. HUGHES JUSTICE COMPLEX
P.O. BOX 970
TRENTON, NEW JERSEY 08625
CAROL A. HUCKS, ESQ.
SECRETARY
(609) 777-4172

November 6, 2009

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

Re: 2010 Attorney Discipline Budget

Dear Chief Justice Rabner and Associate Justices:

The Supreme Court's Disciplinary Oversight Committee (DOC or Committee), in consultation with the Administrative Office of the Court's Office of Management and Administrative Services, has reviewed the proposed 2010 Attorney Discipline Budget. Pursuant to Rule 1:20B-4(b), the Committee requests the Court's approval to publish this letter summarizing the proposed budget and the 2010 Disciplinary Budget Overview sheet.

The Committee thanks Julianne DeCore, Esq., Chief Counsel of the Disciplinary Review Board (DRB); Charles Centinaro, Esq., Director of the Office of Attorney Ethics (OAE); and their staffs for their efforts in preparing the proposed budget; and the Office of Management and Administrative Services, Shelley Webster, Director, and Linda McAdams, Assistant Chief, for their assistance during

the budget process. The DOC also recognizes the efforts and expertise of its Budget Subcommittee.¹

I. Overview.

The disciplinary budget year runs from January 1 to December 31. For 2010, the proposed budget is \$11,150,824. These monies provide what the DRB and OAE need to operate professionally and efficiently. As discussed below, this budget ensures sufficient funds to fully staff the DRB and OAE and includes increased educational and training opportunities.

The 2010 budget reflects a slight decrease (0.6%) in projected costs compared to the 2009 budget. Revenue in 2010 is projected to be \$11,093,000, and expenses to be \$11,150,824. The shortfall, \$57,824, will be offset by a reduction in the reserve from its latest estimated total of \$2,220,816.

In reviewing the budget, the DOC considered whether it was appropriate to reduce the registration fee and provided the Court with information as to the effect of different fee levels. The DOC appreciated having the opportunity to meet with the Court to discuss the budget. We understand the Court believes that under all the circumstances, it is wise to maintain the registration fee at \$140 for the coming year. Accordingly, the DOC recommends the fee be maintained at this level, and the reserves not be used to offset the deficit that would result from reducing the fee, except for the small deficit noted above. The New Jersey State Bar Association representative to the DOC, Paris Eliades, Esquire, dissented from this recommendation and voted to reduce the fee.

II. Expenses.

The proposed budget for expenses in 2010 is 3.2% higher than the actual expenses projected for 2009. The 2010 budget does not provide for an expanded disciplinary system, however. Instead, the increase in the 2010 budget reflects lower than anticipated expenses in 2009. For example, salaries and benefits typically constitute 80% of the budget in any given year, and cost-cutting measures

¹ The Budget Subcommittee members are Tony Guacci, Co-Chair, Ray Ocasio, Co-Chair, Mike Furey, Paris Eliades, Rich Sackin, Al Clark, and Maureen Kerns.

implemented by the Judiciary in 2009 with regard to hiring, deferred raises, and furlough days had a significant impact on expenses. The actual cost of salaries and benefits for 2009 is expected to be approximately \$413,000 (4.6%) less than the amount set by the 2009 budget.²

The 2010 budget projects salaries to cost \$6,605,683, almost identical to the amount budgeted for 2009, and assumes full staffing minus a 2% vacancy rate to reflect normal staff turnover and the time it takes to fill any vacancies. The cost of fringe benefits is anticipated by the Treasury Department to decrease from approximately 35% in 2009 to 34% in 2010, and will total \$2,263,752. In sum, salaries and fringe benefits are projected to cost \$8,869,435 in 2010, or 79.5% of the total budgeted expenses.

The remaining \$2,281,389 of the \$11,150,824 budget for 2010, or 20.5%, addresses operating expenses. The largest line-items under operating expenses include fee/ethics secretarial emoluments of \$539,500 (4.8% of the total proposed budget), attorney registration costs of \$440,097 (3.9% of the total budget), and office rental at \$350,000 (3.1% of the total budget). The 2010 budget for these items is similar to the 2009 budget and actual projected expenses, except that the costs for attorney registration are expected to decrease by approximately \$20,000 in 2010.

The 2010 budget includes an \$82,000 contingency line item. This budget item, similar to the \$75,000 line item that was approved for the first time in 2009, is intended for either the retention of a consultant to evaluate disciplinary procedures or the implementation of changes that would improve efficiency. During 2009, the contingency fund was used to pay for computer technology to

² The Judiciary, as a whole, scaled back its expenses by declining to fill some vacant positions, delaying in filling others, and cutting spending. The DRB and OAE participated in these expense reduction efforts, even though the disciplinary system is not funded by tax revenues. Additional cost savings resulted from a Judiciary-wide Agreement that deferred until 2011 a wage increase that had been scheduled for July 2009, and three unpaid furlough days during 2009. As a result of the cost-cutting efforts, compensation costs for the OAE and DRB were reduced by approximately \$413,000 and the reserves are expected to be approximately \$2.2 million.

increase docketing efficiency among the District Ethics and Fee Committees and to pay for part-time personnel to manually perform updates and verification work of law firm data for the CAMS on-line billing initiative. The contingency item is being renewed in 2010 at the request of the OAE's Director with the goal of retaining a consultant to evaluate efficiency. The continued implementation of efficiency projects is intended to enable the OAE and DRB to minimize future additions to staff while maintaining high levels of service and performance for their respective operations.

One new expense is proposed under the category of education and training. This item reflects a request by the OAE for a \$15,000 increase to initiate an annual OAE Training Conference in New Jersey. The purpose of this conference would be to educate and train professionals and volunteers engaged in the screening, investigation, and prosecution of disciplinary matters, most of whom are unable to attend national training programs because of the system's financial restraints, their own workloads, or conflicting schedules. This conference would permit the dissemination of national conference information to these individuals and provide opportunities to address disciplinary problems that are unique to or frequently occur in New Jersey. It also would provide a forum for constructive exchanges among disciplinary staff, practicing attorneys, law professors, and members of other law enforcement agencies operating within New Jersey. Finally, this in-state conference would provide CLE stressing the goals and importance of attorney discipline.

Looking forward to 2011, it is important to consider that the recent Wage Deferral and Furlough Agreement deferred until January 1, 2011 a 3% across-the-board salary increase that was to become effective July 2009. This 3% increase was part of the Judiciary's previous labor agreement covering 2008 to 2012. Because that same labor agreement also included a 4% salary progression increase to take effect in January 2011, there will be two substantial pay increases during that month, plus a 3.5% across-the-board increase for represented staff in July 2011. In short, 2011 will present substantial expense challenges. Compensation costs are expected to rise substantially in 2012 also.

III. Revenue Projections.

Total revenue projected for 2010 is \$11,093,000, based on an annual assessment of \$140. This is a slight increase, \$197,500 or 1.8%, over the anticipated revenue for 2009. For 2010, it is estimated that 63,700 attorneys will pay the fee imposed on attorneys practicing between three and 50 years--an increase of 1,700 attorneys over the latest estimate for 2009. It is expected that 2,660 attorneys who have been practicing law two years or less will pay the \$25 fee, approximately the same number who paid this fee in 2009. Total receipts from the registration fee are projected to be \$8,984,500, or 81% of revenue. Late fees, which are charged to attorneys who do not pay the fee by the due date, are projected to bring in \$260,000, or 2.3% of total revenue.

Pro hac vice fees are projected at \$882,000 for 2010, approximately 8.0% of projected revenue. After a significant increase in the number of out-of-state attorneys being admitted pro hac vice between 2002 (2,794 attorneys) and 2006 (6,167 attorneys), these admissions have leveled off, with approximately 6,400 attorneys paying the fee in 2007 and 6,000 in 2008. The estimate for 2009 is 6,300. For this proposed budget, we estimate that the number of attorneys seeking admission pro hac vice will remain at 6,300.

According to the latest projections, 1,100 attorneys will pay the \$140 fee to be licensed as in-house counsel in 2009, generating \$154,000 in revenue. The 2010 budget projects revenue in the amount of \$161,000 from 1,150 in-house counsel paying the fee.

Additional sources of revenue typically include interest on funds. For the past two years, however, interest income has dropped substantially. The interest projected for 2010, \$30,000, is based on interest rates that are similar to those experienced in 2009.

Conclusion

The DOC has reviewed and discussed each category of the proposed 2010 budget and believes that it represents a balanced approach to fiscal responsibility. Although the OAE and DRB have continued to perform the vital work of the disciplinary system despite vacancies that put significant

pressure on existing staff, the DOC believes that an effective disciplinary system cannot operate on a long term basis with reduced staff. The DOC submits that this budget, which contemplates full staffing levels, provides the disciplinary system with the funds it needs to continue to operate in an efficient and effective manner.

The Committee respectfully recommends that the Court approve the 2010 Attorney Discipline Budget, as proposed.

Respectfully Submitted,



Michael K. Furey, Esq.
Chair

MKF/ch

Enclosures

Cc: Disciplinary Oversight Committee
Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director
of the Administrative Office of the Courts
Mark Neary, Esq., Clerk, Supreme Court
Gail G. Haney, Esq., Deputy Clerk, Supreme Court
Shelley R. Webster, Director, Mgmt. & Adm. Svcs.
Linda McAdams, Ass't Chief, Mgmt. & Admin. Svcs.
Julianne K. DeCore, Esq., Chief Counsel, DRB
Charles Centinaro, Esq., Director, OAE
Paula Granuzzo, Esq., Statewide Coordinator
Susan Fleming, OAE

1.1 2010 DISCIPLINARY BUDGET OVERVIEW

REVENUES:

Attorney Registration Fees:

Practicing 3 - 49 years (@ \$140)	\$ 8,918,000
Practicing 2 years (@ \$25)	66,500
Total Registration Fees	\$ 8,984,500

Other Fees

Prior Year Payments	360,000
Fee Arbitration Filing Fees	85,000
Interest on Funds	30,000
Disciplinary Costs Recovered	225,000
In-House Counsel	161,000
Pro Hac Vice Fees	882,000
Multi-Jurisdictional Practice	31,500
Reinstatement Fees	71,500
Late Fees	260,000
Other Revenue	2,500
Total Other Fees	\$ 2,108,500

Total Projected Revenues 2010 \$ 11,093,000

EXPENSES:

Salaries & Benefits:

Salaries at 98%	\$ 6,605,683
(Allows for 2% vacancy rate)	
Fringe Benefits at 33.97%	\$ 2,263,752
(7.65% for P/T and O/T)	
Total Salaries & Benefits	\$ 8,869,435

Operating Expenses:

OFFICE EXPENSE	502,507
HEARING FEES	183,000
OTHER EXPENSES	110,985
MAINTENANCE & FIXED EXPENSES	366,500
SPECIAL PURPOSE	1,061,597
Emoluments	539,500
Contingencies	82,000
Attorney Registration Costs	440,097
EQUIPMENT	56,800
Total Operating Expenses	\$ 2,281,389

Total Projected Expenses 2010 \$ 11,150,824

Revenues Less Expenses 2010 \$ (57,824)

ADD: Reserve, End of 2009 \$ 2,220,816

Reserve, End of 2010 \$ 2,162,992

19.4%