

MINUTES

DISCIPLINARY OVERSIGHT COMMITTEE

March 19, 2003

9:30 a.m.

Chubb - Warren, N.J.

Members in Attendance:

Lanny S. Kurzweil, Esq., Chair
Richard Bland, Esq.
Robert Boyle
John Degnan, Esq.
Paris Eliades, Esq.
Harriet Kass
Raymond Ocasio

Also in Attendance:

David E. Johnson, Esq. (OAE Director)
Robyn M. Hill, Esq. (DRB)
Janet Miller, Esq. (Statewide Coordinator)

Paula Granuzzo, Esq. (Staff)
Denise McCollum (Staff)

Chair Kurzweil welcomed Paris Eliades, Esq., the new State Bar designee to the Committee.

I. Minutes

The minutes of the DOC's January 9, 2003, meeting were unanimously approved.

II. Subcommittee Assignments

Before addressing specific agenda items, Chair Kurzweil initiated a discussion on current subcommittee assignments, noting that outgoing members Carol Gershaw and Ray Londa had served on both the Evaluation and Budget Subcommittees, with each chairing one of those subcommittees. To fill those positions, Chair Kurzweil made the following subcommittee assignments:

Vacancy/Backfill Subcommittee:

Ray Ocasio, Interim Co-Chair
Harriet Kass, Interim Co-chair
Kathy Flicker, Esq.
Paris Eliades, Esq.

Evaluation Subcommittee:

Robert Boyle, Chair
Richard Bland, Esq.
Kathy Flicker, Esq.
Paris Eliades, Esq.

Budget Subcommittee:

Raymond Ocasio, Interim co-chair
Harriet Kass, Interim co-chair
Lanny S. Kurzweil, Esq.
Michael S. Furey, Esq.
Paris Eliades, Esq.

III. Report of the Budget Subcommittee

Chair Kurzweil summarized the Budget Subcommittee's March 7, 2003, meeting, noting two action items for the Committee. First, Chair Kurzweil directed Paula Granuzzo to prepare a report to the Court summarizing the DOC's conclusion regarding four budget-related issues the Court asked the DOC to consider based on budget comments the Court received from the New Jersey State Bar Association.

The second action item was the issue of increased disciplinary fees. The Office of Attorney Ethics and Disciplinary Review Board jointly suggested increases in various fees, ranging from late charges in registration fees to an increase in reinstatement fees and in administrative costs assessed in all cases in which discipline is imposed. An increase of approximately one-third in the basic administrative charges assessed against attorneys was suggested. Staff was directed to meet with Robyn Hill to gather information to support the requested increases and then to prepare a draft report to the Court. That report should also include reference to suggested decreases in late registration fees for 2nd year admittees and the suggested abandonment of income from the Ethics Hotline. Dave Johnson asked whether the DOC would have to await the next Rules cycle to present the proposed increases to the Court. The Committee suggested that the report be presented

to the Court shortly with a request for consideration out-of-cycle, so that the increases, if approved, could be estimated as revenue in the 2004 budget.

On a different subject, Chair Kurzweil clarified the vacancy/backfill request procedure, informing Dave Johnson and Robyn Hill that they need not seek DOC approval to fill ethics analysts positions, noting the relatively minor impact those positions have on the budget, the anticipated delay in recruitment for the positions at the time of the approved funding, and the apparent ease with which those positions could be terminated, should finances so dictate. Chair Kurzweil asked Robyn Hill and Dave Johnson, however, to notify the Committee of any major problems or budget initiatives that might be on the horizon and that might affect a decision to fill the analyst positions.

IV. Report of the Evaluation Subcommittee

Paula Granuzzo informed the Committee that the DOC's contract with the outside consultant expires in March. She further related her telephone conversation with Carl Vanhorn, Ken Dautrich's partner. There was some discussion about whether or not the Committee should attempt to perform only the non-survey aspect of the Evaluation without the assistance of an independent expert. Harriet Kass believed that use of an outside expert not only would produce a better work product, but also that it would lend more credibility to any conclusions the Committee might reach. Ray Ocasio believed that the statistics provided by the Office of Attorney Ethics from 1994 to 2002 were self-evident and that the Committee did not need the services of a consultant to reach conclusions based on those statistics. The Committee asked Paula Granuzzo to communicate with fiscal to get an extension on the contract for at least three months. The Subcommittee was asked to submit a draft report to the full Committee no later than its June meeting. Subcommittee Chair Bob Boyle asked Dave Johnson to join the subcommittee meeting scheduled to occur immediately after the full DOC meeting.

V. DRB Costs Collections and Monthly Reports

Robyn Hill delivered the Board's Costs Report for the period January 1, 2002 through December 31, 2002. She noted that the period payments received against current assessments (\$188,107.60) represented the most amount of money collected over a particular period. She further noted that the reporting procedure had been streamlined to minimize staff involvement as much as possible. John Degnan expressed a preference to have all

collections attributed to a specific assessment period or year. Ms. Hill indicated that she was working with technology personnel to attempt to fashion a program that would accomplish that function. Finally, Ms. Hill confirmed that assessments were current through October 2002, and that no assessments had been made yet for the months November and December 2002. (Post Script: OBC's most recent report, dated April 10, 2003, indicates that assessments now are current through January 6, 2003.)

VI. OAE Report on Pending Caseload

Janet Miller reported on the OAE's pending caseload for the period ending February 28, 2003. Ms. Miller reported that the volunteer districts had achieved an 85% overall compliance rate in the completion of its investigations within the time goals established by the Court. She further noted that four Committees had achieved 85% compliance, while seven had achieved 90% compliance. Ms. Miller told the Committee that the overall compliance rate would have been even higher but for one district, which had a heavy docket and had been experiencing some personnel problems. Ms. Miller indicated that she was working with the Chair of that committee to address the problems.

Dave Johnson reported on the status of the transfer of investigators from the pilot districts (District Investigations) to the Complex Group. Mr. Johnson indicated that in January of this year, he transferred two of the professional investigators from Essex-Newark into the Complex Group. The attorney members of that committee had assumed responsibility for the investigations previously handled by the transferred investigators. Mr. Johnson further reported that he, Walt Kingsbery, and Janet Miller had met with those attorney members to train them in the investigation process. Mr. Johnson told the DOC that he did not anticipate that the district would suffer any hardship by the reassignment, noting that the committee had twenty-six attorney members and that it had been assigned only four new investigations.

Mr. Johnson further reported that the two investigators who had been assigned to the Complex Group were working on "middle of the pack" cases to prevent further delays. He indicated that he would report on their progress in June.

Finally, Mr. Johnson reported on the performance of the five professional investigators remaining in the District Group. Mr. Johnson offered two explanations for the low (60%)

compliance rate that group had achieved for the reporting period. First, as in the past, Mr. Johnson noted that one of the investigators assigned to the District Group had been experiencing long-term medical problems that compromised that investigator's performance. That investigator had been carrying ten of the particular district's fourteen overdue investigations, seriously affecting compliance rates. Mr. Johnson told the DOC that although he had been attempting to comply with ADA regulations to accommodate the employee's alleged disability, he did not expect a quick resolution to the problem.

The second reason for the particularly low compliance rate in the professionally staffed districts was the failure of one of the district secretaries. Mr. Johnson reported that the OAE was required to remove a district secretary for non-performance and that OAE personnel had to function as secretary for that particular district for a period of time. During the secretary's period of non-performance, no new cases had been docketed, seriously affecting the district's compliance rate. Mr. Johnson told the DOC that a new secretary had been recruited and was scheduled to assume the position on April 1st. Thus, some improvement was anticipated in the near future.

VII. Paff Inquiry

This action item dealt with John Paff's inquiry to the DOC dated January 27, 2002, on the issue of attorney-trustee appointments. The Committee determined to refer that inquiry to the PRRC for its determination and directed staff to communicate its decision to Mr. Paff.

There being no further business, the general meeting of the DOC was adjourned.

NEXT MEETING:

June 18, 2003

9:30 a.m.

Chubb-Warren, NJ

Minutes prepared: April 9, 2003

Approved: June 18, 2003