fax confidential

To: **Paul J. Curran**
Fax Number: 1(212) 836-8689

From: **Eliot I. Bernstein**
Fax Number:
Business Phone:
Home Phone:

Pages: 36
Date/Time: 6/23/2004 7:33:37 AM
Subject: COMPLAINT AGAINST THOMAS CAHILL

PLEASE DELIVER TO PAUL J. CURRAN

IVIEWIT

Facsimile

To:	Paul J. Curran, Esq. - Chairman First Judicial Department Disciplinary Committee	**From:**	Iviewit Holdings, Inc. – Eliot I. Bernstein & P. Stephen Lamont
Fax:	212-401-0810	**Pages:**	34 Including Cover Page
Phone:	212-401-0800	**Date:**	6/9/2004 2:33 PM EST
Re:	Complaint – Thomas J. Cahill	**CC:**	

☑ **Urgent** ☐ **For Review** ☐ **Please Comment** ☑ **Please Reply** ☐ **Please Recycle**

- **Comments:**

PLEASE DELIVER TO PAUL J. CURRAN ONLY

Please contact Iviewit to acknowledge receipt of this message at 561.364.4240.

Thank you

10158 Stonehenge Circle • Suite 801 • Boynton Beach, FL 33437-3546 • 561.364.4240 • iviewit@adelphia.net

IVIEWIT HOLDINGS, INC

FACSIMILE TRANSMITTAL SHEET

TO: **Attorney General for the State of New York - Eliot Spitzer**	FROM: Eliot I. Bernstein
FAX NUMBER: 212-416-8787	DATE: June 10, 2004
COMPANY: New York State Office of the Attorney General	TOTAL NO. OF PAGES INCLUDING COVER: 35
PHONE NUMBER: 212-416-8345	SENDER'S REFERENCE NUMBER: [Click here and type reference number]
RE: **COMPLAINT AGAINST THOMAS J. CAHILL – CHIEF COUNSEL FIRST DEPARTMENT DISCIPLINARY**	YOUR REFERENCE NUMBER: [Click here and type reference number]

☐ URGENT ☑ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

PLEASE DELIVER TO NEW YORK ATTORNEY GENERAL ELIOT SPITZER FOR REVIEW.

10158 STONEHENGE CIRCLE • SUITE 801 • BOYNTON BEACH, FL 33437
PHONE: 561 364 4240

IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
President, Founder & Inventor
Direct Dial: 561.364.4240
Email: [redacted]

By: FACSIMILE

Wednesday, June 09, 2004

Paul J. Curran, Esq.
Chairman
First Judicial Department Disciplinary Committee
61 Broadway, 2nd Floor
New York, NY 10006

RE: COMPLAINT OF IVIEWIT HOLDINGS, INC. AGAINST THOMAS J. CAHILL

Dear Mr. Curran:

Please accept this letter to serve as a formal complaint by Iviewit Holdings, Inc. ("Company") and its shareholders against Thomas J. Cahill ("Respondent"). On May 27, 2004, Respondent acknowledged a conflict of interest caused by the responses of Steven C. Krane ("Krane"), a partner of Proskauer Rose LLP ("Proskauer") made on behalf of himself, his firm and its partners. The clearest conflict is that Krane is a member both past and present at the New York State Supreme Court Appellate Division First Department – Departmental Disciplinary Department ("Department") where the conflict has already had an effect that constitutes immediate action by the Department or its oversight. The Department must take immediate action to prevent further corruption or even the continued appearance of impropriety in the complaint process at the Department and the Company further demands that the complaints listed below be given immediate due process void of conflicts by Krane and/or Cahill:

- Complaint against Kenneth Rubenstein ("Rubenstein") and Proskauer Docket 2003.0531 – See Respondent for copies of the complete file
- Complaint against Raymond A. Joao ("Joao") and Meltzer Lippe Goldstein & Schlissel (MLGS) Docket 2003.0532 – See Respondent for copies of the complete file
- Complaint against Steven C. Krane – Filed May 20, 2004
- Complaint against Proskauer Rose LLP and all partners – To be filed
- Complaint against Thomas J. Cahill - Filed

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

It is the Company's contention that due to Rubenstein's inability to adequately defend himself against the charges he faces, that he intentionally sought to buy himself out of investigation through the selection of Krane, a man so well known throughout the Department having served public office with the Department since 1991, so influential as to have no doubt of conflict, to aid him in his defense, clearly knowing the conflict and hoping that Krane's influence at the Department would cause prejudice in his favor. That once Rubenstein recruited Krane, an underling in his department at Proskauer, that Krane then sought favoritism through Respondent, using his past relationship with Respondent and his position of influence at the Department, to deny due process to the Company's complaints. Finally, that once this system of abuses was established, that the Department was used, as a Proskauer shield, to influence other state and federal agencies investigating these matters, through false and misleading information regarding the outcome of the Company complaints, so as to cause prejudice in these investigations.

Krane's past and present affiliations, vis-à-vis the Department and additionally his conflicted roles at New York State Bar Association ("NYSBA") preclude him from any involvement even with disclosure of the conflict which shockingly was never made in his responses, in the complaints against his firm, the firm's partners and finally himself. As you will see from Respondents files the complaints are significantly greater than malpractice and ethics violations and further seeks redress from other regulatory bodies for including but not limited to; fraud against government agencies, theft of patents by patent attorneys, falsification of documents and conversion. To this end the Company feels that every move made prior in the complaint process becomes highly tainted throughout the Department when viewed knowing the conflict that existed, that it is now impossible to now have fairness restored and due process at the Department given. Therefore, let this letter serve as a request to move the entire matter herein and all Company complaints, to the Departments direct oversight under §605.6 of the New York Code, Rules and Regulations ("NYCRR") and any other applicable codes that govern the Department and its members that may apply.

I. INTRODUCTION

For your convenience the following timeline of events regarding the complaints at the Department is provided below:

- February 25, 2003 – Rubenstein/Proskauer complaint filed.
- February 26, 2003 – Joao/MLGS complaint filed.
- February 2003 - Unexplained combining of the Rubenstein and Joao complaints, even though the Joao filing was initially made in the proper jurisdiction at the Second Department and then transferred to the Department.
- April 11, 2003 - Rubenstein Response submitted and authored by Krane as counsel for Rubenstein and the firm of Proskauer.
- June 2003 - Iviewit Rebuttal to Rubenstein's response submitted and authored by Krane.
- September 2, 2003 - Misaddressed and never received by the Company letter from Respondent to the Company of the deferment of the complaints pending against Rubenstein and Joao until the final adjudication of the irrelevant and not similar Florida state billing litigation by and between the Company and Proskauer.

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

- January 9, 2004 – the Company, after learning that Proskauer and others were claiming in other state and federal actions against them, that the Department had "dismissed" the case after investigation involving the attorney's Rubenstein and Joao, calls Respondent to find the Department's September 2, 2003 letter had been "lost" and never returned to the Department although clearly misaddressed.
    - Upon review of the lost letter, the Company finds contrary to false claims to other investigatory bodies by Respondents and their cohorts, that the case had been "dismissed" that the letter does not state that the case had been "dismissed" and that it had been delayed only pending a billing litigation with Proskauer.
    - Respondent is notified that the Florida billing litigation has completed and that none of the charges other than billing issues had been addressed by the Florida court.
    - Respondent states he is opening the file for immediate investigation and reviewing the complaint personally. He apologizes for the delay caused by the "lost" letter and promises a prompt review with a report back the following week.
- January–May 2004: Then the farce continues as five months of unanswered calls goes by with Respondent not returning a single call.
    - Further submissions by the Company showing further allegations of perjury and false and misleading statements by both Rubenstein and Joao in their responses to the Department.
    - Notification to Respondent of United States Patent and Trademark findings leading to suspension of patent applications pending further investigations.
- May 20, 2004 - Discovery of Krane conflicts at the Department.
    - Respondent receives a letter from the Company requesting the striking of the first Krane response on behalf of Rubenstein citing conflict of interest.
    - The Company files a written formal complaint against Krane for conflicts of interests
- May 21, 2004 – Krane letter to Respondent requesting to not strike Rubenstein response and requesting that the Company's complaint be disregarded against himself, Exhibit ("A").
    - Krane in his response fails to disclose his current Department position.
    - Krane wrongly states the position of the case against Rubenstein as being ":dismissed" by the Department and uses Proskauer's pattern of behavior of confusion and delay to further stymie due process.
- May 2004 – Numerous calls to Respondent whereby he refuses to document Krane's positions at the Department
    - Refuses to file charges of conflict against Krane or begin investigation despite receiving formal written requests by the Company and a formal written response by Krane.
    - Refuses to have Krane's prejudicial response stricken in the Rubenstein and Joao complaints.
- May 28, 2004 – Respondent is confronted with conflict verified by the Clerk of the Court and the Clerk's request to have the case motioned out of the Department to an independent review panel.

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

- Respondent suddenly admits conflicts exist and agrees to have a motion to move the complaint against Rubenstein to another authority void of conflict, in accordance with the Clerk's request.
- Respondent admits that the case has NEVER been reviewed and states that a paralegal will start after college graduation.
- Company demands that Respondent move the matter.

- June 7, 2004 – Complaint against Respondent filed.
- Year 2003, Department's September 2, 2003 decision being used to influence the Florida state court stating false and misleading conclusion of the complaints against Rubenstein and Joao.
- Year 2003-2004, Department's September 2, 2003 decision being used to influence The Florida Bar stating false and misleading conclusion of the complaints against Rubenstein and Joao.
- Year 2003-2004 Department's September 2, 2003 decision being used to influence The Virginia Bar stating false and misleading conclusion of the complaints against Rubenstein and Joao.

That, after the Company discovered a conflict with Krane, and prior to Respondent's eventual admission of such conflict, the Company sent a May 20, 2004 letter to Respondent requesting the striking of the response of Krane on behalf of Rubenstein, and simultaneously the Company filed a complaint against Krane for a conflict of interest and false advertising. As a result of his April 2003 response on behalf of Rubenstein and his May 21, 2004 response on behalf of himself, the Company claims that Krane used his conflicted position to influence the Department and has already prejudiced the Company's complaints against Rubenstein, Joao and now Krane so severely as to deny them due process completely.

On May 21, 2004 responding for the complaint against himself, which was conducted in a manner void of ethics and lack of Department rules, Krane directly requests that Respondent personally dismiss the complaint against himself based on wholly false, factually incorrect and misleading statements to the Department. Although Krane tenders a Response to the Complaint, Respondent refuses to make the complaint formal and requests the Company submit another complaint against Krane, knowing the Company's position it appears that Respondent is conforming to Proksauer's behavior; in this case to cause the Company to redo that which it already has done. The Company asserts that the answer by Krane to his complaint be considered Krane's formal response under Department rules. Respondent allows this response of Krane on behalf of Krane to estoppel action against Krane, and refuses to file the Company's complaint, knowing all the while that Krane serves as a current Referee at the Department and failing to disclose it.

Please note that in Krane's response to his own complaint, he attempts to also deny his conflict citing that the NYSBA and the Department are not inter-related and do not cause conflict for him. So engorged in his denial of the conflict, Krane purposely, with malice and intent to deceive, fails to list his current relations with the Department that cause irrefutable conflict. Krane further attempts to mislead the Company and the Department citing Complainants, who are Southerners, are therefore ignorant of the New York separation between the NYSBA and the Department to defend his conflict. Krane attempts to distance himself through this normal separation of the

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

Department and the NYSBA using this false logic, as the separation applies to everyone but Krane who serves numerous roles at both Organizations that overlap regarding the creation and enforcement of The Lawyer's Code of Professional Responsibility ("Code"). The statement although true on the one hand for almost all attorneys who are members of the NYSBA or the Department does not apply when one is a member of both Organizations and serves committees that similarly create the Code for NYSBA and then sits in numerous positions which enforce the Code through the Department, for these few attorneys a conflict clearly exists. Due to the shared rules of the NYSBA and the Departments enforcement of the rules of the NYSBA, certain ethics committees, rules committees and other roles have conflicts. These positions absolutely conflict him in acting for any party in these matters, as the duality of his roles and his partner position at Proskauer creates a major conflict. So large is the conflict, that Krane, a professor of ethics, has no defense in his failure to avoid impropriety. Respondent knowing of Krane's conflict failed in his duties from preventing Krane to act on behalf of anyone in these matters and further failed in his duties by not filing immediate charges against Krane under the Department rules and under the NYSBA Code. On a final note, Krane's attack against the Company as southern hillbillies incapable of understanding New York conflicts of interest also fails in that one of the Complainants, P. Stephen Lamont, was born and raised in "Southern" New York and graduated Columbia Law school located deep in the heart of the South.

The Company points to positions held by Krane at the Department that cause conflict and as a member of the Department should have constituted immediate actions by Respondent. The company references § 603.1 Application § 605.6 Investigations and Informal Proceedings of the Departmental Rules, Exhibit ("B").

The Company states that Krane has conflict in his roles both past and present with the Department as listed below:

2004	COMMITTEE, APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT REFEREE
*2004-1996	**MEMBER, DEPARTMENTAL DISCIPLINARY COMMITTEE OF THE APPELLATE DIVISION, FIRST DEPARTMENT**
*2004 -1996	**MEMBER, NEW YORK STATE OFFICE OF COURT ADMINISTRATION TASK FORCE ON ATTORNEY PROFESSIONALISM AND CONDUCT**
2004-1995	CHAIR, GRIEVANCE PANEL, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK
1999-1998	COMMITTEE, APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT - HEARING PANEL CHAIR)
1997-1996	COMMITTEE, APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT HEARING PANEL MEMBER
1998	COMMITTEE, APPELLATE DIVISION, FIRST JUDICIAL DEPARTMENT - HEARING PANEL REFEREE
1993-1991	SPECIAL TRIAL COUNSEL, DEPARTMENTAL DISCIPLINARY COMMITTEE OF THE APPELLATE DIVISION, FIRST DEPARTMENT.

Further, the Company asserts that the following positions held at the NYSBA also pose a conflict problem for Krane, whereby the NYSBA and the Department work together on the creation of the Code and the enforcement of such Code.

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

2004-1996	NEW YORK STATE BAR ASSOCIATION, MEMBER, HOUSE OF DELEGATES
2004-1998	NEW YORK STATE BAR ASSOCIATION, MEMBER, EXECUTIVE COMMITTEE
2004-1997	NEW YORK STATE BAR ASSOCIATION, VICE-CHAIR, COMMITTEE ON THE FUTURE OF THE PROFESSION
2004-1995	NEW YORK STATE BAR ASSOCIATION, CHAIR, SPECIAL COMMITTEE TO REVIEW THE CODE OF PROFESSIONAL RESPONSIBILITY
2004-1997	ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, CHAIR, DELEGATION TO THE NYSBA HOUSE OF DELEGATES
2004-1996	ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, DELEGATION TO THE NYSBA HOUSE OF DELEGATES MEMBER
2004-1996	ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, MEMBER, COMMITTEE ON FEDERAL COURTS, 1996
2002-2001	NEW YORK STATE BAR ASSOCIATION, PRESIDENT, 2001-2002

***Appointments listed currently by Krane in his recently updated biography and disputed by Respondent**

Accordingly, and for ease of reference, the Company inserts the major allegations of the Complaint within the framework of the Code, cross referencing Title 22 of New York Codes, Rules and Regulations ("NYCRR"), in particular Section 603 (Attorney Conduct) and Section 605 (Rules Regulating the Department) and any other codes or sections of law as may apply to these circumstances and determined by the Department or other such review body.

II. DR 1-102 [§1200.3] MISCONDUCT AND ALL OTHER CODE OR DEPARTMENT CODE VIOLATIONS THAT MAY BE APPLICABLE.

The Company re-alleges and incorporates by this reference herein, as though fully set forth, Section I, inclusive. The Company alleges that Respondent failed to act in accordance with the Department's rules and the rules of NYSBA Code. The Company alleges misconduct in his failure to perform his obligations for the Department, while allowing and participating in a conflict of interest. Once aware of the conflict, the Company alleges that Respondent still took no corrective actions and further interfered with due process.

With respect to the Company's complaint against Rubenstein and Joao, upon information from the Department, the Joao complaint has been merged with the Rubenstein complaint to further stifle due process of the Joao complaint, although Joao had originally been filed in the proper district for his offices, Joao wrongly ends up at the Department. Where such a connection with Krane imparts further influence and still further prejudices the Company's complaint against Joao; Respondent, in his role as Chief Counsel, knowingly and willfully allowed the merger of the two complaints, thus prejudicing both by the conflicted response of Krane. The Company requests that both Respondent and Krane relinquish any positions held at the Department until the outcome of the complaints reach conclusion and cite § 603.4 Appointment of Disciplinary Agencies; Commencement of Investigation of Misconduct; Complaints; Procedure in Certain Cases, Exhibit ("C").

Respondent fails to follow Department procedures whereby he further delays the matter of Rubenstein & Joao based on a wholly irrelevant civil litigation. Upon the Company learning that Respondents and other accused perpetrators were claiming to other state and federal investigatory bodies that the Departments ruling after investigation was a dismal of charges, the

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

Company called the Department to find that a letter had been sent and never received by the Company due to a misaddressed postmark by the Department. Finally, several days after asking for the letter, the Company found that the letter clearly did not dismiss the case after investigation into the matters, as was being claimed to other agencies investigating matters similar, it merely had put the matter on hold pending a civil billing litigation that should have never held up the investigations in the first place. The inclusion of Joao, who was never a part of the civil litigation with Proskauer, into similar delay, appears now a method used by Respondent to avoid due process against Joao. Therefore, the Company alleges Respondent violated the following rules § 605.9 ABATEMENT OF INVESTIGATION, Exhibit ("D").

Due to Respondents complete disregard for the rules by allowing such obvious conflict to prejudice the Company complaints, we ask Cahill to resign, citing § 603.11 Resignation of Attorneys Under Investigation or the Subject of Disciplinary Proceedings, Exhibit ("E").

Finally, the Company contacted Respondent and after being notified by the Company that the wholly dissimilar billing litigation with Proskauer was over for several months, Respondent promised a speedy personal review of the matters and then avoided the Company for another five months. Despite repeated calls and further submissions of newly discovered allegations and evidence against Rubenstein and Joao, including charges showing that Rubenstein and Joao had falsified and perjured information to the Department, Respondent would not return a call.

III. DR 1-103 [§1200.4] DISCLOSURE OF INFORMATION TO AUTHORITIES AND ALL OTHER CODE VIOLATIONS THAT MAY BE APPLICABLE.

The Company re-alleges and incorporates by this reference herein, as though fully set forth, Section I and II, inclusive. Moreover, the Company further re-alleges that Respondent possessed knowledge of a violation of DR 1-102 [§1200.3] that raises a substantial question as to the honesty of Respondent, Respondent's trustworthiness, Respondent's fitness as a lawyer, and who has allowed a conflicted response by Krane to remain as part of the record of the Rubenstein complaint and allowed a conflicted response of Krane on behalf of Krane to stop charges against him.

The charges against Proskauer Rose, LLP, Meltzer Lippe Goldstein & Schlissel, Rubenstein and Joao consist of the following, ethical, criminal and civil violations, that all should have led to immediate investigation and reporting to proper authorities by Respondent:

- Patent Theft by Proskauer, MLGS, Rubenstein & Joao
- Violation of Section 8 of the Constitution of the United States
- Violations of 15 U.S.C. Sherman Antitrust Act §§ 1 and 2
- Fraud Upon the United States Patent & Trademark Offices
- Fraud Upon Iviewit
- Mail & Wire Fraud
- Perjured Deposition of Rubenstein
- False and misleading statements to the Department by Joao, Rubenstein & Krane
- Violation of the Racketeer Influenced and the Corrupt Organizations Act, and

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

- Supplemental state causes of action including, but not limited to:
    - Legal malpractice
    - Violations of Attorney Client relationship
    - Breach of contract
    - Breach of implied contract
    - Tortuous interference with business relationships
    - Misappropriation and conversion of funds and
    - Breach of fiduciary duties as Advisory Board Members

After learning of Krane's conflict, Respondent refused to disclose in writing all of Krane's positions both past and present with the Department to the Company. The Company finally was forced to go outside the Department whereby it contacted the Clerk of the Court, Catherine O'Hagan Wolfe ("Wolfe"), New York State Supreme Court - Appellate Division First Department ("First Department Appellate") directly. After hearing of the allegations, Wolfe who knows both parties Krane and Respondent, instructed the Company to draft a motion to herself as Clerk at the First Department Appellate, requesting to have the complaint of Kenneth Rubenstein moved outside the Department void of the influence and the cited conflicts between Krane, Respondent and the Department. Also disclosed was the fact that despite Krane and Respondent's prior denial of Krane's current involvement with the Department, that Wolfe so informed the Company of a Referee position held by Krane currently and was unsure of the other positions he may currently hold and/or have held during the time since the Company's initial complaints were filed.

Furthermore, when Krane submitted his May 21, 2004 response addressed and faxed directly to Respondent and further copied Complainants, whereby Respondent received and acknowledged such fax, Krane responds as a pro-se respondent in his own complaint and asks Respondent to disregard the complaint filed against him based on false and misleading statements, while having an irrefutable current conflict. Respondent should have immediately, knowing of the conflict within the Department, moved this matter to the Chair and lodged the Company's written complaint against Krane for further proffering such conflicted response in defense of himself using his influence to influence his own complaint. Respondent clearly disregards the very ethics he is charged with enforcing, and refuses to file necessary charges against Krane, although having already received a formal response from Krane to the Company's complaint. The Company repeatedly requested that Respondent; (i) remove Krane from all positions of undue influence with respect to the Rubenstein, Joao and Krane complaints (ii) file charges against Krane and Rubenstein for blatant disregard for the Department rules on conflicts (iii) charge Krane and Rubenstein with abuse of public office (iv) de-merge the Joao complaint and (iv) motion the complaints out the Department due to the conflicts damage thus far. We find Respondent so favors Krane, that Respondent does absolutely nothing.

Krane's current biography at the Proskauer website and the statements made by Respondent that Krane's biography is factually incorrect and misleading, as it states present positions held at the Department by Krane, should have also led to reprimand of Krane under rules of false and misleading advertising. Respondent's further refusal to disclose Krane's positions and times held in writing to the Company, based on his worry about his "integrity" at the Department, leads one

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

to wonder what the precise timing of Krane's membership and positions within the Department are and further question if Respondent is capable and/or culpable in these matters. Respondent further attempts to dissuade the Company from filing a complaint against Krane reciting from Krane's response that he is affiliated only with the NYSBA, and since the NYSBA is not related to the Department, no charges should be filed. Again, Respondent has knowledge at the time that Krane is a member of the Department and fails to disclose his position with the Department. Respondent's recital of Krane's response of the separation of the organizations further fails whereby Respondent admits that Krane is conflicted and the organizations do overlap in certain roles that create conflict.

Once the Company informed Respondent of conversations with Wolfe, whereby it was learned that Krane had a conflict as he had current roles with the Department, Respondent immediately agrees with Wolfe, requesting that the Company motion the matter out of his jurisdiction suddenly remembering Krane's role and admitting to the conflicts. Both Krane and Respondents attempts to deny the conflict citing that there is no correlation between the NYSBA and the Department in defense of Krane's conflict is a complete ruse when one sees that this excuse was promulgated to hide his current positions with the Department. The Company further illustrates that concerning members, such as Krane, serving both the Rules & Enforcement Committees of both of the Organizations; the statement of separation does not pertain. Conflict clearly exists and Krane should have never been allowed by Respondent to act as counsel in a matter so clearly conflicted under the Department Rules and NYSBA Code. The NYSBA and the Department conflict in roles such as those Krane possesses, that influence creation and enforcement for a shared set of rules for both Organizations and both contain strict guidelines regarding the avoidance of even the appearance of impropriety while serving public roles for the NYSBA and\or the Department. Both organizations have rules that would have precluded Krane from participating in any way with the complaints against his firm (Proskauer), Rubenstein a member of Proskauer, and himself a member of Proskauer and yet we find him representing all of the Respondents as counsel, violating all ethical considerations as if he were above the law. Respondent's failure to prosecute Krane immediately for violating Section 603 and 605 of the Department rules and concurrently the NYSBA rules, technically elevated Krane above the law. All the while Krane and Respondent, in collusion, hide and fail to list Krane's roles with the Department hoping that no one would see Krane's obvious conflict in his current and past roles with the Department that have caused the Company a complete loss of due process for the sixteen months that it was undetected.

IV. DR 7-101 [§1200.32] REPRESENTING A CLIENT ZEALOUSLY AND ALL OTHER ATTORNEY OR DEPARTMENT CODE VIOLATIONS THAT MAY BE APPLICABLE

The Company re-alleges and incorporates by reference herein, as though fully set forth, Section I-III, inclusive. Furthermore, Company re-alleges that Respondent intentionally failed to seek the lawful objectives of the Company through reasonably available means permitted by the disciplinary rules, and where client is synonymous with Complainant in this matter, that Respondent's position charges him with serving.

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

By the ethically incestuous breaches of the rules in favor of Krane by Respondent, in allowing the April 21, 2003 response and the May 21, 2004 letters of Krane, there was a deliberate attempt to deny due process to the Company's complaints. The disciplinary rules have been so been bent by those who create and enforce them as to cause public concern that the Department has become a de facto attorney protection agency. Furthermore, the removal of due process by Respondent with respect to the Company's complaints for nearly one and half years have caused further harm to the Company's patent applications. Harmed by the same attorneys the Company complains of, left undisciplined through Cahill's professional misconduct, allowing them to further cloak themselves in the very laws designed to prosecute them. So weak is the Proskauer, Rubenstein and Joao defenses that they had to resort to this deceptive influence peddling to skirt due process. This now endangers public confidence in the Department because of Respondent's misconduct.

V. NYCRR 603. CONDUCT OF ATTORNEYS (AND ALL OTHER CODE VIOLATIONS THAT MAY BE APPLICABLE)

The Company re-alleges and incorporates by reference herein, as though fully set forth, Section I-IV, inclusive. The above complaints give the appearance of impropriety within the meaning of NYCRR Part 603.2 Professional Misconduct Defined, attached herein as Exhibit ("F"), in that the appearance of impropriety at Respondent's level constitutes an abuse of the power of his office. That Respondent further engaged in other conduct that adversely reflects on his fitness as a lawyer and his position as Chief Counsel, by his unconscionable failure to effectively deal with the entire matter and basically cover-up for Proskauer, et. al. Krane's attempt to exculpate himself without formal due process in his response and have his complaint dismissed, using a system of smoke and mirrors, with Respondent as his assistant, that on the one hand they not only fail to disclose Krane's current positions at the Department which conflict him, on the other hand they try to hide behind his New York State Bar Association positions stating they are separate from the Department and therefore constitute no reason for action. Clearly, by this deceptive pattern, Krane with his sidekick Cahill intended the response to mislead the Company and the Department and have the conflict charge against Krane dismissed by denying he was conflicted. Krane further misleads through deception when he states in his response that the case had been dismissed against Rubenstein and should remain dismissed, when factually it was never dismissed and Respondent had reopened it months earlier. These misstatements should have been seen by Respondent as misconduct and prompted him to file charges against Krane for further misconduct, instead we see Respondent aiding and abetting Krane from facing prosecution. Most shocking was that Respondent denied such current or past conflict in initial calls to his office and fails to disclose Krane's positions with the Department, until the Company confronted him with factual evidences of Krane's present and past positions within the Department learned by conversations with Wolfe and further notice that Wolfe had suggested the Company file a motion to transfer the Rubenstein complaint from the Department due to the conflict. Respondent, after learning of the call to Clerk Wolfe, acknowledged the conflicts by admitting Krane's position as current Referee at the Department and agreed to have the motion entered to remove the cases from his jurisdiction. The deceit by Respondent and Krane undermines the integrity of the Department and the profession of law, so much so, as to mandate immediate and swift reprimand of both Respondent and Krane by both the Department and the NYSBA. Finally, the Department claim of dismissal of the case against Rubenstein and Joao has been submitted to other investigatory bodies as a means to claim that after investigation the

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

Department had dismissed the charges against Rubenstein and Joao and has caused prejudice in these investigations that must be corrected with full disclosure of the Departments actions and full disclosure of the conflict, so as to try and undue these false and misleading statements by Krane and his cohorts that have caused prejudice in these other investigations.

We cite reference to these statements in a Virginia Bar complaint against William J. Dick, Exhibit ("G") and the Department letter Exhibit ("H").

VI. CONCLUSION

The Company re-alleges and incorporates by this reference herein, as though fully set forth, Section I-V, inclusive. This above series of events, the attempts to dissuade, bury, or delay the complaints against Rubenstein, Joao, and Krane, so endangers the public confidence and integrity of the legal system, and the system which Respondent is entrusted (the protecting the public from such attorney misconduct), that the Chair must take immediate actions as requested herein, lest the misbehavior of Rubenstein, Joao, Proskauer, Krane, and, now, Respondent firmly tarnish the Department with the same misconducts that shook the very foundations of our society much in the way the Haldeman/Erlichman/Nixon events did in the early 1970's.

Lastly, the Company has filed a written statement, in conjunction with its largest investor, Crossbow Ventures, Inc., and its Co-Founder & Chairman, Stephen J. Warner, with the United States Patent and Trademark Office ("USPTO"), that currently causes the Commissioner of Patents and Trademarks, at the behest of Harry I. Moatz the Director of Office of Enrollment and Discipline of the USPTO, to witness charges against Proskauer, MLGS, Rubenstein and Joao of FRAUD UPON THE UNITED STATES PATENT AND TRADEMARK OFFICES. Moreover, this statement has led the USPTO to assemble a team of patent specialists appointed by Mr. Moatz that has effectively put the Company's patent applications into a six month suspension pending further investigation. Therefore, with the understanding that patents, with a twenty-year revenue life and potential totaling billions of dollars, are at risk, the Company demands that the Department or its oversight begin immediate investigations into all complaints filed by the Company, less further damages result and cause more liability to the State of New York and the Department.

We ask that the Department send the entire file for review to the Company with regard to any submissions by either party, including an inventory of all letters, CD's and notices by either party. We ask the Department to further do the following:

- Transfer all Company complaints, correspondences and file information to a non-conflicted authority for review
- Write a letter clarifying the status of each of the complaints so that information regarding the complaints that has already been disseminated containing false and misleading statements of the disposition may be corrected.
- Statement from the Department acknowledging the conflict with full disclosure
- Written confirmation from the Department with full disclosure as to Krane's past and present positions within the Department and further within any public or private organization in anyway associated to the Department, describing date of entry into the

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

position, post held and nature and duties of such post, periods held, date of termination of position, date of fully discharged duties, and a roster of all members served with so that the Company may measure the breadth of such conflict.

Sincerely,

IVIEWIT HOLDINGS, INC.

By: Eliot I. Bernstein
Digitally signed by Eliot I. Bernstein
DN: CN = Eliot I. Bernstein, C = US, O = Iviewit
Reason: I am the author of this document
Date: 2004.06.09 09:11:05 -04'00'

Eliot I. Bernstein
President, Founder & Inventor

By: ✓ P. Stephen Lamont
Signature Valid
Digitally signed by P. Stephen Lamont
DN: cn=P. Stephen Lamont, ...
Date: 2004.06.09 11:12:45 -04'00'

P. Stephen Lamont
Chief Executive Officer

cc:

New York County District Attorney, Robert Morganthau – Intake Bureau, Frauds
New York State Attorney General, Eliot Spitzer
New York Clerk of the Appellate Division First Department, Catherine O'Hagan Wolfe

LIMITED POWER OF ATTORNEY

I. **PARTIES.** I, P. Stephen Lamont ("Principal"), with a principal address of Four Ward Street, Brewster, New York hereby appoint Eliot I. Bernstein ("Attorney-in-Fact") with a principal address of 10158 Stonehenge Circle, Suite 801, Boynton Beach, Fla. and telephone number of 561-364-4240 as attorney-in-fact to represent me in affairs consisting only of those powers listed in Section II herein.

II. **POWERS.**

1. Execution of Signature Page for:
   a. Complaint against Cahill.
   b. Complaint against Krane.
   c. Additional complaint against Rubenstein.
   d. Motion – Rubenstein
   e. Motion – Joao
   f. Motion – Cahill
   g. Motion – Krane

III. **DURATION.** Said Attorney-in-Fact shall, subject to revocation in writing, have authority to conduct items one (1) above and perform on behalf of Principal: All acts necessary and requisite to facilitate said functions and/or proceedings from the period June 2, 2004 through June 9, 2004 ("Duration").

IV. **OTHER ACTS.**

1. None.

V. **MISCELLANEOUS.**

1. **NOTICES.** Copies of notices and other written communications addressed to the Principal in proceedings involving the above matters should be sent to the address set forth above.

2. **CONFORMANCE TO STATE LAW.** It is the intention of the parties that this Limited Power of Attorney conform to the laws of the State of New York, and should any section of this Limited Power of Attorney not conform to the laws of the State of New York, it is the intention of the parties that said section(s) be substituted for that section that would other wise conform to the laws of the State of New York. Should the laws of the State of New York require any other section(s) other than the sections of this Limited Power of Attorney, it is the intention of the parties, that said section(s) be construed to be included in this Limited Power of Attorney, as if said sections were included herein.

3. **NO PRIOR POWERS.** This Limited Power of Attorney revokes all prior powers of attorney by and between Principal and Attorney-in-Fact with respect to the same matters and years or periods covered by this instrument.

By: ✓ P. Stephen Lamont
Signature Valid

Digitally signed by P. Stephen Lamont
DN: cn=P. Stephen Lamont, o=Iviewit Holdings, Inc., ou=Corporate, c=US
Date: 2004.06.08 11:18:07 -04'00'

P. Stephen Lamont, Principal

EXHIBIT "A"

Paul J. Curran, Esq.
Chair
First Judicial Department Disciplinary Committee

PROSKAUER ROSE LLP

1585 Broadway
New York, NY 10036-8299
Telephone 212.969.3000
Fax 212.969.2900

LOS ANGELES
WASHINGTON
BOCA RATON
NEWARK
PARIS

Steven C. Krane
Member of the Firm

Direct Dial: 212.969.3435
skrane@proskauer.com

May 21, 2004

By Facsimile and Mail

Thomas J. Cahill, Esq
Chief Counsel
Departmental Disciplinary Committee
61 Broadway
New York, New York 10006

Re: Complaint of Iviewit Holdings, Inc. – Docket No. 2003.0531

Dear Mr. Cahill:

I represented my partner, Kenneth Rubenstein, in connection with the complaint filed against him in March 2003 by Iviewit Holdings, Inc. That proceeding was closed pursuant to your letter of September 2, 2003.

Iviewit has now asked that the response I submitted on April 11, 2003 be stricken on the ground that I had a conflict of interest by virtue of my various position with the New York State Bar Association. Obviously, Iviewit is not aware that there is no connection between the Departmental Disciplinary Committee, which operates under the aegis of the Appellate Division of the Supreme Court, and the New York State Bar Association, which is a voluntary organization of lawyers. This confusion is not surprising, since the principals of Iviewit are from Florida, where it is the Florida Bar that investigates and disciplines lawyers.

Accordingly, I respectfully request that Iviewit's "Demand to Strike Response" be rejected and that any complaint against me arising out of my representation of Mr. Rubenstein be dismissed. I stand ready to provide the Committee with whatever additional information it may require in connection with this matter.

Yours very truly,

Steven C. Krane

cc: Mr. Eliot Bernstein
Mr. P. Stephen Lamont

EXHIBIT "B"

§ 603.1 Application

a. This Part shall apply to all attorneys who are admitted to practice, reside in, commit acts in or who have offices in this judicial department, or who are admitted to practice by a court of another jurisdiction and who practice within this department as counsel for governmental agencies or as house counsel to corporations or other entities, or otherwise, and to all legal consultants licensed to practice pursuant to the provisions of subdivision 6 of section 53 of the Judiciary Law. In addition, any attorney from another state, territory, district or foreign country admitted pro hac vice to participate in the trial or argument of a particular cause in any court in this judicial department, or who in any way participates in any action or proceeding in this judicial department shall be subject to this Part.

b. This Part shall apply to any law firm, as that term is used in the Disciplinary Rules of the Code of Professional Responsibility, section 1200.1(b) of this Title, that has as a member, employs, or otherwise retains an attorney or legal consultant described in subdivision (a) of this section.

§ 605.6 Investigations and Informal Proceedings

b. Contents of Complaint.

1. General Rule. Each Complaint relating to alleged misconduct of an attorney shall be in writing and subscribed by the Complainant and shall contain a concise statement of the facts upon which the Complaint is based. Verification of the Complaint shall not be required. If necessary the Office of Chief Counsel will assist the Complainant in reducing the Grievance to writing. The Complaint shall be deemed filed when received by the Office of Chief Counsel.
2. Other Situations. In the case of an allegation of misconduct originating in the Court or the Committee, or upon the initiative of the Office of Chief Counsel, the writing reflecting the allegation shall be treated as a Complaint.

g. Preliminary Screening of Complaints. Any complaint received by the Office of Chief Counsel against a member of the Committee or Staff counsel involving alleged misconduct shall be transmitted forthwith to the Committee Chairperson, who shall assign it either to the Office of Chief Counsel or to special counsel who shall conduct the appropriate investigation and determine the appropriate disposition of the Complaint.

EXHIBIT "C"

§ 603.4 Appointment of Disciplinary Agencies; Commencement of Investigation of Misconduct; Complaints; Procedure in Certain Cases

d. When the Departmental Disciplinary Committee, after investigation, determines that it is appropriate to file a petition against an attorney in this court, the committee shall institute disciplinary proceedings in this court and the court may discipline an attorney on the basis of the record of hearings before such committee, or may appoint a referee, justice or judge to hold hearings.

i. An attorney who is the subject of an investigation, or of charges by the Departmental Disciplinary Committee of professional misconduct, or who is the subject of a disciplinary proceeding pending in this court against whom a petition has been filed pursuant to this section, or upon whom a notice has been served pursuant to section 603.3(b) of this Part, may be suspended from the practice of law, pending consideration of the charges against the attorney, upon a finding that the attorney i guilty of professional misconduct immediately threatening the public interest. Such a finding shall be based upon:

ii. the attorney's default in responding to the petition or notice, or the attorney's failure to submit a written answer to pending charges of professional misconduct or to comply with any lawful demand of this court or the Departmental Disciplinary Committee made in connection with any investigation, hearing, or disciplinary proceeding, or

iii. a substantial admission under oath that the attorney has committed an act or acts of professional misconduct, or

iv. other uncontested evidence of professional misconduct, or,

v. the attorney's willful failure or refusal to pay money owed to a client, which debt is demonstrated by an admission, a judgment, or other clear and convincing evidence.

2. The suspension shall be made upon the application of the Departmental Disciplinary Committee to this Court, after notice of such application has been given to the attorney pursuant to subdivision six of section 90 of the Judiciary Law. The court shall briefly state its reasons for its order of suspension which shall be effective immediately and until such time as the disciplinary matters before the Committee have been concluded, and until further order of the court. Following a

temporary suspension under this rule, the Departmental Disciplinary Committee shall schedule a post-suspension hearing within 60 days of the entry of the court's order.

EXHIBIT "D"

§ 605.9 ABATEMENT OF INVESTIGATION

a. Matters Involving Related Pending Civil Litigation or Criminal Matters.

1. General Rule. The processing of complaints involving material allegations which are substantially similar to the material allegations of pending criminal or civil litigation need not be deferred pending determination of such litigation

EXHIBIT "E"

§ 603.11 Resignation of Attorneys Under Investigation or the Subject of Disciplinary Proceedings

a. An attorney who is the subject of an investigation into allegations of misconduct or who is the subject of a disciplinary proceeding pending in the court may submit his resignation by submitting to the Departmental Disciplinary Committee an affidavit stating that he intends to resign and that:

   1. his resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting his resignation;
   2. he is aware that there is pending an investigation or disciplinary proceeding into allegations that he has been guilty of misconduct, the nature of which shall be specifically set forth; and
   3. he acknowledges that if charges were predicated upon the misconduct under investigation, he could not successfully defend himself on the merits against such charges, or that he cannot successfully defend himself against the charges in the proceedings pending in the court.

b. On receipt of the required affidavit, such committee shall file it with this court, together with either its recommendation that the resignation be accepted and the terms and conditions, if any, to be imposed upon the acceptance, or its recommendation that the resignation not be accepted.

c. This court, in its discretion, may accept such resignation, upon such terms and conditions as it deems appropriate or it may direct that proceedings before the Departmental Disciplinary Committee or before this court go forward.

d. This court, if it accepts such resignation, shall enter an order removing the attorney on consent and may order that the affidavit referred to in subdivision (a) of this section be deemed private and confidential under subdivision 10 of section 90 of the Judiciary Law.

EXHIBIT "F"

§603.2 Professional Misconduct Defined

a. Any attorney who fails to conduct himself both professionally and personally, in conformity with the standards of conduct imposed upon members of the bar as conditions for the privilege to practice law and any attorney who violates any provision of the rules of this court governing the conduct of attorneys, or with respect to conduct on or after January 1, 1970, any disciplinary rules of the Code of Professional Responsibility, as adopted by the New York State Bar Association, effective January 1, 1970, as amended, or with respect to conduct on or before December 31, 1969, any canon of the Canons of Professional Responsibility, as adopted by such bar association and effective until December 31, 1969 or with respect to conduct on or after September 1, 1990, any disciplinary rule of the Code of Professional Responsibility, as jointly adopted by the Appellate Divisions of the Supreme Court, effective September I, 1990, or any of the special rules concerning court decorum, shall be guilty of professional misconduct within the meaning of subdivision 2 of section 90 of the Judiciary Law.

EXHIBIT "G"

VI. Additional Information to be Considered

80. On information and belief, I understand that the Proskauer Rose law firm brought suit in May of 2001 against three entities of Iviewit for failure to pay legal fees. The defendants

Counterclaim was not allowed due to the fact that it was not entered timely and therefore none of the issues were ever heard or tried.

Because the counterclaim was not allowed due to the time it was filed and the case never went to trial, Iviewit filed the Bar responses. The Bars then put them on hold pending outcome of Court. The issues have NEVER been investigated, heard or tried by a court or Bar organization formally. Proskauer et. al. have avoided investigation and prosecution of all charges in any of these forums using the law to Cloak themselves.

were Iviewit.com Inc., Iviewit Technologies Inc., and Iviewit Holdings Inc. The suit was commenced in Palm Beach County, Florida, 15th Judicial Circuit, as (Old Case Number CA010467IAB), the Case Number being later changed to 502001CA004671XXCDAB. In early 2003, the defendants had requested leave to file a counterclaim alleging a conspiracy by the attorneys, which was substantially the same thing as they alleged in the bar complaints filed against Mr. Rubenstein and Mr. Joao (referred to above in Specific Allegation #3). This was denied. The case went to trial in November of 2003. Since the suit was brought in May of 2001, two firms representing the defendants had withdrawn and the defendants defaulted in September of 2003 causing the Court to strike their pleadings. Final judgement was ordered in November 2003 in favor of Proskauer. Since 30 days has passed since then, there can be no appeal of the final judgement. The final judgement was for $368,975.97 plus $75, 956.43 pre-judgement interest. The total final judgment was $444,932.40 bearing post-judgment interest.

The case never went to trial, this is false and misleading statement. He tries to create impression that the counterclaim issues were tried in Florida Court

As mentioned above, Iviewit has filed nearly identical bar complaints against many of its former attorneys, and they have all been dismissed. Specifically, Iviewit filed the New York Bar complaints against Mr. Rubenstein (Docket Number 2003.0531) and Mr. Joao (Docket Number 2003.0532), as recited in Specific Allegation #3 above. It is my understanding that both of these complaints have been dismissed, at first without prejudice giving Iviewit the right to enter the findings of the Proskauer Court with regard to Iviewit's counterclaims, but now with prejudice since the Iviewit counterclaims have been dismissed. It is my further understanding that Iviewit filed a similar complaint in the State Bar of Florida against Mr. Chris Wheeler of the Proskauer Rose law firm. I am informed that the Florida Bar ethics committee dismissed the complaint against Mr. Wheeler, at first subject to the Proskauer Court's findings relative to the Iviewit counterclaims, but now since the court has found in favor of Proskauer and denied the counterclaims, the bar complaint should be finally dismissed.

Wholly false statements of New York outcome. Tries to assert that counterclaim was heard, and led to Bar dismissals.

No investigation was done formally of any charges at the Florida Bar and therefore the Florida Bar does not tender a response in favor of Proskauer or Iviewit

On or about March 15, 2001, Foley & Lardner proposed a monthly payment plan to Iviewit because of Iviewit's nonpayment of approximately $140,000 in legal fees. The proposal stated that Foley would timely and properly withdraw as Iviewit's counsel if payment was not forthcoming, although Foley was not waiving any rights to recover the amounts due. The monthly payment plan was not accepted, and Foley terminated its representation.

EXHIBIT "H"

DEPARTMENTAL DISCIPLINARY COMMITTEE
SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
61 BROADWAY
NEW YORK, N.Y. 10006
(212) 401-0800
FAX: (212) 401-0810

September 2, 2003

PERSONAL AND CONFIDENTIAL

COPY

Eliot I. Bernstein
IVIEWIT
20158 Stonehenge Circle
Boynton Beach, FL 33437

Re: Matter of Kenneth Rubenstein, Esq.
Docket No. 2003.0531

Dear Mr. Bernstein:

As you know, there is pending litigation concerning the same or related facts which you have alleged here. We have found that a judicial resolution of such matters is helpful to the Committee. Accordingly, we have decided to close our investigation at this time.

The Committee arrived at this determination after the case was submitted to a member of the Committee, an independent board of lawyers and non-lawyers appointed by the Appellate Division, First Judicial Department. The Committee member concluded that we should await the conclusion of the litigation. We request, however, that you inform the Committee of any court decision or other event which may warrant an immediate investigation by the Committee.

Very truly yours,

Thomas J. Cahill

TJC:adp/P:JGW/A:ANB

D-PL/C(F475/TB520)