

**DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY**



**ANNUAL REPORT
2005**

**Julianne K. DeCore, Chief Counsel
Disciplinary Review Board**

DISCIPLINARY REVIEW BOARD
OF THE
SUPREME COURT OF NEW JERSEY

WILLIAM J. O'SHAUGHNESSY, Esq., CHAIR
LOUIS PASHMAN, Esq., VICE-CHAIR
EDNA Y. BAUGH, Esq.
MATTHEW P. BOYLAN, Esq.
BONNIE C. FROST, Esq.
RUTH JEAN LOLLA
LEE NEUWIRTH
HON. REGINALD STANTON
SPENCER V. WISSINGER, III



RICHARD J. HUGHES JUSTICE COMPLEX
P. O. BOX 962
TRENTON, NEW JERSEY 08625-0962
(609) 292-1011

JULIANNE K. DECORE
CHIEF COUNSEL

ISABEL FRANK
DEPUTY CHIEF COUNSEL

ELLEN A. BRODSKY
LILLIAN LEWIN
DONA S. SEROTA-TECHNER
COLIN T. TAMS
KATHRYN ANNE WINTERLE
ASSISTANT COUNSEL

June 30, 2006

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey:

I am pleased to submit to the Court the 2005 Annual Report of the Disciplinary Review Board. With the exception of four cases as to which the Board retained jurisdiction after remand, the Board concluded all matters carried from 2004, resolved 406 matters, and transmitted 126 decisions to the Court. In so doing, the Board completed its appellate review of all disciplinary matters and appeals well within the time goals set out in R. 1:20-8(c).

During the last half of calendar year 2005, the Office of Board Counsel's new document management program became fully operational. We have experienced a significant reduction in time spent in all aspects of case processing, and are now able to produce a greater variety of documents and statistical reports efficiently and with more accurate data. Also noteworthy in this calendar year is the rise in the Board's disposition rate: between 2003 and 2005 the Board's rate of case disposition (discipline and appeal matters) has increased from 74% (2003) to 84% (2005).

The Board will continue to fairly and expeditiously resolve all cases before it, to the benefit of the bar, the public, and the disciplinary system.

Respectfully submitted,

A handwritten signature in cursive script, reading "Julianne K. DeCore".
Julianne K. DeCore
Chief Counsel

TABLE OF CONTENTS

Introduction.....	1
Board Functions.....	2
Board Membership.....	5
Office of Board Counsel.....	7
Caseload Information.....	8
Board Action.....	15
Supreme Court Action.....	17
Collection of Administrative Costs.....	19
Conclusion.....	21

TABLE OF FIGURES

1	DRB Annual Activity Report (January 1, 2005 to December 31, 2005).....	10
2	Age of Pending Cases -By Case Type (As of December 31, 2005).....	11
3	Comparative Caseload Analysis -Pending (2001-2005).....	12
4	Annual Disposition Rate (2001-2005).....	13
5	Average Resolution Times for Board Cases (1997-2005).....	14
6	2005 Discipline Comparison.....	18

TABLE OF APPENDICES

Appendix I	Final Public Discipline Report (January 1, 2005-December 31, 2005).....	22
Appendix II	2005 Admonition Report.....	28

INTRODUCTION

The Disciplinary Review Board of the Supreme Court of New Jersey (Board) serves as the intermediate appellate level of the attorney disciplinary system in this state.

The district ethics committees investigate, prosecute, and recommend discipline in most disciplinary matters. The Office of Attorney Ethics (OAE) investigates grievances in selected districts and exercises statewide jurisdiction over complex and emergent matters. The Board reviews all recommendations for discipline from the districts and the OAE. The Board's decisions as to discipline are final in all cases, subject to the Supreme Court's confirming order, except those decisions recommending disbarment. The Board's determinations of appeals from dismissals of ethics grievances and of appeals of Fee Arbitration Committee rulings are absolutely final, with no judicial recourse.

The Supreme Court created the Board in 1978, and the Office of Disciplinary Review Board Counsel (Office of Board Counsel) in 1984. In mid-1994, the Court eliminated all private discipline and opened to the public all disciplinary proceedings after the filing and service of a formal complaint.

As part of the disciplinary system, the Board is funded exclusively by annual assessments paid by all New Jersey attorneys. In 2005, each New Jersey attorney admitted to practice between 1957 and 2001 was assessed a total of \$182 to pay for the disciplinary system. Attorneys admitted to practice in 2002 or 2003 were assessed a total of \$157, while attorneys in the first calendar year of admission were assessed \$28.

All Board members are volunteers, however, its staff is professional. The 2005 budget for the disciplinary system, as approved by the Supreme Court, allocated \$1,586,034 to cover salaries and benefits for Office of Board Counsel employees, and an additional \$184,600 to cover the Board's operating costs.

BOARD FUNCTIONS

The Board's review is de novo on the record, with oral argument at the Board's discretion. The Board hears oral argument on all cases in which a district ethics committee¹ or a special master issues a report recommending discipline greater than an admonition. Occasionally, the Board remands the matter for further proceedings. At the conclusion of oral argument, the Board privately deliberates about the appropriate outcome of each case, voting for either dismissal of the complaint or for the imposition of one of several forms of discipline: admonition, reprimand, censure, suspension, and disbarment. Office of Board Counsel then prepares a formal decision for the Board's review. Upon approval, the decision is filed with the Supreme Court.

In addition to discipline, the Board may impose certain conditions or restrictions, such as, proctorship, course requirements, proof of fitness certified by a mental health practitioner, annual audits of trust account records, and the requirement that the attorney practice in a law firm setting, or continue psychological/substance abuse therapy. In some instances, the Board may require community service.

In matters where the Board recommends disbarment, the Supreme Court automatically schedules oral argument before it. In all other instances, the Board's determination that discipline is warranted is deemed final, subject to the attorney's or the OAE's right to file a petition for review. Occasionally, the Court, on its own motion, schedules oral argument in non-disbarment cases.

When the district ethics committee recommends an admonition, the Board reviews the matter on the written record, without oral argument. The Board may issue a letter of admonition, schedule the matter for oral argument if it appears that greater discipline is warranted, or dismiss

¹ References to district ethics committees include the Committee on Attorney Advertising (R. 1:19A-1 et seq.), which considers "all ethics grievances alleging unethical conduct with respect to advertisement and other related communications" R. 1:19A-4(a).

the complaint. R. 1:20-15(f)(3) allows the Board to issue a letter of admonition, without Supreme Court review, in those cases where the district ethics committee recommends a reprimand, but the Board determines that an admonition is the more appropriate form of discipline.

When an attorney has been convicted of a crime or has been disciplined in another jurisdiction, the OAE will file with the Board a Motion for Final Discipline (R. 1:20-13(c)) or a Motion for Reciprocal Discipline (R. 1:20-14), respectively. Following oral argument and the Board's deliberation, the Office of Board Counsel prepares a formal decision for the Board's review and, after Board approval, the decision is filed with the Court. The same post-decision procedures applicable to cases heard by a district ethics committee or a special master apply.

Effective 1995, the Court adopted two other disciplinary case procedures: motions for discipline by consent and default actions. Both are intended to expedite the resolution of certain matters.

Under R. 1:20-10, motions for discipline by consent are filed directly with the Board, without a hearing below. Discipline by consent is not plea bargaining, which is not permitted in disciplinary matters. In such motions, the parties stipulate the unethical conduct, the specific RPCs violated, and the level of discipline required by precedent. Following the Board's review of the motion on the written record, it may either grant the motion, or deny it and remand the case to the district ethics committee or the OAE for appropriate action.

A matter achieves default status after an attorney fails to file a verified answer to the formal ethics complaint. The district ethics committee or the OAE then certifies the record directly to the Board for the imposition of sanction. R. 1:20-4. If the attorney files a motion to vacate the default, the Board will review the motion simultaneously with the default case. If the Board vacates the default, the matter is remanded to the district ethics committee for a hearing.

Otherwise, the Board will proceed with the review of the case on a default basis, deeming the allegations of the complaint admitted. A formal decision is thereafter filed with the Supreme Court.

The Board also reviews direct appeals from grievants who claim that the district ethics committee improperly dismissed their grievance after the investigation or a hearing, and from parties to fee arbitration proceedings who contend that at least one of the four grounds for appeal set out in R. 1:20A-3(c) exists.

BOARD MEMBERSHIP

The Board consists of nine members appointed by the Supreme Court. Board members serve without compensation. Three appointees are non-lawyer, public members; one member is customarily a retired judge of the Appellate Division or of the Superior Court; the remaining five members are attorneys. In 2005, the Board was chaired by Mary J. Maudsley, Esq.; William J. O'Shaughnessy, Esq., was Vice-Chair.

The Board's members in 2005 were:

Chair, Mary J. Maudsley, Esq.

Chair Maudsley, of Linwood, is a partner with the Marmora firm of April, Maudsley and Goloff. Ms. Maudsley joined the Board in 1996. She has been in private practice since her admission to the bar in 1974. Prior to her appointment to the Board, she served for eleven years on the Supreme Court's Committee on Character, chairing Part IV from 1990 to 1996, and was also a member of the District I Ethics Committee. Ms. Maudsley serves as solicitor to several planning boards and to the Atlantic County Ethics Board. She is also a past senior member of the Editorial Board of the New Jersey Law Journal.

Vice-Chair, William J. O'Shaughnessy, Esq.

Vice-Chair O'Shaughnessy, of Princeton, is a member of the firm of McCarter & English, LLP. Mr. O'Shaughnessy, who was admitted to the New Jersey Bar in 1968, was appointed to the Board in 2000. He has more than thirty years experience as a trial lawyer and served as a member of the District VA Ethics Committee from 1984 to 1988 (as Chair from 1987 to 1988). Mr. O'Shaughnessy is a fellow of the American College of Trial Lawyers, a fellow of the American Bar Foundation, a member of the American Law Institute, and a Certified Mediator and Arbitrator for the United States District Court, District of New Jersey.

Lee Neuwirth

Mr. Neuwirth, of Princeton, was appointed to the Board in 2005. He served on the Disciplinary Oversight Committee from July 2003 until his appointment to the Board. He was a member of the District VII Ethics Committee for four years prior to his joining the Oversight Committee. He is a mathematician and is retired from the Institute for Defense Analyses where he served as Director of their Center for Communications Research in Princeton. He received a BSE in Chemical Engineering in 1955 and a PhD in Mathematics in 1959 from Princeton University.

Ruth Jean Lolla

Mrs. Lolla, of Tuckerton, was appointed to the Board in 1996. She is a former member of the District IIIA Ethics Committee and served a term with the District IIIA Fee Arbitration Committee. Mrs. Lolla is a graduate of the University of Pennsylvania School of Dental Hygiene, a retired dental hygienist, and the mother of six.

Spencer Wissinger, III

Mr. Wissinger, of Bernardsville, was appointed to the Board in 1999, and is a former member of the District X Ethics Committee. He is a CPA and a principal in the firm of David Fischer & Company. He is a member of the American Institute of Certified Public Accountants and the New Jersey State Society of Certified Public Accountants, as well as a member of the Kiwanis Club of Morristown and its Treasurer since 1976.

Matthew Boylan, Esq.

Mr. Boylan, of Wyckoff, is a member of the firm of Lowenstein Sandler, P.C. He was appointed to the Board in 1999. Mr. Boylan, was admitted to the bar in 1958 and has more than forty years experience as a litigator before the state and federal courts. He is a former Director of the Division of Criminal Justice in New Jersey, and served on the New Jersey Trial Attorney Certification Board from 1980 to 1984. He is a fellow of the American Bar Association and of the American College of Trial Lawyers, as well as a member of the Trial Attorneys of New Jersey.

Louis Pashman, Esq.

Mr. Pashman, of Upper Saddle River, was admitted to the New Jersey Bar in 1967 and was appointed to the Board in 2001. He is a Certified Civil Trial Attorney and member of the firm of Pashman Stein, P.C. Mr. Pashman served as a member of the Bergen County Ethics Committee from 1976 to 1981 (as Chair from 1978 to 1981), as a member of the Supreme Court Committee on Matrimonial Litigation and of the Supreme Court Committee on Judicial Performance.

Hon. Reginald Stanton

Judge Stanton, of Morristown, was appointed to the Board in 2003. He served in the judiciary from 1975 to 2003 when he reached the mandatory retirement age for Superior Court judges. He was the Assignment Judge for the Morris/Sussex Vicinage for the last seventeen years of his judicial service. He is currently of counsel with the firm of Drinker Biddle & Reath in Florham Park.

Robert Holmes, Esq.

Mr. Holmes, of Perth Amboy, was admitted to the New Jersey bar in 1971 and to the New York bar in 1989. He was appointed to the Board in 2003, and is a Clinical Professor of Law, and Deputy Director of Clinical Programs at Rutgers Law School. Formerly a partner with the law firm of Wilentz, Goldman and Spitzer, he has served as an Assistant Commissioner and Acting Commissioner of the New Jersey Department of Community Affairs, and on the New Jersey State Planning Commission, the Board of the New Jersey Economic Development Authority, and the Board of the Perth Amboy Urban Enterprise Zone Development Corporation. He currently serves as Secretary of the Board of Legal Services of New Jersey.

OFFICE OF BOARD COUNSEL

In 2005, the Office of Board Counsel was comprised of seven attorneys (Chief Counsel, Deputy Chief Counsel, and five Assistant Counsels), one information technology analyst, one administrative supervisor, two administrative specialists, one technical assistant, and five secretaries.

Since 1991, the Office of Board Counsel had furnished pre-hearing memoranda to the Board in serious disciplinary cases, motions for consent to discipline greater than an admonition, and those other matters (such as defaults) containing novel legal or factual issues. To provide greater assistance to the Board's case review function, this policy was modified. In mid 2003, the Office of Board Counsel began supplying the Board with memoranda on all matters scheduled for consideration, except motions for temporary suspension, typically within two weeks prior to each Board session. These in-depth memoranda set out the facts relevant to the issues raised, the applicable law, and a pertinent analysis of both, ultimately arriving at a recommendation for appropriate discipline based thereon.

CASELOAD INFORMATION

The DRB carried 113 matters docketed in 2004 into January 2005. See Figure 1. By December 31, 2005, all but four matters docketed during calendar year 2004 had been resolved. See Figure 2. The Board had retained jurisdiction over those four 2004 cases, but remanded them to the OAE for consolidation with a group of related ethics prosecutions, directing that they be heard as a unit and resolved by the same Special Master. At the end of 2005, these consolidated matters were still ongoing at the hearing level.

Of the seventy-seven matters pending on December 31, 2005, sixteen (21%) were presentments; three (4%) were stipulations; seven (9%) were defaults; three (4%) were admonitions and one (1%) was a motion for discipline by consent. No motions for final discipline or for reciprocal discipline were pending at the close of 2005. Forty-four fee and ethics appeals constituted 57% of the total pending caseload. The remainder consisted of a motion for temporary suspension and two petitions for restoration to the practice of law. See Figures 1 and 2. Figure 3 provides a graphic representation of the pending Board caseload at the close of 2005, as compared to year-end pending caseloads for 2001 through 2004.

During calendar year 2005, the Office of Board Counsel docketed 370 matters for review by the Board, ninety-three less than the 463 docketed in 2004. The number of ethics appeals decreased in 2005: eighty-three appeals were filed in 2005, while 116 were filed in 2004. The number of fee appeals filed this year also decreased: eighty-six fee appeals were docketed in 2005, as compared to ninety-seven fee appeals docketed in 2004. Admonition filings were down as well: sixteen were docketed in 2005, compared to twenty-seven in 2004. See Figure 1.

In all, the Board resolved 406 of the total 483 matters carried into or docketed during the calendar year 2005 – a disposition rate of 84.6%. With the exception of the four 2004-docket remanded/consolidated matters, the seventy-four 2005-docket cases carried into 2006 were filed

too late in 2005 to be scheduled for the Board's consideration before the end of the year. As Figure 4 demonstrates, the Board's disposition rate increased from 74% (2003) to 84% (2005) over the past three years.

With the March 1, 1995 rule changes, the Court set specific time frames for disposition of matters at all levels of the disciplinary system. At the appellate level, pursuant to R. 1:20-8(c), recommendations for discipline in cases defined as minor misconduct are to be resolved within three months, while all other disciplinary matters have a six-month resolution requirement. See Figure 5.

In 2005, processing times improved or remained the same in all but four categories (admonitions by consent, ethics appeals, motions for temporary suspension, and petitions for restoration) when compared to 2004 average processing times. However, in all categories, the Board met the time limits set by the Court Rule. See Figure 5.

CASELOAD INFORMATION: FIGURE 1

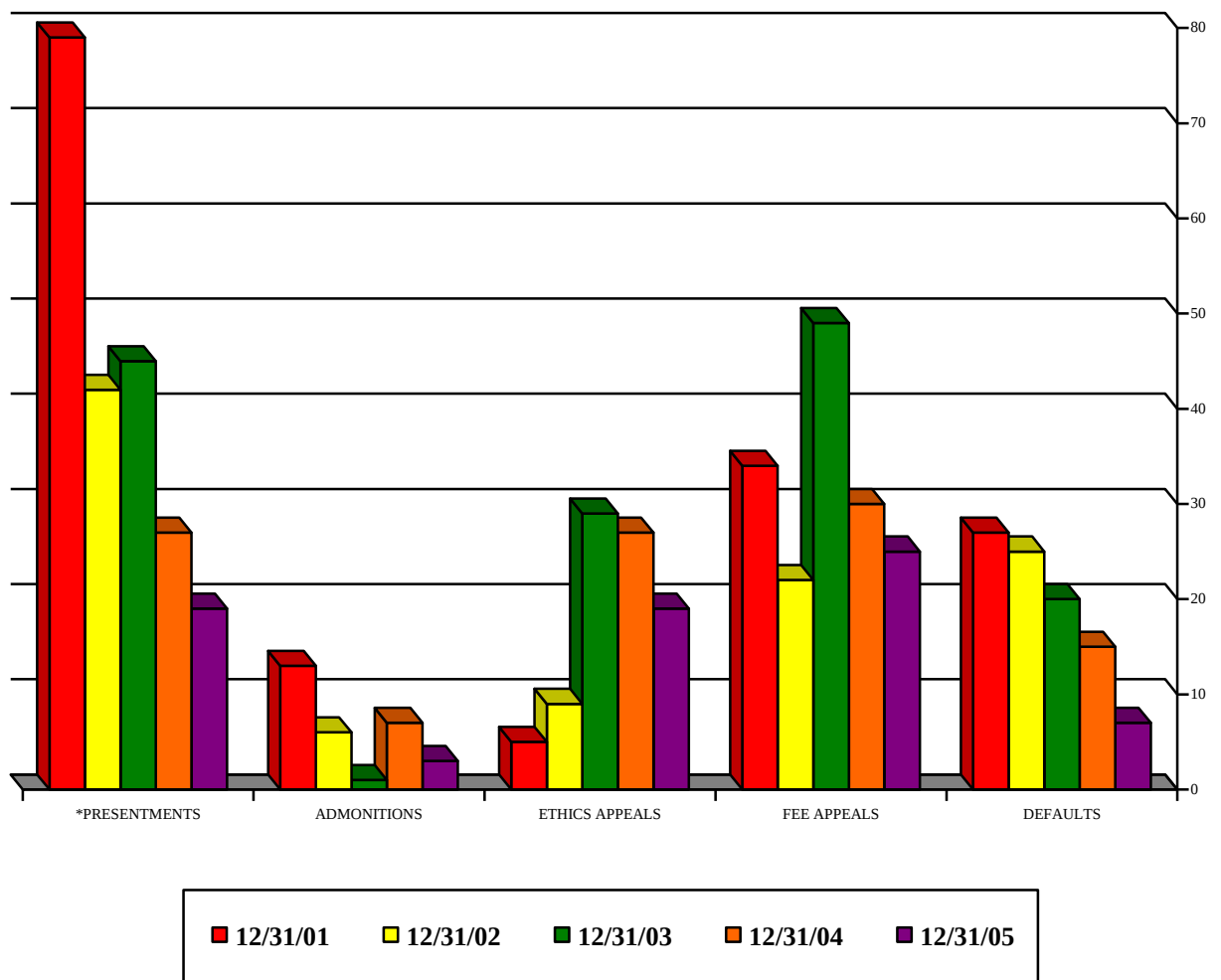
DRB ANNUAL ACTIVITY REPORT					
JANUARY 1, 2005 TO DECEMBER 31, 2005					
Case Type	Carried	Docketed	Total	Disposed	Pending
Presentment	16	43	59	44	15
Stipulation	3	17	20	17	3
Admonition/Presentment	0	6	6	5	1
Motion for Final Discipline	3	13	16	16	0
Motion for Reciprocal Discipline	1	12	13	13	0
Default	15	38	53	46	7
Admonition	7	16	23	20	3
Consent to Admonition	2	5	7	6	1
Consent to Disbarment/Costs	0	11	11	11	0
Consent to Discipline	2	10	12	12	0
Ethics Appeal	27	83	110	91	19
Fee Appeal	30	87	117	92	25
Motion for Temporary Suspension	2	8	10	9	1
Petition for Restoration	2	17	19	17	2
Miscellaneous	0	3	3	3	0
<u>R.1:20-6(c)(1)</u>	3	0	3	3	0
<u>R.1:20-6(c)(1)</u> Post Complaint	0	1	1	1	0
Totals	113	370	483	406	77

CASELOAD INFORMATION: FIGURE 2

AGE OF PENDING CASES – BY CASE TYPE AS OF DECEMBER 31, 2005				
Case Type	2005	2004	Prior	Total Pending
Presentment	12	4	0	16
Stipulation	3	0	0	3
Motion for Final Discipline	0	0	0	0
Motion for Reciprocal Discipline	0	0	0	0
Default	7	0	0	7
Admonition	3	0	0	3
Consent to Admonition	1	0	0	1
Consent to Discipline	0	0	0	0
Ethics Appeal	19	0	0	19
Fee Appeal	25	0	0	25
Motion for Temporary Suspension	1	0	0	1
Petition for Restoration	2	0	0	2
<u>R. 1:20-6(c)(1)</u>	0	0	0	0
Totals	73	4	0	77

CASELOAD INFORMATION: FIGURE 3

COMPARATIVE CASELOAD ANALYSIS
Pending from 12/31/2001 to 12/31/2005



*Includes Presentments, Stipulations, Motions for Final Discipline, Motions for Reciprocal Discipline and Consents to Discipline.

CASELOAD INFORMATION: FIGURE 4

ANNUAL DISPOSITION RATE FOR YEARS 2001 TO 2005					
YEAR	CARRIED	DOCKETED	TOTAL	DISPOSED	DISPOSITION RATE
2001	195	467	662	499	75%
2002	163	469	632	516	82%
2003	116	458	574	426	74%
2004	147	463	610	497	81%
2005	113	370	483	406	84%

CASELOAD INFORMATION: FIGURE 5

AVERAGE RESOLUTION TIMES FOR BOARD CASES <i>(in months)</i>										
R. 1:20-8(c)		1997	1998	1999	2000	2001	2002	2003	2004	2005
Discipline:										
Presentment	6	7.6	9.6	8.3	10.3	11.3	6.5	5.1	3.9	3.7
MFD	6	7.5	10	10.3	9.7	10	5.7	4.9	4.8	3.6
MRD	6	8.4	10.1	11.5	11.1	8.6	5.8	4.8	4	4.3
Defaults	6	8.3	9.47	8.9	9	8.6	5	4.2	3.2	2.6
Consents	3	2.3	3.8	3.1	3	4	3.9	2.7	1.9	1.6
Admonitions:										
Standard	3	3.7	2.86	2.9	4.1	4.4	2.7	3.1	2.4	2.3
By Consent	3	3.1	3.75	3.2	3.6	3.4	3	2.6	1.8	2.2
Presentment	6	7.4	10.6	10.7	9.9	7.2	6.8	4.8	4.4	2.6
Appeals:										
Ethics Appeals	3	3.16	4.04	3.1	3.7	2.6	3	2.9	2.8	3.1
Fee Appeals	3	2.9	4.15	3.4	3.5	4	2.9	3.8	3.8	3.4
Other:										
MTS	-	2.3	2.07	2	3.4	2.6	1.5	2.4	2.7	3.8
Petitions to Restore	-	1.7	1.45	1	1	1	1	1	1.6	1.9

BOARD ACTION

Appeals

The Board considered 227 appeals in 2005. Of the ninety-one ethics appeals reviewed in 2005, eight cases (8.8%) were reversed and remanded by the Board to the district ethics committees for further action. The rate of remand on ethics appeals was lower than the 17% experienced in 2004.

The rate of remand for fee appeals was higher than for ethics appeals in 2005: of the ninety-two fee appeals reviewed, seventeen cases, or approximately 18%, were remanded to the district fee arbitration committees, slightly lower than the 19% experienced in 2004. Although the reasons for fee remand varied, a majority resulted from procedural error at the district level, and lack of adequate notice of the hearing.

Admonitions

The Board considered twenty admonition matters in 2005. Of these, twelve resulted in letters of admonition, five were heard as presentments (resulting in two letters of admonition, one censure, one reprimand, and one three month suspension), two were dismissed, and one matter that the Board determined to hear as a presentment could not be scheduled until 2006. None were remanded to the district ethics committee. Six matters were disposed of as motions for imposition of admonition by consent. One consent motion was denied and one was remanded to the district ethics committee; the Board issued letters of admonition in the remaining four cases.

Other Public Discipline

In 2005, the Board disposed of sixty-six recommendations for public discipline (presentments, stipulations, and admonition-presentments), thirteen motions for reciprocal discipline, sixteen motions for final discipline, and twelve motions for imposition of discipline other than an admonition by consent. Discipline was imposed in nine of the consent matters, two were remanded to the District Ethics Committee, and one motion was denied.

Of the forty-six defaults resolved by the Board, fourteen were remanded to the district ethics committees and six were administratively dismissed for a variety of reasons: two matters (same attorney) were dismissed as moot because he had been disbarred; one was returned to the OAE for consolidation with that attorney's other matters, one certification of default was withdrawn by the District Ethics Committee, and two were returned to the OAE to remedy procedural deficiencies.

The Board also reviewed and resolved nine motions for temporary suspension, seventeen petitions for restoration, and three miscellaneous matters.

SUPREME COURT ACTION

A total of 143 attorneys were publicly disciplined in 2005.² See Appendix 1. Twenty-four were admonished by the Board and three were admonished by Supreme Court order. The majority, 132 of the 143 sanctions, were the result of Board review and/or action.

In 2005, the Office of Board Counsel transmitted 126 decisions to the Court in presentments, stipulations, admonition-presentments, motions for final discipline, motions for reciprocal discipline, and default matters.

The Court issued final orders in seventy-two of those Board discipline decisions, agreeing with the Board's determination in 69.4% of the matters. In twenty-two of the seventy-two Board decisions rendered, the Court determined to impose different discipline. See Figure 7. Those cases where the Board and the Court diverged generally reflect differences in the degree of discipline, rather than differences as to factual or legal findings. In fifteen of the twenty-two divergent decisions, the Court imposed discipline greater than did the Board. Conversely, in seven of those decisions, the Court imposed a lesser degree of discipline; two of the seven were vacated.

² This number includes admonitions issued by the Board without action by the Supreme Court as well as consents to disbarment.

SUPREME COURT ACTION: FIGURE 6

2005 DISCIPLINE COMPARISON

SUPREME COURT DISCIPLINE LESS THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Vincent Bevacqua	Disbar	3 year suspension
Thomas Coleman	1 year suspension	Reprimand
James DeBosh	3 month suspension	Vacate
Kathleen Gahles	Reprimand	Admonition
Herbert Lawrence	1 year suspension	6 month suspension
Rafael Prado	3 month suspension	Vacate
Ana Ventura	Reprimand	Admonition

SUPREME COURT DISCIPLINE GREATER THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Volf Birman	3 month suspension	1 year suspension
Barbara Dupre	6 month suspension	Indefinite suspension
Frederick Fitchett	Reprimand	3 month suspension
E. Lorraine Harris	3 month suspension	Disbar
E. Lorraine Harris (2 matters)	6 month suspension	Disbar
E. Lorraine Harris	1 year suspension	Disbar
E. Lorraine Harris	Reprimand	Disbar
E. Lorraine Harris	1 year suspension, suspended	Disbar
Patricia Johnson	Censure	6 month suspension
Theodore Kozlowski	6 month suspension	1 year suspension
Joseph Poveromo	1 year suspension	Disbar
David Silverman	6 month suspension	1 year suspension
Richard Thomas	2 year suspension	3 year suspension
Richard Zeitler	3 year suspension	Disbar

COLLECTION OF ADMINISTRATIVE COSTS

The Board uniformly assesses administrative costs in all discipline cases, including admonitions. The Court's final order of discipline generally includes a requirement that the respondent-attorney pay the administrative costs of the action to the Disciplinary Oversight Committee. Since the adoption of R. 1:20-17 in 1995, administrative costs have included a flat charge for basic administrative costs, ranging from \$650 to \$2,000 per case, plus disciplinary expenses actually incurred, such as payments made by the disciplinary system for transcripts, court reporter services, file reproduction costs, and other out-of-pocket expenditures.

Office of Board Counsel assesses and collects costs and, in certain cases, monetary sanctions on behalf of the Disciplinary Oversight Committee. R. 1:20-17 provides various avenues of recourse for collection where an attorney fails to pay assessed costs, including automatic temporary suspension and entry of judgment. By the end of 2005, the Office of Board Counsel was current with cost assessment in every case where assessment was Court ordered.

In 2005 the Court accepted consents to disbarment in eleven matters unrelated to Board cases. Nevertheless, Office of Board Counsel staff assessed and collected Court-ordered costs in those matters, pursuant to R. 1:20-17.

During calendar year 2005, Office of Board Counsel's assessments of disciplined attorneys totaled \$290,231. Board Counsel's Office received \$166,597 representing costs that were assessed in 2005 and prior years. This was \$81,518 less than the amount collected in 2004 (\$248,115).

The Office of Board Counsel filed fifty-four judgments in 2005, and received payments totaling \$22,570 to either satisfy outstanding judgments, or as partial payments toward satisfying judgments.

Board Counsel's Office filed motions for temporary suspension for failure to pay costs against three attorneys. Two of them paid in full to avoid suspension; one attorney remains suspended.

The Office of Board Counsel also processes payments of monetary sanctions imposed upon respondents by the Board, most typically when the OAE brings a motion for temporary suspension to enforce a fee arbitration award. The Board imposed five such sanctions in 2005; of those four were paid and one remains unpaid.

CONCLUSION

During calendar year 2006, the Board will continue to make every reasonable effort to ensure that its caseload remains under control. The Board strives for the prompt and fair disposition of all matters before it in order to effectively serve the primary goals of the attorney disciplinary process -- protection of the public and maintenance of public confidence in the Bar.

APPENDIX I**FINAL PUBLIC DISCIPLINE
(January 1, 2005-December 31, 2005)**

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Disbarment (19)				
Abraha, Ande R.	1992	West Orange	9/13/2005	9/13/2005
Briguglio, Anthony J.	1984	New York	11/29/2005	11/29/2005
Flynn, Colin J.	1989	Bergen	5/23/2005	5/23/2005
Handfuss, Robert J.	1983	Monmouth	5/3/2005	5/3/2005
Harris, E. Lorraine	1994	Gloucester	3/16/2005	3/16/2005
Kolmar, Jay Ronald	1990	Parsippany	11/1/2005	11/1/2005
Kraft, Warren Randolph	1989	Jersey City/ Middletown	12/6/2005	12/6/2005
Larosiliere, Jean D.	1990	Newark	11/1/2005	11/1/2005
Lawrence, Tanya E.	1998	W. New York	11/1/2005	11/1/2005
Lichtenstein, Jeffrey P.	1980	Middlesex	3/29/2005	3/29/2005
McClure, Larry J.	1971	Hackensack	10/3/2005	10/3/2005
Morell, Philip M.	1988	New York	7/18/2005	7/18/2005
Nwaka, Anthony C.	1992	Essex	3/29/2005	3/29/2005
Odinkemere, Nkem E.	1993	Essex	1/19/2005	1/19/2005
Pasternak, Steven A.	1982	Essex	2/24/2005	2/24/2005
Poveromo, Joseph E.	1988	Bergen	1/4/2005	1/4/2005
Singer, Mitchell L.	1990	Netcong	9/29/2005	9/29/2005
Staropoli, Charles C. <i>aka Staropoli, C. Charles</i>	1992	Delaware	12/6/2005	12/6/2005
Zeitler, Richard J.	1966	Middlesex	2/10/2005	2/10/2005
Disbarment-By Consent (11)				
Barry, Joseph M.	1965	Hoboken	6/14/2005	6/14/2005
Botchman, Gary E.	1987	Bergen	3/14/2005	3/14/2005
Chukumba, Stephen	1998	Montclair	12/14/2005	12/14/2005
Darnell, Alan M.	1971	Woodbridge	9/14/2005	9/14/2005
Dorwani, Hanit <i>aka Hanit B. Dorwani</i> <i>aka H. Joseph Dorwani</i>	1990	New Brunswick	7/13/2005	7/13/2005
Kushner, Charles	1980	Essex	3/31/2005	3/31/2005
Meyer, Allen J.	1983	Monmouth	1/10/2005	1/10/2005
Mundy, Nicholas	1969	Edison	7/22/2005	7/22/2005
Parles, Craig E.	1997	Hackensack	6/21/2005	6/21/2005
Perlow, Barry A.	1966	Bridgeton	10/17/2005	10/17/2005
Sassano, Michael F.	1977	Bergen	5/10/2005	5/10/2005

FINAL PUBLIC DISCIPLINE
(January 1, 2005-December 31, 2005)

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
3 Month Suspension (16)				
Battaglia, Philip J.	1981	Passaic	3/8/2005	12/18/2003
Chasar, Kathleen Scott	1996	Mercer	2/24/2005	3/23/2005
Dorian, Howard M.	1978	Bergen	3/29/2005	4/25/2005
Dranov, Alexander B.	1986	Bergen	5/11/2005	11/22/2004
Ellis, Daniel	1974	Essex	5/11/2005	5/11/2005
Fitchett, Frederick F. , III	1976	Delran	7/26/2005	8/22/2005
Kervick, David L.	1975	Westfield	12/6/2005	5/19/2005
Lane, Merri R.	1982	Camden	4/5/2005	4/5/2005
McKeon, John H., Jr.	1981	Moorestown	10/18/2005	10/18/2005
Neggers, Wendy Ellen	1995	Morristown	12/6/2005	12/6/2005
Rohan, Donald M.	1996	Maplewood	7/14/2005	8/10/2005
Schlem, Stuart P.	1983	Freehold	10/5/2005	10/5/2005
Scoon, Michael C.	1996	Essex	6/7/2005	4/23/2004
Supino, Anthony M.	1988	Ocean	2/24/2005	3/23/2005
Wonski, Louann K.	1992	Middlesex	5/11/2005	1/27/2004
Wood, Scott J.	1988	Mount Holly	7/21/2005	8/15/2005
6 Month Suspension (10)				
Cotz, George T.	1974	Bergen	3/22/2005	4/22/2005
Dorian, Howard M.	1978	Cliffside Park	9/12/2005	9/12/2005
Haldusiewicz, Joseph J.	1983	Jersey City	11/1/2005	12/1/2005
Johnson, Patricia L.	1990	New York	5/3/2005	5/3/2005
Lawrence, Herbert F.	1970	Asbury Park	11/1/2005	12/1/2005
Onorevole, Richard M.	1983	Lake Hiawatha	10/5/2005	11/1/2005
Richardson, Mary H.	1987	New Brunswick	7/14/2005	8/10/2005
Tunney, John A.	1988	Woodbridge	12/6/2005	10/29/2004
Weiner, A. Kenneth	1970	Middlesex	4/29/2005	4/29/2005
Yacavino, Vincent M.	1964	Mendham	7/22/2005	8/15/2005
12 Month Suspension (11)				
Berger, Scott M.	1990	E. Rockaway	10/18/2005	6/29/2001
Birman, Volf Zev	1998	New York	12/6/2005	5/12/2004
Diamond, Howard S.	1985	Randolph	10/5/2005	11/1/2005
Fisher, Robert S.	1988	Voorhees	9/12/2005	7/29/2004
Gibson, Robert Thomas	1996	Pennsylvania	9/12/2005	8/16/2002
Handfuss, Robert J.	1984	Monmouth	1/26/2005	1/26/2005
Kozlowski, Theodore F.	1978	Morris	5/3/2005	1/1/2005
McClure, Larry J.	1971	Bergen	1/26/2005	1/26/2005
Silverman, David S.	1971	Clifton	9/21/2005	10/21/2005
Truitt, Jeffrey W.	1997	Essex	3/8/2005	3/8/2005
Wolfson, David E.	1992	New York	2/24/2005	3/23/2005

FINAL PUBLIC DISCIPLINE
(January 1, 2005-December 31, 2005)

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Other Suspension (7)				
Bentivegna, Antoinette M.J.- 2 yrs.	1989	Pennsylvania	10/18/2005	8/14/2004
Bevacqua, Vincent E.-3 yrs.	1990	Newark	9/29/2005	12/15/2004
DeMiro, Michael A.-18 mos.	1976	Essex	1/5/2005	6/2/2003
Dupre, Barbara H.-5 yrs.	1980	Atlantic	3/15/2005	3/4/2003
Lloyd, Vincent A.-3 yrs.	1973	Florida	5/3/2005	2/12/2003
Marra, Allen C.-3 yrs.	1967	Essex	4/29/2005	4/29/2005
Thomas, Richard R. II-3 yrs.	1995	Essex	5/3/2005	10/29/2004
Censure (8)				
Allocca, Ralph P.	1984	Madison	12/14/2005	12/14/2005
Aratow, Henry J.	1993	Morristown	11/15/2005	11/15/2005
Giamanco, Thomas A.	1983	Ridgewood	10/5/2005	10/5/2005
Gottesman, Lee D.	1981	Toms River	11/15/2005	11/15/2005
Neff, H. Alton	1967	Brick	10/18/2005	10/18/2005
Osei, George	1998	Holmdel	10/21/2005	10/21/2005
Sims, Ronald M.	1970	Hackettstown	11/1/2005	11/1/2005
Thomas, Charles R.	1985	Paterson	12/6/2005	12/6/2005
Reprimand (34)				
Angelucci, John S.	1992	Gloucester	6/7/2005	6/7/2005
Basaman, Edward T.	1991	Hudson	2/24/2005	2/24/2005
Broder, H. Neil <i>aka Broder, Herbert N.</i>	1972	Essex	5/23/2005	5/23/2005
Coleman, Thomas J., III	1990	Moorestown	11/30/2005	11/30/2005
Conlon, James C.	1952	Union	11/7/2005	11/7/2005
Conroy, John S., IV	1980	Burlington	11/1/2005	11/1/2005
Davidson, Marvin S.	1969	Essex	3/8/2005	3/8/2005
Doyle, John P.	1967	Ocean	5/11/2005	5/11/2005
Garbin, Gladys J.M.	1989	Passaic	2/4/2005	2/4/2005
Gensib, Carl D.	1990	N. Brunswick	12/6/2005	12/6/2005
Gourvitz, Elliot H.	1969	Short Hills	10/18/2005	10/18/2005
Hardt, Frederick W.	1968	Burlington	4/5/2005	4/5/2005
Hoffberg, Barry A.	1993	New York	9/19/2005	9/19/2005
Hughes, Kieran P.	1985	Union	6/7/2005	6/7/2005
Kersey, George E.	1963	Massachusetts	9/19/2005	9/19/2005
Kivler, Russell T.	1973	Mercer	4/29/2005	4/29/2005
LaRosa, Joseph J.	1993	Marlton	11/1/2005	11/1/2005
Lehman, Marvin B.	1974	Union	3/8/2005	3/8/2005
Leiner, Robert H.	1994	Hainesport	10/20/2005	10/20/2005
Lynch, Gerald M.	1977	Middlesex	4/29/2005	4/29/2005
Moras, Hugo L.	1975	South Orange	7/7/2005	7/7/2005
Muller, Steven T.	1971	Bergen	5/23/2005	5/23/2005
Murray, Diane K.	1980	Jersey City	11/29/2005	11/29/2005
Nichols, James D.	1971	Middlesex	2/8/2005	2/8/2005
Oxford, Nancy I.	1977	Newark	7/27/2005	7/27/2005

FINAL PUBLIC DISCIPLINE
(January 1, 2005-December 31, 2005)

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Reprimand (continued)				
Patel, C. Aaron <i>aka Patel, Chirayu A.</i>	1996	Bergen	3/8/2005	3/8/2005
Poling, Raymond L.	1972	Cape May	5/23/2005	5/23/2005
Regojo, Fernando	1981	Union City	12/6/2005	12/6/2005
Rothman, Harvey H.	1989	Wayne	12/6/2005	12/6/2005
Stoller, David T.	1975	Monmouth	3/22/2005	3/22/2005
Toronto, Philip V.	1982	Hasbrouck Hts.	12/6/2005	12/6/2005
Wise, John F.	1983	South Orange	10/5/2005	10/5/2005
Wonski, Louann K.	1992	Middlesex	5/11/2005	5/11/2005
Zark, Alan	1976	Hudson	6/7/2005	6/7/2005
Admonition (27)				
Allen, John Charles	1995	New Brunswick	5/23/2005	5/23/2005
Atwell, Anthony R.	1979	Essex	2/22/2005	2/22/2005
Bashir, Muhammad	1987	Elizabeth	2/22/2005	2/22/2005
Belgrave, Carl	1991	Newark	10/26/2005	10/26/2005
Claps, Roy	1973	Dover	5/23/2005	5/23/2005
Coffey, John Francis II	1987	Hudson	1/21/2005	1/21/2005
Cohan, Richard J.	1974	Essex	4/5/2005	4/5/2005
Davis-Daniels, Kay Kay	1982	Asbury Park	9/19/2005	9/19/2005
DiMartini, Patrick W.	1958	Hudson	2/22/2005	2/22/2005
Fusco, Frank Craig	1995	Passaic	2/22/2005	2/22/2005
Gahles, Kathleen F.	1982	Somerset	1/26/2005	1/26/2005
Gani, Geno	1987	Michigan	2/1/2005	2/1/2005
Gilman, Cory J.	1997	Cape May	5/23/2005	5/23/2005
Keeley-Cain, Thomas	1989	Cherry Hill	5/26/2005	5/26/2005
Lonstein, Wayne	1987	Parlin	6/17/2005	6/17/2005
Michals, Spiro T.	1991	Red Bank	9/8/2005	9/8/2005
Payton, Queen	2001	Elizabeth	11/3/2005	11/3/2005
Pelc, Larissa	1996	South Orange	7/28/2005	7/28/2005
Pennella, David	1976	Dover	5/23/2005	5/23/2005
Podolsky, Steven	1997	New York	9/19/2005	9/19/2005
Ruffin, Fayth A.	1987	Morris	2/22/2005	2/22/2005
Simmons, Anthony J.	1989	Essex	2/23/2005	2/23/2005
Spevack, Ronald W.	1964	Middlesex	5/23/2005	5/23/2005
Spevack, Ronald W.	1964	Middlesex	2/22/2005	2/22/2005
Ventura, Ana L.	1998	Hudson	4/29/2005	4/29/2005
Zark, Alan	1976	Hudson	2/18/2005	2/18/2005
Zindler, Michael A.	1965	Mercer	2/24/2005	2/24/2005

TEMPORARY DISCIPLINE
(January 1, 2005-December 31, 2005)

ATTORNEY	ADMITTED	LOCATION	DECIDED	EFFECTIVE
Motions for Temporary Suspension (29)				
Abrams, Andrew C.	1988	Bala Cynwyd	10/28/2005	10/28/2005
Bilqiys, Azama Aliya <i>aka Worth, Yvette H.</i>	1983	Bedminster	11/1/2005	11/1/2005
Block, Michael Lee	1990	Voorhees	7/29/2005	8/29/2005
Briguglio, Anthony J.	1983	New York	3/4/2005	3/4/2005
Buonopane, Michael James	1987	Freehold	6/29/2005	6/29/2005
Chilewich, Daniel S.	1992	New York	2/16/2005	2/16/2005
Cozzarelli, Frank J.	1977	Essex	1/21/2005	1/21/2005
Daly, C. Brian <i>aka Daly, Charles B.</i>	1971	Union	2/23/2005	2/23/2005
Dorwani, Hanit B. <i>aka Dorwani, Joseph</i>	1990	Middlesex	3/31/2005	3/31/2005
Edelson, Gary L.	1988	Red Bank	11/17/2005	11/17/2005
Felmeister, Robert A.	1978	Mercer	3/14/2005	3/14/2005
Garcia, Rick A.	1986	Passaic	3/8/2005	3/8/2005
Giegerich, Robert A. Jr.	1973	Union	4/5/2005	4/5/2005
Klein, Eric Alan	1987	Harrington Pk	7/27/2005	7/27/2005
Kundrat, George J. Jr.	1982	Westfield	9/30/2005	9/30/2005
Landfield, Stephen D.	1984	Morris	5/11/2005	11/1/2004
LeBlanc, Wilfrid Jr.	1998	Roselle	9/2/2005	9/30/2005
Lee, Chak Y. <i>aka Lee, Chak Yin</i>	1990	New York	12/28/2005	12/28/2005
Leiner, Robert H.	1994	Burlington	5/26/2005	6/24/2005
Mitchell, Edward F.	1998	Toms River	9/20/2005	9/20/2005
Olewuenyi, Chris C.	1998	Union	9/30/2005	9/30/2005
Parkin, Harry G.	1972	Mercer	3/22/2005	3/22/2005
Poley, Lawrence I.	1990	Morris	1/26/2005	1/26/2005
Sorkin, Olga	1993	New York	11/10/2005	11/10/2005
Stewart, Lynne F.	1975	Hudson	3/23/2005	3/23/2005
Struhl, Morton E.	1971	California	8/11/2005	8/11/2005
Thompson, Stephen W.	1975	Avalon	11/7/2005	11/7/2005
Williams, Avis Cole	1987	Atlantic	5/10/2005	6/10/2005
Zander, Ben J.	1982	Springfield	9/30/2005	9/30/2005
Motions for Temporary Suspension-Costs (4)				
Block, Michael Lee	1990	Voorhees	10/14/2005	Withdrawn
Capron, Thomas S.	1981	Avon	9/23/2005	Withdrawn
Rosanelli, Donald S.	1981	Newark	9/22/2005	Withdrawn
Stoller, David T.	1975	Matawan	9/23/2005	10/23/2005
Disability Inactive Status (5)				
Darnell, Alan M.	1971	Middlesex	1/10/2005	1/10/2005
Lance, Marilyn S.	1971	Lawrenceville	9/7/2005	9/7/2005
McBride, Bernard J., Jr.	1990	Deptford	9/21/2005	9/21/2005
Prado, Rafael A.	1978	Hudson	1/26/2005	1/26/2005
Wonski, Louann K.	1992	Middlesex	5/11/2005	5/11/2005

REINSTATEMENTS
(January 1, 2005-December 31, 2005)

ATTORNEY	SUSPENSION DATE	LOCATION	DECIDED	EFFECTIVE
Reinstatements (16)				
Chasar, Kathleen Scott	3/23/2005	Mercer	6/23/2005	6/23/2005
Cotz, George J.	4/22/2005	Mahwah	11/23/2005	11/23/2005
DeMiro, Michael A.	6/2/2003	Essex	2/23/2005	2/23/2005
Dranov, Alexander B.	5/22/2004	Fort Lee	8/19/2005	8/19/2005
Dykstra, Paul A.	11/1/2004	Bergen	2/23/2005	2/23/2005
Evans, John A.	10/6/2004	Burlington	2/23/2005	2/23/2005
Glynn, Kenneth P.	7/12/2004	Flemington	11/23/2005	11/23/2005
Gross, Howard A.	6/1/2004	Camden	1/31/2005	1/31/2005
Kirnan, Matthew J.	6/3/2003	Essex	6/6/2005	6/6/2005
Levande, Eric M.	5/9/2002	Florida	8/3/2005	8/3/2005
Lowell, Melinda C.	5/30/2002	Saddle River	12/20/2005	12/20/2005
McManus, William E., II	12/10/2002	McAfee	11/23/2005	11/23/2005
Rodgers, John F., Jr.	10/4/2003	Lindenwold	9/26/2005	9/26/2005
Tunney, John A.	10/29/2004	Woodbridge	12/7/2005	12/7/2005
Valentino, Philip A., Jr.	4/1/1997	Wildwood	8/3/2005	8/3/2005
Williams, Avis Cole	6/10/2005	Northfield	7/12/2005	7/12/2005

TOTALS
(January 1, 2005-December 31, 2005)

TOTAL FINAL DISCIPLINE:	143
TOTAL TEMPORARY DISCIPLINE:	38
TOTAL REINSTATEMENTS:	16

APPENDIX II

ADMONITION REPORT 2005

ATTORNEY	DOCKET #	DATE
John Charles Allen	05-087	May 23, 2005
In a tax sale certificate foreclosure matter, respondent neglected to advance the foreclosure and failed to inform the client that the complaint was dismissed in its entirety or to reply to inquiries about the status of the matter. Respondent's failure to prosecute the foreclosure of the tax sale certificate and to communicate with the client constituted violations of <u>RPC</u> 1.1(a) and <u>RPC</u> 1.4(a).		
Anthony R. Atwell	05-023	February 22, 2005
In the midst of the administration of an estate, respondent's staff lost the estate file. Respondent did not apprise the client of the circumstance and on five occasions, cancelled scheduled appointments with the client, ostensibly because respondent was unavailable or in court. In fact, respondent admitted that the meetings were cancelled because he was looking for the mislaid file. Respondent's conduct violated <u>RPC</u> 1.4(a).		
Muhammad Ibn Bashir	05-061	May 25, 2005
In five separate criminal representations, respondent failed to comply with court deadlines. As a result, four Superior Court judges ordered sanctions against respondent, which he failed to timely pay. Respondent violated <u>RPC</u> 3.4(c).		
Carl C. Belgrave	05-258	November 9, 2005
Respondent was retained to represent a client in the purchase of a residence, but failed to state in writing the basis of his fee. As a result, there was confusion about whether a fee paid was for the real estate closing, or for a prior matrimonial matter for which respondent had provided services without payment. In addition, respondent admitted that he did not maintain required cash receipts and disbursements journals. Respondent's conduct violated <u>RPC</u> 1.5(b) and <u>RPC</u> 1.15(d).		
Roy R. Claps	05-086	May 23, 2005
A bank error in 1996, where only \$300 out of a \$30,000 deposit was entered to the attorney trust account, was not discovered until 1999. No steps were taken by respondent or his partner to replenish the account. Instead, they continued to use the account, despite knowing that they were out of trust. Both the respondent and his partner closely monitored all future disbursements to ensure that no client would be harmed. When the bank's mistake was finally discovered by an accounting firm, both respondent and his partner deposited personal funds to cover the shortfall. Respondent violated <u>RPC</u> 1.15(a). In addition, an OAE audit revealed several recordkeeping deficiencies, violating <u>R.</u> 1:21-6 and <u>RPC</u> 1.15(d).		
John F. Coffey, II	04-419	January 21, 2005
Respondent was retained to prepare and file a Chapter 7 bankruptcy petition. Although the client gave respondent all of the necessary information in December 2002, the petition was not filed until nine months later. Respondent's conduct violated <u>RPC</u> 1.3 and <u>RPC</u> 1.4(a).		

APPENDIX II
ADMONITION REPORT 2005
(continued)

ATTORNEY	DOCKET #	DATE
Richard J. Cohan	04-272	April 25, 2005
As a result of two overdraft notices, the OAE conducted an audit of the respondent's records, which disclosed trust account shortages. The trust account shortages were a direct result of respondent's failing to verify the status of funds in, or to properly reconcile, the attorney trust account. In addition to the negligent misappropriations caused by the lack of proper reconciliations, respondent's recordkeeping was deficient in numerous other respects. Respondent's actions were in contravention of <u>R.</u> 1:21-6 and <u>RPC</u> 1.15(d).		
KayKay Davis-Daniels	05-218	September 22, 2005
Respondent was appointed personal representative of the estate of a friend. For a period of three years, respondent did not inform the court of problems in fulfilling the role as personal representative and did not seek the court's guidance and assistance. Respondent was given many deadlines for the filing of the Inventory and Appraisement, but only once filed a motion to extend the deadline. Furthermore, after the court scheduled a hearing for an explanation of why respondent's fiduciary duties had not been performed and for respondent's possible removal as personal representative, respondent neither appeared at the hearing nor informed the court of the intended absence. In this regard respondent's conduct was a violation of <u>RPC</u> 8.4(d). Finally, respondent failed to ask the court to withdraw from the case when her physical condition materially impaired her ability to serve the estate well; when the heirs did not fulfill their duty to provide her with necessary information; and when it became clear that her participation in the case would result in an unreasonable financial burden to her. Respondent's conduct was in violation of <u>RPC</u> 1.16(a)(2), (b)(4) and (b)(5), respectively.		
Patrick DiMartini	04-440	February 22, 2005
After receiving a check for a down payment on real property, respondent discovered that the check had been stolen from his office and cashed, four days after he received it. Respondent's failure to ensure that the check was deposited in his trust account soon after its delivery constituted failure to safeguard clients' funds, in violation of <u>RPC</u> 1.15(a).		
Frank Fusco	04-442	February 22, 2005
Respondent represented both a seller and a buyer in a real estate transaction and did not advise the parties of the conflict inherent in the dual representation and did not obtain their consent thereto, in violation of <u>RPC</u> 1.7(a). Four years after the closing of title, the seller alleged that he had not received the down payment and threatened to report the respondent to the disciplinary authorities if respondent did not pay him. Respondent then threatened to file a civil suit against him, violating <u>RPC</u> 8.4(d).		
Kathleen Gahles	04-192	January 26, 2005
During oral argument on a motion in a matrimonial matter, respondent failed to treat the other party with courtesy and consideration and, thereby, violated <u>RPC</u> 3.2.		

APPENDIX II
ADMONITION REPORT 2005
(continued)

ATTORNEY	DOCKET #	DATE
Geno Saleh Gani	04-372	January 31, 2005
Respondent entered into an arrangement with a Texas organization, Advanced Legal Systems (ALS), to develop a New Jersey practice preparing living trusts. The clients were not informed that the representatives gathering information were employed by ALS. Approximately 87.5% of each legal fee collected was paid to ALS. Respondent's arrangement violated a number of disciplinary rules: improper use of his name and address on advertisements; absence of required language in the advertisements; improper fee sharing with non-attorneys; aiding in the unauthorized practice of law; and making misleading statements in the advertisements themselves. Respondent violated <u>RPC 5.4(a)</u> , <u>RPC 5.5(b)</u> , <u>RPC 7.1</u> , <u>RPC 7.3(b)(5)(i)</u> , (ii) and (iii) and 7.3(d), <u>RPC 7.5(a)</u> , <u>R. 1:29-2</u> , <u>Attorney Advertising Guideline 1</u> , and <u>Committee on Attorney Advertising Opinion 25</u> , 153 <u>N.J.L.J.</u> 1298, 7 <u>N.J.L.</u> 2250 (1998).		
Cory J. Gilman	04-434	February 24, 2005
In the representation of buyers in ten real estate transactions, respondent failed to advise his clients about pertinent aspects of the representation in all of the matters. In six of those matters, he did not review the contract with the clients. Respondent also improperly steered the buyers to Shore Title Agency (STA) without advising them of his nexus with that entity or that title insurance could be obtained from other sources. Respondent's failure to adequately inform his clients hampered their ability to make informed decisions about the representation, in violation of <u>RPC 1.4(b)</u> . In addition, the conflict of interest provisions of <u>RPC 1.7</u> prohibited respondent from representing the buyers/clients, because his partner owned STA. His representation of those clients in the face of the conflict situation was imputed to him via <u>RPC 1.10(b)</u> . As such, he violated <u>RPC 1.10(a)</u> and <u>RPC 1.7</u> .		
Thomas Keeley-Cain	05-099	May 26, 2005
Respondent was retained to defend The Insurance Company of the State of Pennsylvania (ICSP), SML Construction, Inc. (SML), and Pesce & Dubauskas Construction, LLC (Pesce) in a matter captioned <u>Legge Industries v. The Insurance Company of the State of Pennsylvania</u> . Although respondent filed an answer on behalf of ICSP, he allowed the pleading to be dismissed without prejudice for failure to answer interrogatories. In addition, he failed to give notice to ICSP that its answer was subject to dismissal, first without prejudice and then with prejudice. Moreover, he failed to file an answer on behalf of SML and Pesce, which resulted in the entry of default against them. He also failed to give the clients notice that he had failed to file an answer on their behalf and that a default judgment would be entered against them. With respect to all three clients, respondent violated <u>RPC 1.1(a)</u> , <u>RPC 1.3</u> , and <u>RPC 1.4(a)</u> .		
Wayne D. Lonstein	05-123	June 17, 2005
A New Jersey attorney and respondent had a longstanding arrangement for the receipt and forwarding of respondent's business mail, deliveries, and faxes to that attorney's office. Respondent's name was not displayed in either the building directory or any other location. Although respondent occasionally used that office to meet with New Jersey clients, he was not present at that office during regular business hours. In addition, the arrangement did not meet other requirements of the <u>bona fide</u> office rule in effect at the time, in violation of <u>RPC 5.5(a)</u> .		

APPENDIX II
ADMONITION REPORT 2005
(continued)

ATTORNEY	DOCKET #	DATE
Spiro T. Michals	05-016	March 18, 2005
When respondent ran out of business account checks, he transferred money into his trust account and used that account to pay for his personal expenses. He also permitted his wife, who was not a signatory on his firm's accounts, to withdraw funds therefrom. The commingling of funds and payment of personal debts from his firm's primary trust account resulted in an overdraft. Respondent also negligently misappropriated funds from a secondary trust account, and in each instance he transferred funds from his business account within two days and one day, respectively, to cover the shortages. In addition, the Office of Attorney Ethics' review of respondent's accounts disclosed that they did not comply with the requirements of <u>R.</u> 1:21-6. Respondent's conduct violated <u>RPC</u> 1.15(a) and <u>RPC</u> 1.15(d).		
Queen E. Payton	05-250	November 3, 2005
Respondent practiced law while ineligible to practice law in New Jersey for failure to pay the annual attorney assessment to the New Jersey Lawyers' Fund for Client Protection. Respondent practiced law with her husband on a limited, part-time basis, conducting legal research, calling clients and doing "paperwork" in the office in violation of <u>RPC</u> 5.5(a). Initially, respondent failed to cooperate with the Office of Attorney Ethics during its investigation of this matter, a violation of <u>RPC</u> 8.1(b).		
Larissa A. Pelc	05-165	July 28, 2005
In a divorce action, respondent was paid a retainer but failed to file an answer on behalf of her client, which resulted in the entry of default against the client and service of a notice of equitable distribution. New counsel hired by the client succeeded in having the default vacated and filed an answer on the client's behalf. Respondent also failed to comply with the client's new attorney's request for reimbursement of the retainer fee. Instead, respondent wrote to the client and stated that she preferred written notice of her termination and requested the client do so. Subsequently, respondent sent the client a bill indicating that she had performed work on the case and indicating a remaining balance, yet she did not release the balance until almost one year later, after the client had filed a grievance. Respondent violated <u>RPC</u> 1.16(d).		
David C. Pennella	05-085	May 23, 2005
A bank error in 1996, where only \$300 out of a \$30,000 deposit was entered to the attorney trust account, was not discovered until 1999. No steps were taken by respondent or his partner to replenish the account. Instead, they continued to use the account, despite knowing that they were out of trust. Both the respondent and his partner closely monitored all future disbursements to ensure that no client would be harmed. When the bank's mistake was finally discovered by an accounting firm, both respondent and his partner deposited personal funds to cover the shortfall. Respondent violated <u>RPC</u> 1.15(a). In addition, an OAE audit revealed several recordkeeping deficiencies, violating <u>R.</u> 1:21-6 and, <u>RPC</u> 1.15(d).		
Steven V. Podolsky	05-187	September 19, 2005
While respondent was ineligible to practice law in New Jersey for failure to pay the annual assessment to the New Jersey Lawyers' Fund for Client Protection, he filed a complaint in the Superior Court, in violation of <u>RPC</u> 5.5(a).		

APPENDIX II

ADMONITION REPORT 2005

(continued)

ATTORNEY	DOCKET #	DATE
Fayth A. Ruffin	04-422	February 22, 2005
Respondent was retained to represent the client in an action against her condominium association. The client had stopped paying her monthly maintenance fees because she believed that the association had failed to maintain and repair the common areas. Respondent filed a complaint against the association and others, and the association filed a counterclaim seeking the payment of the delinquent dues and other costs. Respondent failed to file an answer to the counterclaim, thereby causing a default judgment in the amount to be entered against the client. Respondent violated <u>RPC</u> 1.3.		
Anthony J. Simmons	04-457	February 23, 2005
After respondent appeared at a bail reduction hearing on a criminal matter, the client terminated respondent's services and requested the return of a portion of the retainer that had been paid. Respondent failed to return the funds, despite a fee arbitration committee determination directing him to do so. In another matter, where there were pending state and federal criminal charges, respondent advised the magistrate judge in the federal proceeding and the judge in the state proceeding, that he was withdrawing from the representation to obtain medical treatment in another state. There was no indication that respondent advised the client of his withdrawal from the case. The fee arbitration committee determined that respondent should refund the entire fee. Respondent violated <u>RPC</u> 1.5(b) in the first matter and <u>RPC</u> 1.16(d) in both matters.		
Ronald W. Spevack	04-405	February 22, 2005
Respondent was retained to pursue an appeal of a decision by the Social Security Administration (SSA); Respondent proceeded to send a letter of representation to the local SSA branch, requesting a hearing on his client's behalf, but did not specifically request appeal forms; the SSA never sent them to him, and they were never completed and filed. When the client contacted the SSA and learned that the appeal had not been filed, she filed it on her own. Respondent was aware that, ordinarily, a six-month period elapsed between the request for a hearing and the scheduling of the hearing, and saw no need to follow up. Respondent violated <u>RPC</u> 1.3.		
Ronald W. Spevack	04-437	May 23, 2005
In a federal claim with the Department of Labor, respondent should have ascertained its current status in order to explain to the client, in detail, the posture of the case, to properly advise her if her claim was meritorious or not, and to recommend the next course of action. Respondent violated <u>RPC</u> 1.4(b).		
Ana Ventura	04-349	April 29, 2005
Respondent did not reply to the District Ethics Committee investigator's repeated requests for information about a grievance, thereby violating <u>RPC</u> 8.1(b). In addition, respondent did not file an answer to the complaint, causing the disciplinary matter to be reviewed on a default basis.		

APPENDIX II

ADMONITION REPORT 2005

(continued)

ATTORNEY	DOCKET #	DATE
Alan Zark	04-443	February 18, 2005
In an estate matter, respondent failed to reply to requests for information about the matter from his clients. In addition, checks that the clients tendered, pursuant to a court order, were not submitted to a court-appointed fiscal agent until six or seven months later. Because respondent did not notify the clients that he was submitting those checks at that late date, they became concerned about the disposition of their funds when the checks were finally negotiated. However, when the clients attempted to contact respondent, they discovered that he had vacated his office. Respondent violated <u>RPC</u> 1.4(a) [designated as <u>RPC</u> 1.4(b) effective January 1, 2004].		
Michael A. Zindler	04-423	February 24, 2005
Respondent procured releases from his clients for malpractice claims that they may have had against him, in violation of <u>RPC</u> 1.8(h)(2).		