APPENDIX B:
AGGREGATE SUBSTANTIVE *FINLEY* PATTERNS

Appendix B groups the discrete patterns listed in Appendix A into the aggregate patterns discussed in the Report. For a Finley *letter to illustrate in an aggregate pattern, it needed to illustrate at least one of the individual patterns grouped under that aggregate pattern. Frequently, letters illustrated more than one of the relevant individual patterns. The percentage that appears next to each aggregate pattern (appearing in bold) represents the percentage of Philadelphia LWOP* Finley *letters that reflected at least one of the individual patterns grouped under that aggregate pattern.*

Patterns are listed alphabetically and divided into two categories: Aggregate Patterns Evidencing Violations of the Duty of Loyalty and Aggregate Patterns Evidencing Violations of the Duty of Competence.

AGGREGATE PATTERNS EVIDENCING VIOLATIONS OF THE DUTY OF LOYALTY

Attorney Criticism or Mistrust of Clients (63%)

Aggregates the following individual patterns:

- Assume client is lying
- Blame client for former lawyer's mistakes
- Blame client for matters outside their control
- Blame client for PCRA attorney failure to investigate
- Complain about client
- Denigrate client
- Undermine client

Client-Blaming (44%)

Aggregates the following individual patterns:

- Blame client for former lawyer's mistakes
- Blame client for matters outside their control
- Blame client for PCRA attorney failure to investigate

Demean Petitioners' Claims and Filings (46%)

Aggregates the following individual patterns:

- Complain about quality of client filings
- Denigrate client claims
- Exploit technical client errors

Disclosure of Protected Client Information Against Client Interests (36%)

Aggregates the following individual patterns:

- Use investigation against client
- Violation of attorney-client privilege
- Violation of duty of confidentiality

Non-Compulsory, Argumentative Positions Against Client Interests Taken (84%)

Aggregates the following individual patterns:

- Argue against client instead of for client
- Concession of merit
- Conclusory statement against client interest
- Construe evidence/facts against client
- Construe law against client
- Failure to clarify claims (legal)
- Framing claim against client interest
- Unnecessarily cite adverse law

AGGREGATE PATTERNS EVIDENCING VIOLATIONS OF THE DUTY OF COMPETENCE

Deficient Legal Analysis (98%)

Aggregates the following individual patterns:

- Cite incorrect standard
- Conclusory statements
- Excessive legal quotations/citations lacking analysis
- Extremely perfunctory analysis
- Failure to apply law
- Failure to clarify claims (legal)
- Failure to spot legal issue
- Flatly incorrect about law
- Mislead PCRA court (law)
- Omission of citations where clearly appropriate (law)
- Subjective dismissal of claims
- Subjective evidence-weighing
- Vague evidence-weighing

Facially Unscrupulous Legal Analysis (33%)

Aggregates the following individual patterns:

- Excessive legal quotations/citations lacking analysis
- Extremely perfunctory analysis

Failure to Engage Record Facts (98%)

Aggregates the following individual patterns:

- Lack of facts section altogether
- Mislead PCRA Court (facts)
- Omission of citations where clearly appropriate (facts)
- Reliance on generalizations
- Vagueness

Failure to Undertake Reasonable Extra-Record Investigation (100%)

Aggregates the following individual patterns:

- Affirmative evidence of no investigation
- Failure to clarify claims (investigation)
- Failure to clarify claims (legal)
- Failure to investigate
- Pre-judge uselessness of investigation without investigating
- Reliance on record to refute extra-record claims
- Subjective dismissal of claims