

NOTICE TO THE BAR

Re: Proposed 2011 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2011 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 2011 Attorney Discipline Budget be published for comment.

Those seeking to comment should do so in writing by November 30, 2010, 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

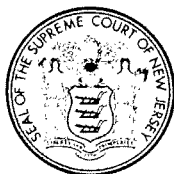
/s/ Mark Neary

Mark Neary, Esq.
Clerk of the Supreme Court

Dated: November 4, 2010

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

MICHAEL K. FUREY, ESQ., CHAIR
ANTHONY J. GUACCI, VICE-CHAIR
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October 25, 2010

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: 2011 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 2011 Attorney Disciplinary Budget. The Committee thanks Julianne DeCore, Esq., Chief Counsel of the DRB; Charles Centinaro, Esq., Director of the OAE; and their staffs for their efforts in preparing the proposed budget. The Committee also thanks the Office of Management and Administrative Services, Shelley Webster, Director, and Linda McAdams, Assistant Chief, for their assistance during the budget process. Finally, the DOC acknowledges the expertise of the Budget Subcommittee and commends it for its efforts.¹

The Committee considered and approved the proposed 2011 budget at its meeting on September 22, 2010. This

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

letter reflects the Committee's recommendations. The Committee requests the Court's review and approval to publish this letter and the 2011 Disciplinary Budget Overview sheet.² The Budget Reserve Projections through 2015 are also enclosed for the Court's consideration.

I. Overview.

The disciplinary budget year runs from January 1 to December 31. The total proposed budget for 2011 is \$11,743,234. This represents an overall increase of approximately 9.0% over the projected actual expenses for 2010. Revenues in 2011 are projected to be \$11,233,975. The \$509,259 difference between the expense budget and revenues will be made up by a small reduction in the reserve from its latest estimated 2010 total of \$3,441,079 to \$2,931,820. The remaining reserve will equal 25% of the 2011 budget. This contribution from the reserve will comprise approximately 4.3% of the proposed 2011 budget.

Based, in part, on discussions with the Court last year that led to the 2010 annual registration fee remaining at \$140,³ the DOC recommends that the \$140 fee continue for 2011. The New Jersey State Bar Association representative to the DOC, Paris Eliades, Esquire, dissented from this recommendation and voted to reduce the fee. The Committee was otherwise unanimous in approving the budget.

II. Expenses.

The proposed budget for expenses in 2011 is \$11,743,234. Salary and benefits typically constitute approximately 80% of the budget, and that pattern continues for 2011. Salaries for represented staff are established through negotiated labor contracts over which the OAE and DRB have no control. The effect of these expenses is magnified in the budget for 2011 as a result of wage

² The Budget Overview is a synopsis of the budget. It is published in lieu of the entire budget report, pursuant to Rule 1:20B-4(b).

³ The \$140 fee discussed in this report is for the disciplinary system only. Additional sums are added to this fee for the Lawyers' Fund for Client Protection, the Lawyers Assistance Program, and the Mandatory Continuing Legal Education Program.

deferral agreements entered into in 2009 that postponed until January 1, 2011 a 3% across-the-board salary increase that had been scheduled to occur in July 2009. This 3% increase was part of the Judiciary's labor agreements covering 2008 to 2012. Because these same labor agreements also included a 4% salary progression increase to take effect in January 2011, two substantial pay increases will occur during that month. Finally, the labor agreements provided a 3.5% across-the-board increase for represented staff in July 2011.

Judiciary managers, including managers in the DRB and OAE, are not covered by the labor agreements that provide for employee salary increases in 2011. As in past years, the 2011 Attorney Discipline Budget includes monies for potential salary increases for managers. However, judiciary-wide raises for managers have not been awarded for several years and, in this economic climate, there is a likelihood that they will not be awarded again this year.

In total, the budget for salaries for 2011 is \$7,023,154, which reflects an increase over the latest estimate for 2010 of approximately \$603,746, or 9.4%. The adjusted cost of fringe benefits, which is currently being negotiated by the Treasury Department, is expected to increase from approximately 34% in 2010 to 34.3% in 2011, or a total of \$2,407,514. For 2011, salaries and fringe benefits combined are projected to cost \$9,430,668, or 80% of the total budget for expenses. This projection assumes full staffing minus a 2% vacancy rate to reflect normal staff turnover and the time it takes to fill any vacancies.

III. New Budget Initiatives

The DOC considered a request by the OAE for a new, three-year technology initiative to begin in 2011. Because the DOC agrees that updating the OAE's technology is critical to its mission and because there are sufficient reserves to permit the expense, as discussed below, the initiative is included in the budgets for 2011 and in projected figures for 2012 and 2013. The initiative will result in the upgrading of two areas of the OAE's computer technology--software and network infrastructure. Software upgrades will be made to the OAE's customized case management applications and to desktops and servers. The network infrastructure upgrades will include, in part, servers, routers, switches, and the communication lines and

office cabling that make it possible for the OAE servers to communicate internally and externally, including with District Ethics Committees, Fee Arbitration Committees, the DRB, the Supreme Court and other judiciary entities. These upgrades also will improve access and data input to the Centralized Attorney Management System.

This technology initiative will cost approximately \$438,000 over a three-year period. Because the project will be implemented over a three-year period, only \$80,000 has been included in the budget for 2011. The remainder of the costs of the initiative will be reflected in the 2012 budget (\$258,000), and the 2013 budget (\$100,000). The proposal was presented to the Chief Information Officer for the Administrative Office of the Courts, James Rebo, who agreed with it. The DOC regards this project as an important use of funds because it will permit the OAE to meet increasing demands placed on IT services, improve operational efficiency by addressing changing business and performance requirements, and support the operations of the office at a high level.

IV. Revenue Projections and the Reserve.

Total revenue projected for 2011 is \$11,233,975, based on an annual assessment of \$140. This is a less than 1% increase over the anticipated revenue for 2010, or \$92,975. For 2011, it is estimated that 65,500 attorneys practicing between three and 50 years will pay the fee--an increase of 1,500 attorneys over the latest estimate for 2010. It is expected that 2,425 attorneys who have been practicing law two years or less will pay the \$25 fee, slightly fewer than the number who paid this fee in 2010 (2,660). Total receipts from the registration fee are projected to be \$9,230,625, or 82% of revenue. Late fees, which are charged to attorneys who do not pay the fee by the due date, are projected to bring in \$240,000, or 2% of total revenue.

Pro hac vice fees are projected at \$798,000 for 2011, approximately 7% of 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 and begun to drop, with approximately 6,400 attorneys paying the fee in 2007, 6,000 in 2008, 5,842 in 2009, and an estimated 5,700 in 2010. For 2011, we estimate that the number of attorneys seeking admission pro hac vice will be 5,700.

According to the latest projections, 1,060 attorneys will pay the \$140 fee to be licensed as in-house counsel in 2011, generating \$148,400 in revenue. Additional sources of revenue typically include interest on funds. For the past three years, however, interest income has dropped substantially. The interest projected for 2011, \$26,500, is based on interest rates that are similar to those experienced in 2010.

As discussed in the Overview section, above, there is a \$509,259 difference between the 2011 expense budget and the projected revenue. This difference will be made up by a reduction in the reserve from its latest estimated 2010 total of \$3,441,079 to \$2,931,820, or 4.3% of the 2011 budget.

Between 2003 and 2009, the DOC strived to maintain a 5% reserve by adjusting the annual registration fee to either increase the reserve by raising the fee or to reduce the reserve by decreasing the fee. Cost-cutting efforts over these years, however, were effective in reducing expenses below budgeted amounts. This factor combined with increasing numbers of attorneys paying fees resulted in higher reserve levels at the end of each year. In 2010, it is estimated that the reserve will increase from \$3,064,750 at the end of 2009 to \$3,441,079 for 2010, a gain of \$376,329.

Because of the consistently high level of the reserve, the New Jersey State Bar Association's representative to the DOC dissented from the DOC's decision to leave the annual assessment fee at \$140 for 2011. He would either lower the fee or provide attorneys with a rebate to reduce the actual out-of-pocket cost to \$126—the amount paid by attorneys from 2005 to 2008.

It is important to note, however, that New Jersey's annual assessment fee is reasonable in relation to other states. For 2010, New Jersey's fee ranked 39th in the nation.⁴ Moreover, the \$140 fee costs just \$15 more than it

4 It is admittedly difficult to compare New Jersey's annual assessment fee to those in some states where there are additional charges to attorneys. But, despite these limitations, New Jersey's fee appears to be reasonable in comparison to those in other states.

did in 1995. The DOC does not believe that a \$140 fee is unreasonable.

Conclusion

The OAE and the DRB have instituted effective cost controls and continually seek to perform the vital work of the disciplinary system at or below budget. The DOC has reviewed and discussed each category of the proposed 2011 budget and believes that it represents a balanced approach to fiscal responsibility.

We applaud the efforts and dedication of the professionals and volunteers who serve the disciplinary system, and respectfully request that the Court permit the publication of this letter and the Budget Overview. The DOC recommends that, following the comment period, the Court approve the 2011 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 2011 DISCIPLINARY BUDGET OVERVIEW

REVENUES:

Attorney Registration Fees:

Practicing 3 - 49 years (@ \$140)	\$	9,170,000
Practicing 2 years (@ \$25)		60,625
Total Registration Fees	\$	9,230,625

Other Fees

Prior Year Payments		375,000
Fee Arbitration Filing Fees		85,000
Interest on Funds		26,500
Disciplinary Costs Recovered		225,000
In-House Counsel		148,400
Pro Hac Vice Fees		798,000
Multi-Jurisdictional Practice		31,500
Reinstatement Fees		72,250
Late Fees		240,000
Other Revenue		1,700
Total Registration Fees	\$	2,003,350

Total Projected Revenues 2011		<u>\$ 11,233,975</u>
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EXPENSES:

Salaries & Benefits:

Salaries at 98%	\$	7,023,154
(Allows for 2% vacancy rate)		
Fringe Benefits at 34.27%	\$	2,407,514
Total Salaries & Benefits	\$	9,430,668

Operating Expenses:

OFFICE EXPENSE		542,800
HEARING FEES		159,000
OTHER EXPENSES		129,975
MAINTENANCE & FIXED EXPENSES		382,688
SPECIAL PURPOSE		1,040,103
Emoluments	539,500	
Contingencies	10,000	
Attorney Registration Costs	490,603	
EQUIPMENT		58,000
Total Operating Expenses	\$	2,312,566

Total Projected Expenses 2011		<u>\$ 11,743,234</u>
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Revenues Less Expenses 2011		\$ (509,259)
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ADD: Reserve, End of 2010		\$ 3,441,079
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Reserve, End of 2011		<u>\$ 2,931,820</u>
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25.0%