

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



**ANNUAL REPORT
2007**

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

DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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May 16, 2008

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

I am pleased to submit to the Court the 2007 Annual Report of the Disciplinary Review Board. The Board concluded all matters pending from 2006, resolved 366 matters, and transmitted 119 decisions to the Court.

During calendar year 2007, the Office of Board Counsel (OBC) processed, prepared, and, after the Board's decision, transmitted the Tomar cases to the Court. These disciplinary matters, involving twelve respondent-partners of the Tomar law firm, were unprecedented in volume and complexity. They exclusively occupied three of five OBC assistant counsel for over five months, preparing the Board for oral argument and, for weeks thereafter, drafting the Board's decision. Although Tomar seriously taxed OBC staff resources, causing delays in the calendaring and disposition of the remaining cases docketed in 2007, OBC processed and prepared a sufficient proportion, such that the Board achieved a resolution rate only 8% below its 2006 rate of case disposition.

As in 2007, the Board will continue to fairly and expeditiously resolve all cases before it, fulfilling its mission within the disciplinary system as established and directed by the Court.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julianne K. DeCore".

Julianne K. DeCore
Chief Counsel

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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 from 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 from 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 Supreme 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 2007, each New Jersey attorney admitted to practice between 1959 and 2003 was assessed a total of \$186 to pay for the disciplinary system. Attorneys admitted to practice in 2004 or 2005 were assessed a total of \$161, while attorneys in the first calendar year of admission were assessed \$35.

All Board members are volunteers, however, its staff is professional. The 2007 budget for the disciplinary system, as approved by the Supreme Court, allocated \$1,788,314 to cover salaries and benefits for Office of Board Counsel employees, and an additional \$182,250 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 Supreme Court, on its own motion, schedules oral argument in non-disbarment cases.

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).

When a district ethics committee recommends an admonition, the Board reviews the matter on the written record, without oral argument. If an admonition is appropriate, the Board may issue a letter of admonition without Supreme Court review. Alternatively, the Board may schedule the matter for oral argument if it appears that greater discipline is warranted, or may dismiss 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 a 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 Supreme Court. The same post-decision procedures governing cases heard by a district ethics committee or a special master apply.

Effective 1995, the Supreme 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 Rules of Professional Conduct 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 to the OAE for appropriate action.

A matter achieves default status after an attorney fails to file a verified answer to a 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 or to the OAE 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 a district ethics committee improperly dismissed their grievance after an 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 2007, the Board was chaired by William J. O'Shaughnessy, Esq., and Louis Pashman, Esq., was Vice-Chair.

The Board's members as of April 1, 2007 were:

Chair, William J. O'Shaughnessy, Esq.

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.

Vice-Chair, 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 a 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 as a member of the Supreme Court Committee on Judicial Performance.

Edna Y. Baugh, Esq.

Ms. Baugh, of Maplewood, is a founding member of Stephens & Baugh, LLC, and is Assistant Director of Clinic Administration at Rutgers School of Law – Newark. In 1983 she was the first African-American woman to earn a Juris Doctor from Vermont Law School and was admitted to the New Jersey Bar in 1984. She was appointed to the Board in 2006. Ms. Baugh was a member of the District V-B Ethics Committee from 1998 to 2002 and has been a member of the Supreme Court Committee on the Tax Court. She was elected the first African-American President of the Girl Scout Council of Greater Essex and Hudson Counties in 1995 and is a past president of the Garden State Bar Association.

Matthew P. 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 New Jersey 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.

Bonnie C. Frost, Esq.

Ms. Frost, of Bernardsville, is a member of the firm of Einhorn, Harris, Ascher, Barbarito, Frost & Ironson, P.C. She was admitted to the New Jersey Bar in 1984 and was appointed to the Board in 2006 after serving on the Morris-Sussex Ethics Committee from 1991 to 1993 (as Secretary from 1993 to 2006). She is a Certified Matrimonial Law Attorney and the former Chair of the Family Law Section of the New Jersey State Bar Association, Second Vice President of the New Jersey Chapter of the American Academy of Matrimonial Lawyers, member of the Supreme Court Family Practice Committee, a member of the Supreme Court Committee for Standardization of Family Law and a member of the New Jersey State Bar Association Appellate Practices Committee. Ms. Frost received her B.A. from Douglass College and her M.Ed. and Ed.S. from Rutgers 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.

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 Ph.D. in Mathematics in 1959 from Princeton University.

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.

Spencer V. 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.

OFFICE OF BOARD COUNSEL

The Office of Board Counsel functions as a clerk's office (case processing, docketing, calendaring, distribution, and document storage), a legal research staff (providing bench memos to the Board), and a cost assessment and collection agency (assessing administrative and actual costs, collecting payments, and pursuing enforcement alternatives by filing judgments and seeking temporary suspensions for non-payment).

In 2007, the Office of Board Counsel was comprised of seven attorneys (Chief Counsel, Deputy Chief Counsel, and five Assistant Counsel), 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 the appropriate discipline based thereon.

CASELOAD INFORMATION

The Board carried 82 matters into January 2007. See Figure 1. By December 31, 2007, all of those matters had been resolved. See Figure 2.

Of the 134 matters pending on December 31, 2007, twenty-one (15.7%) were presentments; eleven (8%) were stipulations; thirteen (9.7%) were defaults; twelve (9%) were admonitions; five (3.7%) were motions for discipline by consent; six (4.5%) were motions for final discipline and eight (6%) were motions for reciprocal discipline. Forty-one percent of the total pending caseload consisted of fifty-five fee and ethics appeals. Two petitions for restoration and one R. 1:20-6(c)(1) matter made up the remainder. See Figures 1 and 2. Figure 3 provides a graphic representation of the pending Board caseload at the close of 2007, as compared to year-end pending caseloads for 2003 through 2007.

During calendar year 2007, the Office of Board Counsel docketed 418 matters for review by the Board, fifty-seven more than the 361 docketed in 2006. The number of ethics appeals increased in 2007: eighty-two appeals were filed in 2007, while seventy-one were filed in 2006. The number of fee appeals filed in 2007 also increased: ninety-eight fee appeals were docketed in 2007, as compared to eighty-four fee appeals docketed in 2006. Admonition filings were up as well: twenty-eight were docketed in 2007, compared to twelve in 2006. See Figure 1.

In all, the Board resolved 366 of the total 500 matters carried into or docketed during calendar year 2007 – a disposition rate of 73%. As Figure 4 demonstrates, the Board's disposition rate decreased slightly from the 81% achieved in 2006.

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 are to be resolved within six months, while all ethics and fee arbitration appeals have a three-month resolution requirement. See Figure 5.

In January 2007, the OAE filed the “Tomar” cases: related disciplinary proceedings against twelve respondents who were partners in the now defunct Tomar law firm. These cases, unprecedented in volume and complexity, required the undivided attention of three of the Office of Board Counsel’s five assistant counsel for over five months to prepare the Board for oral argument in September, and thereafter, for several additional weeks, to draft the Board’s decision. This affected the ability of the Office of Board Counsel to maintain the 2006 rate of case processing and staff attorney preparation of cases for calendaring, which, in turn, affected the Board’s case disposition rate. Cases docketed in 2007 did not reach the Board as quickly as in 2006 because of the unavailability of staff attorneys to prepare them.

Although 2007 case disposition time increased as to all case types when compared to the previous year, the Board was nevertheless under the time limits set by R. 1:20-8(c) with respect to all categories of cases except presentments and fee appeals.

CASELOAD INFORMATION: FIGURE 1

DRB ANNUAL ACTIVITY REPORT					
JANUARY 1, 2007 TO DECEMBER 31, 2007					
Case Type	Carried	Docketed	Total	Disposed	Pending
Presentment	9	56	65	46	19
Stipulation	3	24	27	16	11
Admonition/Presentment	1	3	4	2	2
Motion for Final Discipline	5	11	16	10	6
Motion for Reciprocal Discipline	6	26	32	24	8
Default	11	46	57	44	13
Admonition	2	24	26	14	12
Consent to Admonition	0	4	4	2	2
Consent to Disbarment/Costs	0	13	13	13	0
Consent to Discipline	1	5	6	3	3
Ethics Appeal	15	82	97	74	23
Fee Appeal	23	98	121	89	32
Motion for Temporary Suspension	5	10	15	15	0
Petition for Restoration	0	13	13	11	2
Miscellaneous	0	1	1	1	0
<u>R. 1:20-6(c)(1)</u>	1	2	3	2	1
Totals	82	418	500	366	134

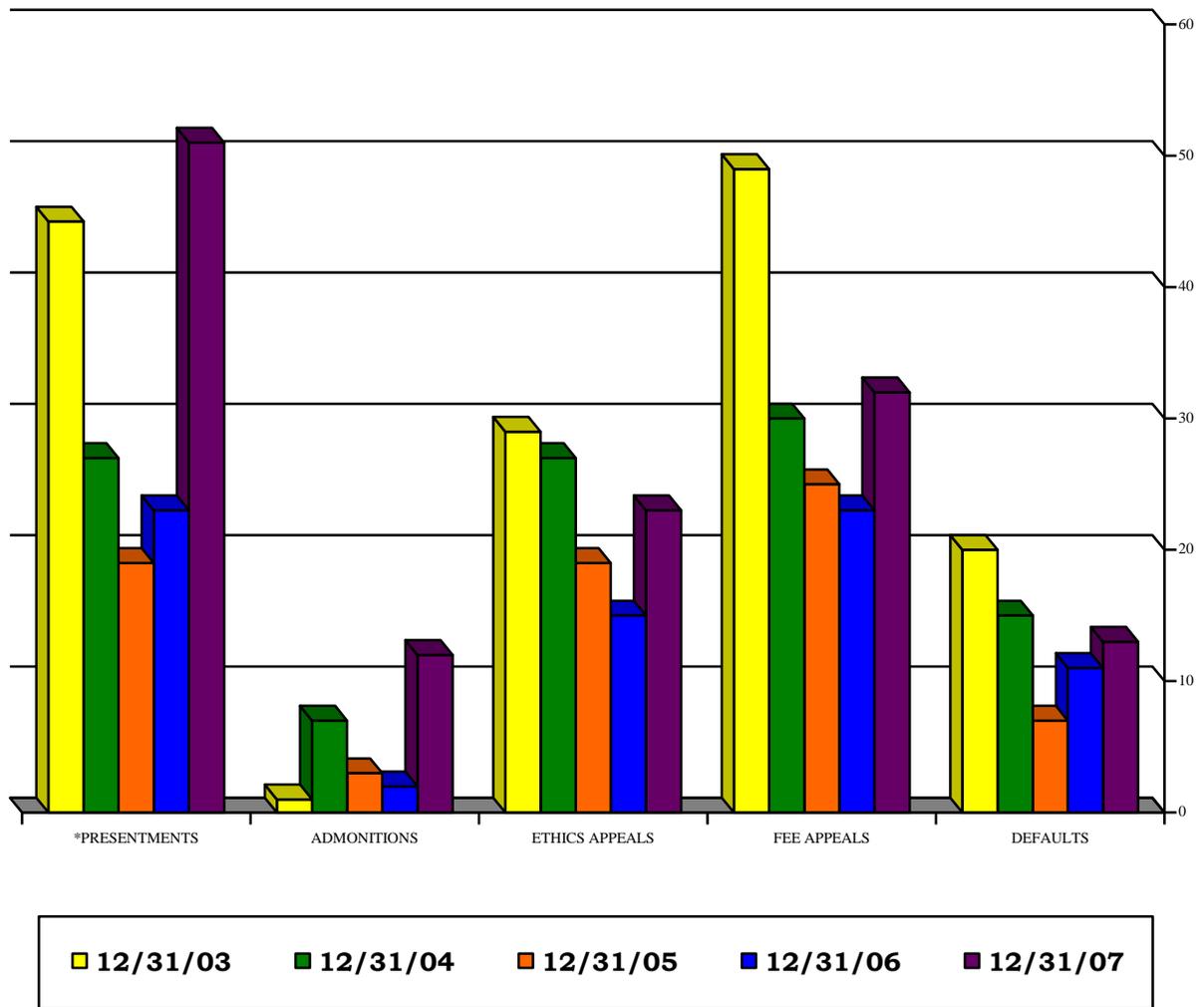
CASELOAD INFORMATION: FIGURE 2

AGE OF PENDING CASES – BY CASE TYPE				
As of December 31, 2007				
Case Type	2007	2006	Prior	Total Pending
Presentment	19	0	0	19
Admonition/Presentment	2	0	0	2
Stipulation	11	0	0	11
Motion for Final Discipline	6	0	0	6
Motion for Reciprocal Discipline	8	0	0	8
Default	13	0	0	13
Admonition	12	0	0	12
Consent to Discipline	5	0	0	5
Ethics Appeal	23	0	0	23
Fee Appeal	32	0	0	32
Petition for Restoration	2	0	0	2
R. 1:20-6(c)(1)	1	0	0	1
Totals	134	0	0	134

CASELOAD INFORMATION: FIGURE 3

COMPARATIVE CASELOAD ANALYSIS

Pending from 12/31/2003 to 12/31/2007



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

CASELOAD INFORMATION: FIGURE 4

ANNUAL DISPOSITION RATE					
2003 - 2007					
YEAR	CARRIED	DOCKETED	TOTAL	DISPOSED	DISPOSITION RATE
2003	116	458	574	426	74%
2004	147	463	610	497	81%
2005	113	370	483	406	84%
2006	77	361	438	356	81%
2007	82	418	500	366	73%

CASELOAD INFORMATION: FIGURE 5

AVERAGE RESOLUTION TIMES FOR BOARD CASES (IN MONTHS)						
<u>R. 1:20-8(c)</u>		2004	2005	2006	2007	
Discipline:						
Presentments	6	4.2	3.2	4.2	6.9	
MFD	6	4.8	3.6	3.5	5.3	
MRD	6	4	4.3	3.5	4.9	
Defaults	6	3.2	2.6	2.7	4.6	
Consents	6	1.9	1.6	2.2	5	
Stipulations	6	3.3	3.5	3.2	4.4	
Admonitions:						
Standard	6	2.4	2.3	2.6	3.8	
By Consent	6	1.8	2.2	2.1	2.5	
Appeals:						
Ethics Appeals	3	2.8	3.1	2.7	3	
Fee Appeals	3	3.8	3.4	3.4	3.9	
Other:						
MTS	-	2.7	3.8	2.5	1.5	
Petitions to Restore	-	1.6	1.9	1.2	1.6	

BOARD ACTION

Discipline

In 2007, the Board rendered dispositions in forty-six presentments, sixteen stipulations, twenty-four motions for reciprocal discipline, and ten motions for final discipline. In three motions for imposition of discipline by consent considered by the Board, it imposed discipline in all of them.

Of the forty-four defaults resolved by the Board, four were remanded to the district ethics committees, seven were vacated, and one was administratively dismissed and returned to the OAE for further investigation.

The Board reviewed eighteen admonition matters in 2007. Of these, nine resulted in letters of admonition, two were heard as presentments (both resulted in reprimands), and five were dismissed. None were remanded to the district ethics committee. Two matters came before the Board as motions for imposition of admonition by consent; both were granted.

The Board also reviewed and resolved fifteen motions for temporary suspension, eleven petitions for restoration, and two R. 1:20-6(c)(1) matters.

Appeals

The Board considered 163 appeals in 2007. Of the seventy-four ethics appeals reviewed in 2007, eleven cases (14.9%) were reversed and remanded by the Board to the district ethics committees for further action. The rate of remand on ethics appeals was higher than the 8% experienced in 2006.

The rate of remand for fee appeals was higher than for ethics appeals in 2007: of the eighty-nine fee appeals reviewed, twenty-two cases (24.7%) were remanded to the district fee arbitration committees, which was higher than the 14% experienced in 2006. Although the reasons for fee remand varied, the majority resulted from procedural error at the district level, and lack of adequate notice of the hearing.

SUPREME COURT ACTION

A total of 113 attorneys were disciplined in 2007.² In 2007, the Office of Board Counsel transmitted a total of 124 matters to the Supreme Court. Of those, 119 decisions were in presentments, stipulations, admonition-presentments, motions for final discipline, motions for reciprocal discipline, and default matters. Four matters were petitions for reinstatement and one was a R. 1:20-6(c)(1) matter.

The Supreme Court issued final orders in sixty of those Board decisions, agreeing with the Board's determination in 96.7% of the matters. In two of the sixty Board decisions rendered, the Supreme Court determined to impose different discipline. See Figure 6. Those cases where the Board and the Supreme Court diverged generally reflect differences in the degree of discipline, rather than differences as to factual or legal findings. In one matter the Supreme Court imposed discipline greater than did the Board, and the Supreme Court imposed a lesser degree of discipline in one other matter.

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

2007 DISCIPLINE COMPARISON

SUPREME COURT DISCIPLINE GREATER THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Alex Katz	3 month suspension	2 year suspension

SUPREME COURT DISCIPLINE LESS THAN DRB DECISION		
ATTORNEY	DISCIPLINARY REVIEW BOARD DECISION	SUPREME COURT ACTION
Jose Cameron	Reprimand	Admonition

COLLECTION OF ADMINISTRATIVE COSTS

The Board uniformly assesses administrative costs in all discipline cases, including admonitions. The Supreme Court's final order of discipline generally includes a requirement that the respondent 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, depending on case type, 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.

The 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 2007, the Office of Board Counsel was current with cost assessment in every case where assessment was Supreme Court ordered. In 2007, the Supreme Court accepted consents to disbarment in thirteen matters unrelated to Board cases. Nevertheless, Office of Board Counsel staff assessed and began the collection process for Court-ordered costs in those matters, pursuant to R. 1:20-17.

During calendar year 2007, Office of Board Counsel's assessments of disciplined attorneys totaled \$311,421. Board Counsel's Office collected \$205,531 representing costs that were assessed in 2007 and prior years. This was \$71,221 less than the amount collected in 2006 (\$276,752).

The Office of Board Counsel filed eighty-one judgments in 2007, and received payments on six of those totaling \$16,583. In addition, the Office of Board Counsel received a payment totaling \$22,541.67 on a judgment filed in 2002.

The Office of Board Counsel also processes and collects payments of monetary sanctions imposed upon respondents by the Board, most typically when the OAE files a motion for temporary suspension to enforce a fee arbitration award. The Board imposed five such sanctions in 2007; of those, all but one were paid.

CONCLUSION

During calendar year 2008, the Board will continue to make every 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
2007 ADMONITION REPORT

ATTORNEY	DOCKET #	DATE
David W. Boyer	07-032	March 28, 2007
Respondent failed to provide a client with a writing setting forth the basis or rate of his fee, in violation of <u>RPC</u> 1.5(b).		
Richard S. Diamond	07-229	November 15, 2007
In the course of his representation of a client in a post-judgment cross-motion for her husband's contribution toward their children's college expenses, a trust created for the client's parents for the children's benefit became at issue. Respondent failed to identify, in writing, to either the client or to the trustee the specific trust documents that he required to support the relief requested in his client's cross-motion. Had respondent done so, his client would have been in a position to determine whether she wished to proceed with the cross-motion. Respondent's conduct was a violation of <u>RPC</u> 1.4(c).		
Richard S. Diamond	07-230	November 15, 2007
In representing a client in a matrimonial matter, respondent filed certifications with the court making numerous references to "psychological/medical records" or "psychological/psychological records with diagnosis attached." In fact, the records, which were attached to one of the certifications, were merely billing records from his client's medical provider. Although the matrimonial court was not misled by his mischaracterization of the documents, his conduct was a violation of <u>RPC</u> 3.3(a)(1).		
Michael J.A. Fiure	07-170	November 15, 2007
Respondent failed to take any action on a bankruptcy matter, or return the client's telephone calls, despite having received a fee. Respondent's conduct violated <u>RPC</u> 1.1(a); <u>RPC</u> 1.3; and <u>RPC</u> 1.4(b). In another matter, respondent failed to set forth, in writing, the rate or basis of his fee, a violation of <u>RPC</u> 1.5(b). Thereafter, respondent's inaction caused delays in the case, a violation of <u>RPC</u> 1.3. Finally, respondent failed to cooperate with ethics authorities in both matters, a violation of <u>RPC</u> 8.1(b).		
Brian F. Fowler	07-212, 07-213	December 10, 2007
In the matter under DRB 07-212, respondent failed to record mortgages on behalf of two clients. In addition, he failed to maintain client trust ledgers and did not reconcile his trust account, as required by <u>R.</u> 1:21-6. Respondent also failed to comply with the OAE's requests that he provide trust account records to that office. In the matter under DRB 07-213, respondent was guilty of numerous recordkeeping violations in his attorney trust and business accounts. The violations were discovered as a result of a random audit of his accounts in April 2004. Thereafter, he failed to comply with the OAE's repeated directives that he provide a certification that the recordkeeping deficiencies had been corrected and also provide a trust account reconciliation. Respondent's conduct in the above matters was in violation of <u>RPC</u> 1.3; <u>RPC</u> 1.15(d); and <u>RPC</u> 8.1(b).		

APPENDIX I
2007 ADMONITION REPORT (continued)

ATTORNEY	DOCKET #	DATE
Anthony Giampapa	07-178	November 15, 2007
<p>In a divorce proceeding and real estate loan refinance, respondent did not telephone his client about the matters when requested to do so. In addition, on numerous occasions, the client unsuccessfully attempted to retrieve the balance of funds from the refinancing, as well as his file. The client's new attorney also made numerous attempts to obtain the file and funds, to no avail. Respondent's conduct violated <u>RPC 1.4(b)</u>; <u>RPC 1.15(b)</u>; and <u>RPC 1.16(d)</u>.</p>		
Kevin W. Hanly	06-313	January 31, 2007
<p>Respondent's law firm served as outside general counsel to the State-operated school district for the City of Paterson. During that time, the district sought to acquire additional space to accommodate its need for the September 2003 school year. Respondent had previously represented the owners of the site that the district sought to lease. Although he recused himself from the negotiation of the lease terms, he assisted special counsel retained to negotiate the lease, by communicating with the developer's attorney and by providing advice to special counsel. Respondent's conduct in failing to completely disengage himself from the transaction constituted a conflict of interest and violated <u>RPC 1.7(a)</u> and <u>RPC 8.4(a)</u>.</p>		
Steven B. Hayhurst	07-274	December 3, 2007
<p>A random compliance audit disclosed that respondent engaged in recordkeeping violations and left legal fees in his attorney trust account for two years, in violation of <u>RPC 1.15(d)</u>.</p>		
Joseph C. Lane	07-245	November 21, 2007
<p>During the course of his representation of the estate of his client's sister, respondent failed to timely address a letter he received from an auditor from the New Jersey Division of Taxation and failed to ensure that the auditor timely received the requested information. He also failed to comply promptly with the executor's request that the estate funds and the file be forwarded to the estate's new attorney. In addition, respondent failed to keep the executor informed about the status of the estate and delayed in advising the executor of his receipt of the auditor's letter and of the status of his reply to the letter. Respondent's conduct was in violation of <u>RPC 1.3</u> and <u>RPC 1.4(b)</u>.</p>		

**APPENDIX I
2007 ADMONITION REPORT (continued)**

ATTORNEY	DOCKET #	DATE
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Walter A. Laufenberg	07-042	March 26, 2007
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In representing clients in the purchase of a house, respondent failed to make the required payments to the mortgage broker or title insurance company. After the mortgage broker sued respondent and his clients, respondent properly compensated everyone involved. Respondent's conduct was a violation of RPC 1.1(a) and RPC 1.15(b).

Vera McCoy	07-269	November 13, 2007
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As the result of four overdrafts on respondent's attorney trust account over a short period of time, the OAE conducted a demand audit of respondent's books and records. The OAE's audit disclosed that respondent's records were virtually non-existent, thus her recordkeeping was deficient in numerous respects, and that she withdrew legal fees without first determining whether she had sufficient fees to cover the withdrawals. Moreover, respondent admitted that she was not familiar with the recordkeeping rule, R. 1:21-6. In addition, the OAE's reconstruction of the trust account records found chronic shortages in the account, attributable to respondent's failure to maintain the required books and records. Such failure resulted in the negligent misappropriation of client trust funds. Respondent's conduct was in contravention of R. 1:21-6 and RPC 1.15(d).

Vinaya Saijwani	07-211	November 13, 2007
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Between October 2004 and May 2005, an attorney sent five separate letters to respondent stating that her clients had retained him and requesting that she turn over their files. Because respondent did not read the letters carefully, she presumed that it was unnecessary to send the limited materials she maintained in her files. It was not until she read the attorney's July 1, 2005 letter that she took steps to turn over the files. Respondent's conduct violated RPC 1.16(d).

APPENDIX I
2007 ADMONITION REPORT (continued)

ATTORNEY	DOCKET #	DATE
Gerald M. Saluti	07-117	June 22, 2007
<p>Respondent was retained to appeal a conviction for a client who was incarcerated at the time. The client authorized respondent to communicate with him through his mother and his girlfriend. Over the course of the next two years, the client's family paid respondent a total of \$6,750 for the representation. Although respondent had intermittent communications with the client's mother and girlfriend during the two-year representation, respondent conceded that communications broke down when respondent's wife became seriously ill. Respondent's conduct was a violation of <u>RPC 1.4(b)</u>.</p>		
David F. Salvaggio	07-248	November 15, 2007
<p>In handling a real estate matter for clients, respondent did not act promptly on their request for a copy of the RESPA statement for the sale of their house. They required that document for a tax refund. Respondent ignored two or three direct requests from them until they filed the ethics grievance against him. In addition, he never communicated with the clients about problems in locating the RESPA or about his failure to produce it for them, in violation of <u>RPC 1.3</u> and <u>RPC 1.4(b)</u>.</p>		
William A. Thompson, III	07-118	July 24, 2007
<p>As the collection attorney for an Atlantic City entity, in order to protect his fees, respondent refused to turn over its files to subsequent counsel despite counsel's repeated assurances that he would protect respondent's fees. In fact, counsel sent respondent a fee in at least one matter and testified that he would likely have earned fees in other instances if he had forwarded certain documents to him. Respondent's conduct was a violation of <u>N.J. Advisory Committee on Professional Ethics Opinion 554</u>, 115 <u>N.J.L.J.</u> 565 (1985) and <u>RPC 1.16(d)</u>.</p>		
W. Kevin Wright	07-140	August 1, 2007
<p>In the course of an ethics investigation of respondent's conduct surrounding the deposits of checks payable to his client, respondent ignored the investigator's letter requesting trust account information, and a "final notice". His failure to cooperate with ethics authorities during the investigation was a violation of <u>RPC 8.1(b)</u>.</p>		

ADMONITIONS BY SUPREME COURT ORDER

ATTORNEY	DOCKET #	DATE
Jose Cameron	07-058	September 5, 2007
<p>Respondent engaged in gross neglect, lack of diligence, failure to keep a client reasonably informed about the status of the matter or to reply to requests for information, and failure to protect a client's interests on termination of the representation. Specifically, respondent permitted a matter to be dismissed twice, but only had it reinstated once, failed to notify his client of the dismissals, did not return some telephone calls, and failed to promptly turn over the client's file when he retained new counsel. Mitigating circumstances were his otherwise unblemished record of thirty years, and that he was a former District Ethics Committee member.</p>		
Chong Kim	06-341	June 14, 2007
<p>Two overdrafts on respondent's trust account prompted an OAE select audit which revealed that he failed to maintain an attorney business account, and, for a twenty-four month period, used his attorney trust account for personal or business related transactions. Funds unrelated to the practice of law were in his trust account. He also engaged in various recordkeeping deficiencies. Thus, he violated <u>RPC</u> 1.15(a) (failure to hold property of clients or third persons separate from the lawyer's own property) and <u>R.</u> 1:21-6(a)(1) (failure to maintain client or third party funds in a separate account); <u>R.</u> 1:21-6(a)(2) (failure to maintain an attorney business account); and <u>RPC</u> 1.15(d), and <u>R.</u> 1:21-6 (recordkeeping violations).</p>		
James DeZao	06-237	January 10, 2007
<p>An OAE 2003 select audit disclosed three recordkeeping deficiencies that had not been corrected after an OAE 1994 random compliance audit. A check written on respondent's trust account during the first quarter of 1999 was still listed as outstanding as of December 31, 2004. Because respondent did not reconcile a list of client ledgers to his adjusted checkbook balance, he did not detect that outstanding balance or several other old outstanding balances, in violation of <u>RPC</u> 1.15(d).</p>		