NOTICE TO THE BAR

Proposed 2015 Attorney Discipline Budget

The Report of the Supreme Court's Disciplinary Oversight Committee on the proposed 2015 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 2015 Attorney Discipline Budget be published for comment. Those documents are attached.

Please send any comments in writing by Monday, November 24, 2014 to:

Clerk of the Supreme Court
Comments on Proposed Disciplinary Budget
Hughes Justice Complex;P.O. Box 970
Trenton, New Jersey 08625-0970

Comments may also be submitted via Internet email to the following address: Comments.mailbox@judiciary.state.nj.us.

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

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

Dated: October 28, 2014

SUPREME COURT OF NEW JERSEY
DISCIPLINARY OVERSIGHT COMMITTEE

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October 24, 2014

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: 2015 Attorney Discipline Budget

Dear Chief Justice Rabner and Associate Justices:

The Supreme Court's Disciplinary Oversight Committee (DOC or Committee) considered and unanimously approved with one exception[1] the proposed FY 2015 Attorney Discipline Budget.[2] The budget was prepared in consultation with the Administrative Office of the Court's Office of Management and Administrative Services (OMAS). The Committee thanks Charles Centinaro, Esq., Director of the Office of Attorney Ethics (OAE); Susan Fleming, OAE Administrator; Ellen Brodsky, Esq., Chief Counsel of the Disciplinary Review Board (DRB); and the staffs of the OAE and DRB for their efforts in preparing the proposed budget. The Committee also thanks OMAS Director Shelley Webster, and Assistant Chief Linda McAdams, for their assistance during the budget process. Finally, the DOC acknowledges the expertise of its Budget Subcommittee and commends it for its work and diligent efforts.[3]

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1 NJSBA representative Paris Eliades, Esq., objected to the continuation of the fee at $148 and believed the fee should be reduced to $140.

2 R. 1:20B-4(a)(2).

3 The Budget Subcommittee members are Co-Chair Maureen Kerns, Esq., Co-Chair Tony Guacci, Mike Furey, Esq., Paris Eliades, Esq., Richard Sackin, Joel Rosen, Esq., and Spencer Wissinger, III.

This Budget Report reflects the Committee's analysis and recommendations. The Committee requests the Court's review and approval for publication of this report and the 2015 Discipline Budget Overview.[4] Budget reserve projections through 2017 are also enclosed for the Court's consideration.

I. Overview.

The disciplinary budget year runs from January 1 to December 31. The proposed budget for 2015 is $12,922,568, representing a 1.8% decrease from the budget approved for 2014. As discussed in greater detail below (Section II(A)) the primary core expense (80%) is salaries and benefits. Salaries are expected to increase by 3.9%. Due in part to an unexpected decrease in the Fringe Benefit Rate (FBR), however, personnel costs for 2015 are expected to increase by 2% over the latest estimate for 2014. Total operating expenses are expected to rise by 3% over the latest estimate for 2014.

As discussed in Section III, the DOC is recommending that the fee assessment for 2015 be set at $148 for plenary admitted attorneys practicing 3-49 years, the same as in Fiscal Year 2014. As explained in Section IV, a $148 registration fee from attorneys practicing 3-49 years is projected to generate revenues of $10,138,000. Attorneys practicing 2 years pay $25, yielding another $80,000. Thus, total revenues from plenary admitted attorney registration fees are anticipated to be $10,218,000.[5] When other fees are added ($2,187,400), total projected revenues for 2015 are estimated to be $12,405,400. Thus, revenues from registration fees and other sources are expected to increase by 1% ($148,200) when compared to the latest estimate for 2014.

With total projected revenues of $12,405,400 and total expenses of $12,922,568, there will be a budgeted deficit for 2015 of ($517,168). There was a budgeted deficit of $959,722 in 2014, but the actual deficit for 2014 is expected to be $301,489. At the end of 2014, the reserve is projected to be $2,690,431 or 21.4% of the budget. The projected reserve at the end of 2015 is estimated to be $2,173,263 or 16.8% of the operating budget. This

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4 The Budget Overview is a synopsis of the budget. It is published along with the Budget Report in lieu of the entire budget, pursuant to Rule 1:20B-4(b).
5 The fee discussed in this report is for the disciplinary system only. Additional sums are added to this fee for the Lawyers' Fund for Client Protection, the Lawyers Assistance Program, and the Mandatory Continuing Legal Education Program.

is in keeping with the Committee's goal of providing a 10% reserve in a controlled, fiscally responsible manner (please see Section III below for further discussion on the annual assessment and reserve projections).

The DOC believes that the proposed budget for 2015 is fiscally responsible and will provide the OAE and DRB with the resources needed to continue their high level of service.

II. Expenses.

A. Salaries and Benefits.

The Department of the Treasury, Office of Management and Budget (OMB), has advised that there will be a significant reduction in the fringe benefit rate between FY 2014 (50.75%) and FY 2015 (40.15% projected rate). This unexpected decrease will impact both the latest estimates for 2014 as well as the budgeted personnel costs for 2015. According to the OMB, the primary reason for the reduced rate is that the pension funding formula was changed, and the State made a much lower contribution than what was anticipated for 2014. Numerous public employee unions filed suit in the Superior Court seeking to require the State to make the statutorily-mandated pension contributions for FY 2014 and FY 2015. The trial court found that public employees have a contractual right to the State's pension contributions under recent pension reform legislation. However, we understand that this court allowed for a reduction in the pension contribution for 2014 due to a significant unanticipated revenue shortfall. The Court's decision was limited to 2014, leaving the issue of the necessary pension contribution open for consideration in future budgets. For 2015, we understand that a reduced payment amount was built into the fringe rate calculation. OMB has not provided direction in terms of what it expects the rate to be in FY 2016.

Based on available information, salaries for 2015 are projected to cost $7,303,899 (3.9% increase)[6] and benefits are projected to cost $3,038,446 (a 2.4% decrease from the latest estimate for 2014). Thus salaries and benefits for 2015 are projected to be $10,342,344 or 80% of the budget.[7] This budgeted

6 Salaries for represented staff in the disciplinary system are established through negotiated labor contracts. These contracts were recently renegotiated and ratified.
7 Salaries and benefits have historically constituted 80% of the budget.

number reflects a 2% vacancy factor. Since 2005, except for 2012,[8] the budgeted vacancy rate has been 2%.

B. Notable Expenses.

1. Technology/Data Processing. On December 4, 2013, the OAE and DRB presented an *IT Strategic Plan - 2014 to 2017* to the DOC. The plan described the costs, benefits and timing of ongoing improvements and potential IT initiatives over several years. As noted in the FY 2014 Budget Report, to keep costs down, and because of the retirement of the OAE's IT Manager, certain improvements were deferred. With the hiring of a new IT Manager in December 2012, the OAE and DRB were able subsequently to pursue those improvements. Through the reallocation of funds and hard work, many of the upgrades were completed by August 2013. In 2014, a number of projects were pursued, including using CourtSmart to record District Ethics Committee hearings. Other initiatives of high priority include eCourts/eFiling, Audio/Video Conferencing, and greater mobility and public Internet access to information on attorney discipline. The total OAE/DRB data processing budget is $368,550, virtually identical to the amount budgeted for 2014 ($369,200).

2. Equipment. The OAE and DRB annually replace personal computers, depending on age and condition, in accordance with Judiciary standards. This practice allows the disciplinary system to remain current with changing technical requirements while spreading the costs over a multi-year period. Due to a number of issues, the OAE did not replace any personal computers in 2012 and purchases in 2013 were limited. As part of the OAE's effort to keep costs down, only one-fifth (as opposed to the usual one-fourth) of the personal computers and printers were scheduled for replacement in 2014. This has resulted in a large number of "antiquated" devices in need of replacement. In 2015, the OAE will again implement the 25% replacement schedule. In addition, as discussed below, two new vehicles will be purchased for the Random Audit Program. Thus, the total equipment cost for 2015 is projected to increase from $65,000 to $138,000 or by 112%.

3. Volunteer Receptions. The attorney disciplinary system is heavily dependent on volunteers - presently 900 strong. In the past, the OAE has held receptions to honor these individuals,

8 In 2012, because of an unusual number of planned retirements, the vacancy rate was budgeted at 5%.

consisting of attorneys and public members, who serve on District Ethics Committees and District Fee Arbitration Committees. It has been more than three years since the last reception. In 2015, as recommended by the Committee, the OAE will hold two receptions to accommodate districts from North and South Jersey.

4. Expansion of the Random Audit Program. The OAE administers the Random Audit Program that randomly selects private practice law firms for audit of their trust and business accounts. The purpose of the Program is twofold: compliance with recordkeeping Rules and the deterrence of attorneys from misusing trust funds. The Program presently consists of a Chief Auditor, an Assistant Chief Auditor, two Senior Compliance Auditors, and one Compliance Auditor.

The size of the Program staff has remained the same since 1985. In 2011, the OAE proposed the expansion of the Program to address the growing number of attorneys and law firms in the State. Since 1985, the number of private practitioners has more than doubled and the number of private law firms has almost doubled. The Court has since approved two new compliance auditor positions. The proposed budget for 2015 includes two new Compliance Auditors, two additional vehicles, and related expenses. The total additional Program cost is estimated at $258,899.

III. The Annual Assessment and the Reserve.

In 2012, the DOC addressed the fact that the reserve had been increasing steadily since 2009 when the annual assessment was increased from $126 to $140, and it recommended that the Court reduce the annual assessment to $135 for the 2012 budget year. Since then, the reserves have generally been declining, although not as quickly as the Committee anticipated. In 2014 the reserves should drop to $2,690,431 or 21.4% of the budget. In 2015 with a registration fee of $148, we are projecting a further reduction of the reserves to $2,173,263 or 16.8% of the budget. It is anticipated that the registration fee will slightly increase in 2016, but the amount of the increase will depend on the final results for 2015.

As is the case every year, New Jersey's annual assessment is reasonable in relation to other states. Comparing the eighteen "voluntary" states, which do not require mandatory bar association membership or impose malpractice insurance fees, and ranking them from the most expensive to the least expensive, New Jersey's fee

ranked #9.[9] It should be further noted that of those states with lower registration fees, only one state regulates more attorneys than New Jersey.

IV. Revenue Projections.

Based on an annual assessment of $148, the total revenue projected for 2015 is $12,405,400. This is a 1% increase ($148,200) over the latest estimate for 2014. For 2015, it is estimated that 68,500 attorneys practicing between three and 50 years will pay the fee, 1,000 more than in 2014. It is expected that 3,200 attorneys who have been practicing law two years or less will pay the $25 fee, 450 more than 2014. Total receipts from plenary admitted attorneys paying the registration fee are projected to be $10,218,000, or 82% of revenue.

Pro hac vice fees are estimated to be paid by 6,500 attorneys in 2015, generating $962,000 or approximately 7.8% of all revenue. Approximately 1,250 attorneys are projected to pay the fee to be licensed as in-house counsel in 2015, generating $185,000 in revenue. Other significant sources of revenue include late fees for attorneys who fail to timely register ($280,000), prior year assessments that attorneys failed to pay ($340,000), and the recovery of the costs of disciplinary investigations and proceedings from attorneys disciplined for unethical conduct ($250,000).

V. Conclusion.

The DOC has reviewed and discussed each category of the proposed 2015 budget, and it believes that the budget's recommended $148 annual assessment promotes fiscal responsibility while maintaining a high level of services to the public and the bar. Like all budgets, the Attorney Discipline Budget does not entirely capture the fine work of the OAE, DRB, and volunteers, as they strive to promote confidence in the profession and the disciplinary system.

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9 The average annual fee nationwide is $317, compared to only $212 in New Jersey. This includes other assessments as noted in footnote 4.

The DOC respectfully requests that the Court permit the publication of this Budget Report and the Budget Overview. The DOC recommends that, following the comment period, the Court approve the 2015 Attorney Discipline Budget.

Respectfully Submitted,

/s/ Michael K. Furey

Michael K. Furey, Esq.
Chair

MKF/et
Enclosures

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

1.1 2015 DISCIPLINARY BUDGET OVERVIEW

REVENUES:

Attorney Registration Fees:			
Practicing 3 - 49 years (@ $148)	$ 10,138,000		
Practicing 2 years (@ $25)	80,000		
Total Registration Fees		$ 10,218,000	
Other Fees			
Prior Year Payments	340,000		
Fee Arbitration Filing Fees	70,000		
Interest on Funds	8,000		
Disciplinary Costs Recovered	250,000		
In-House Counsel	185,000		
Pro Hac Vice Fees	962,000		
Multi-Jurisdictional Practice	25,900		
Reinstatement Fees	65,000		
Late Fees	280,000		
Other Revenue	1,500		
Total Other Fees		$ 2,187,400	
Total Projected **Revenues** 2015		$ 12,405,400	

EXPENSES:

Salaries & Benefits:				
Salaries at 98%		$ 7,303,899		
(Allows for 2% vacancy rate)				
Fringe Benefits at 41.7%		$ 3,038,446		
Total Salaries & Benefits			$ 10,342,344	
Operating Expenses:				
OFFICE EXPENSE		703,825		
HEARING FEES		138,500		
OTHER EXPENSES		173,175		
MAINTENANCE & FIXED EXPENSES		375,250		
SPECIAL PURPOSE		1,051,474		
Emoluments	539,500			
Contingencies	7,500			
Attorney Registration Costs	504,474			
EQUIPMENT		138,000		
Total Operating Expenses			$ 2,580,224	
Total Projected **Expenses** 2015			$ 12,922,568	
Revenues Less Expenses 2015				$ (517,168)
ADD: Reserve, End of 2014				$ 2,690,430
Reserve, End of 2015				$ 2,173,262
				16.8%