ANNUAL REPORT OF THE LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

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I. INTRODUCTION AND HIGHLIGHTS.

Pursuant to Rules 4(c) and 5(b), Rules on Lawyers Professional Responsibility (RLPR), the Lawyers Professional Responsibility Board and the Director of the Office of Lawyers Professional Responsibility report annually on the operation of the professional responsibility system in Minnesota. These reports are made for the period from July 2013 to June 2014, which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2013.

Complaint Statistics.

The number of complaints received in 2013 was 1,253, a very minor decrease from the previous year's total of 1,287. This is the third year in a row that complaints received decreased slightly, a continuing positive trend. It is hoped this is at least in part due to the continuing educational efforts and advisory opinions provided by the Director's Office. Tables outlining these and related statistics are at A. 3 - A. 6.

Files open at start of 2013:	632
Complaints received in 2013:	1,253
Files closed in 2013:	1,279
Files open at end of 2013:	606

In 2013:

Files dismissed without investigation:	552 (43%)
Files dismissed after investigation:[1]	372 (29%)
Admonitions (by number of files):	144 (11%)
Private Probations (by number of files):	18 (1%)
Public Discipline (by number of files):	107 (9%)[2]

[1] After investigation either by a District Ethics Committee (DEC) or by the Director's Office without referral to a DEC.

[2] The balance of files closed (86) consist of resignations, reinstatements, transfers to disability inactive status, trusteeships and attorneys who died during an investigation.

Complaint totals for the first four months of 2014, if unchanged, project to a year-end total of approximately 1,310, which, though an increase, would still be below the levels of just two years ago. In part due to periods when the Director's Office has not been fully staffed (two family leaves, an attorney leaving for a different agency and resulting hiring periods), closings have not quite kept pace with openings. With two new attorneys trained and on board, the total number of open files will hopefully quickly return to a level below 600, which the Office was close to last year. Year-old files have remained in the range of 180-190, and closing these older matters remains, as always, a major goal for the OLPR, especially the old files that remain under investigation and not yet in litigation.

The Office continues to target that 75 percent of all cases will meet the Board's proposed timelines for case processing for each step in the investigation process.

Annual Professional Responsibility Seminar.

On October 4, 2013, the Board and Director's Office hosted their 28th annual professional responsibility seminar, held again this year at the Ramada Plaza Hotel in Minneapolis. Presentations included sessions on misconduct in the courtroom, featuring Judge Jay Quam of the Fourth Judicial District Court, a session on the "trilogy" of competence, diligence and communication, as well as regular features on current developments and DEC investigations.

The other annual highlight was the presentation by the Board's liaison Justice Alan Page of the annual Volunteer of the Year Award, this year awarded to current Board member Kenneth Engel. Of particular note in the past year, Mr. Engel tirelessly spearheaded the Board's concentrated effort to work with the DECs on recruitment and training, including chairing the now annual DEC Symposium (*see* p. 29).

Public Discipline Decisions.

Forty-seven attorneys were publicly disciplined in calendar year 2013, an increase from the previous two years, and well above the historical average for the past twenty-five years.[3] The total was the third highest on record, topped only in 1990 and 2006. *See* chart at A. 8. This trend was noted in a front-page story in the Minneapolis *StarTribune* newspaper. Such a trend is troubling, but also reflects that the Office is successfully handling many major matters while continuing to perform its myriad duties described in more detail in Section III.

Eleven lawyers were disbarred in 2013, which also was a substantial increase over recent years and the second most ever in one year. Terri Hauge, Allan Hawkins III, Tucker Hummel, Hugh Jaeger, Harvey Jones, Alan McDonagh, William Morris, Jr., Brian Pitera, Lawrence Ulanowski, Barry Voss and Terry Fitzpatrick Walcott were disbarred. Three of the disbarments were reciprocal actions based upon discipline in another jurisdiction, which pushed the total higher than in some other years. Criminal convictions and major acts of dishonesty remain the most common cause of disbarment, along with lawyers who were already suspended and then continued to practice law and committed additional misconduct. Additionally, twenty-three lawyers were suspended in 2013.

Seventeen attorneys have already been publicly disciplined through mid-June of this year, indicating that the total number of public disciplines may return to a figure only slightly above the normal annual average of 34. However, 33 more public matters are pending at various stages of the disciplinary process.

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[3] For purposes of this statistic, public disciplines include disbarments, suspensions, stayed suspensions, public reprimands and probations. Not included in this figure are several other categories of public decisions, such as suspensions for failing to take the professional responsibility exam as part of probation, reinstatements and disability proceedings. *See* summary at A. 7.

II. LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

Board Members.

The Lawyers Professional Responsibility Board (LPRB) is composed of 23 volunteer members, which includes the Chair, 13 lawyers, and 9 nonlawyers. The terms of Board members are intentionally staggered so that there is roughly equal turnover in members each year. Board members are eligible to serve two three-year terms (plus any stub term if applicable). This past year, Board members William Donohue, Marne Gibbs Hicke, Richard Kyle, Jr., Michael Unger and Daniel Wexler completed their second and final terms on the Board; Mark Daniels, although eligible to be reappointed to a second term, elected not to be reappointed due to other time commitments. Newly appointed members are Joseph Beckman, Paul Carlson, James Cullen, Roger Gilmore, Mary Hilfiker and Bentley Jackson. Nancy Helmich, Stacy Vinberg and Todd Wind were reappointed to second terms, to expire in 2017. Recently, Richard Lareau retired from his position on the Board; attorney Gary Hird was appointed to complete Mr. Lareau's term. Mr. Hird then will be eligible for reappointment. A complete listing of Board members as of February 1, 2014, is attached at A. 1.

Executive Committee.

The Board has a five-member Executive Committee, charged with oversight of the Director's Office and the Rules on Lawyers Professional Responsibility. Three of the five Executive Committee members were among the Board members whose terms ended in January 2014, and Christopher Cain chose to return to serving on a Panel instead of remaining on the Executive Committee. Thus, an almost completely new Executive Committee was appointed, now consisting of Chair Judith Rush, newly-named Vice-Chair Nancy Zalusky Berg, Robin Wolpert, Carol Cummins and Daniel Malmgren.

The Executive Committee monitors the OLPR's case processing in light of the timelines approved by the Board, with particular attention to the number of open disciplinary files and files more than one year old. It is also responsible for reviewing requests by the Director to open disciplinary files pursuant to Rule 8(a), RLPR.

Each member of the Executive Committee has assigned tasks. The Chair oversees panel assignments pursuant to Rule 4(f), RLPR, oversees the Director's review and reappointment process, and reviews complaints against the Director or staff. The Vice-Chair oversees the timely determination of complainant appeals by Board members and reviews dispositions by the Director that vary from DEC recommendations. One member, currently Carol Cummins, is the liaison to the OLPR; one member, currently Daniel Malmgren, oversees the review of file statistics and aging of files; and one member, currently Robin Wolpert, is responsible for addressing any former employee disqualification matters that arise.

In addition to providing ongoing oversight of case processing this year, the Executive Committee has also been reviewing and updating its policies and procedures, and has held additional meetings for these purposes. The Executive Committee also completed the Director's review this year and recommended reappointment of the Director, which was approved by the Board.

Panels.

All members of the Board, other than Executive Committee members, serve on one of six panels which make probable cause and reinstatement determinations. The Board members who act as Panel Chairs are currently: Cassandra Ward Brown, Christopher Cain, Kenneth Engel, Cheryl Prince, Stacy Vinberg and Todd Wind. All are experienced Board members.

Standing Committees.

The Board has three standing committees. The Opinion Committee, chaired by Todd Wind, makes recommendations regarding the Board's issuance of opinions on issues of professional conduct pursuant to Rule 4(c), RLPR. The Rules Committee, chaired by Cheryl Prince, makes recommendations regarding possible amendments to the Minnesota Rules of Professional Conduct (MRPC), and the RLPR. The DEC Committee, chaired by Kenneth Engel, works with the DECs to facilitate prompt and thorough consideration of complaints assigned to them and assists the DECs in recruitment and training of volunteers.

The Opinion Committee has made no recommendations regarding opinions this year. The Rules Committee has been working jointly with the Minnesota State Bar Association (MSBA) Rules of Professional Conduct Committee to consider proposed amendments to the MRPC based on the American Bar Association's amendments to the Model Rules of Professional Conduct as well as amendments proposed by the MSBA Diversity Committee. The DEC Committee initiated changes to the Web site to provide more information to the public regarding the DECs and has been working with the DECs, as described in more detail in Section IV below.

III. DIRECTOR'S OFFICE.

A. Budget.

1. FY'14 and FY'15 Budgets.

Expenditures for the fiscal year ending June 30, 2014, are projected to be $3,206,830. The FY'15 budget which begins July 1, 2014, and runs through June 30, 2015, projects anticipated expenditures of $3,653,693. The Director's Office budget is funded primarily by lawyer registration fees, and therefore is not dependent upon legislative dollars, as is the judicial branch's overall budget. Nevertheless, at the direction of State Court Administration, the Director's Office did not budget salary increases for FY'15, as has been true for the past five years. However, for FY'15 the Court has provided for a

three percent across-the-board (ATB) increase for judicial branch employees, including the Director's Office. The FY'15 budget reflects this increase. Increased cost for health insurance has also been budgeted. In addition to the new attorney position that has already been added, funds have been allocated to allow for an additional paralegal position and extra staff position, to be filled at some point during the upcoming year, subject to approval by the Court (*see* next section).

The FY'15 budget, once again, includes funds to rebuild the Attorney Disciplinary Record System (ADRS). As projected in 2013, in January 2014 the Director's Office began the multi-step process to secure a vendor to rebuild this unique and complex system. The Director's Office met with vendors regarding the preliminary development and Procise Solutions of Wayzata was chosen to perform the business analysis portion of this project. Once this is complete, it will allow the Director's Office to draft an RFP to put the project out for bid. The business analysis section is expected to be completed by December 2014.

B. Personnel.

The Director's Office now employs 12 attorneys including the Director, 5.5 paralegals, an office administrator, 9 support staff and one law clerk (*see* organizational chart at A. 12).

In September 2013, former Assistant Director Mary Galvin was re-hired as a temporary attorney working three days a week to help while two full-time Senior Assistant Directors were on almost back-to-back three-month leaves. Ms. Galvin's temporary position concluded on May 29, 2014.

In April 2014, Senior Assistant Director Robin Crabb resigned his position with the Director's Office to join the lawyer disciplinary office of the United States Patent and Trademark Office (USPTO) in Alexandria, Virginia.

On May 6, 2014, Nicholas Slade was hired as an Assistant Director to fill the vacancy created by Mr. Crabb's departure. Mr. Slade recently completed a one-year assignment as JAG Trial Counsel with the Minnesota National Guard following seven

years in private practice. Mr. Slade was admitted to practice law in Minnesota in 1996. He is a graduate of Hamline University School of Law.

On June 2, 2014, Binh Tuong was hired to fill a newly created Assistant Director position. Ms. Tuong was formerly with the Minnesota Attorney General's office. Ms. Tuong was admitted to practice law in Minnesota in 1999. She is a graduate of the University of Minnesota Law School.

In August 2013, law clerk Jeana Dahl resigned. She was replaced by law clerk Jennifer Novak. Ms. Novak just completed her second year at the University of St. Thomas School of Law.

On November 12, 2013, Kimberly Ferencik was hired to fill a newly created DEC Volunteer Coordinator/SharePoint Clerk position. This is presently a three-quarter time position created at the recommendation of the Lawyers Professional Responsibility Board to assist and recruit DEC volunteer investigators from 21 districts throughout Minnesota.

C. Web Site and Lawyers Professional Responsibility Board Intranet.

The current OLPR Web site went live in July 2010. The site continues to be updated regularly to ensure it remains current and user friendly. The site contains a substantial amount of useful information regarding the discipline system, as well as services provided by the Director's Office. Attached at A. 13 is a recent print of the home page for the Web site. Additional information about the DEC committees was added this year.

In the last year, at the request of the LPRB, a separate intranet site has been developed for use by the 23-member Lawyers Board, as was a separate site for the Executive Committee. While the LPRB intranet is not used as heavily as the DEC site (*see* p. 27), Board members and OLPR staff are finding additional ways to utilize the intranet for the convenience of all parties.

D. Complainant Appeals.

Under Rule 8(e), RLPR, a dissatisfied complainant has the right to appeal most dismissals and all private discipline dispositions. Complainant appeals are reviewed by a Board member, other than members of the Board's Executive Committee, selected in rotation. During 2013, the Director's Office received 195 complainant appeals, compared to 216 such appeals in 2012. The 187 complainant appeal determinations made by Board members in 2013 were as follows:

		%
Approve Director's disposition	176	94.0
Direct further investigation	10	5.5
Instruct Director to issue an admonition	0	0.0
Instruct Director to issue charges	1	.5

Approximately 52 clerical hours were spent in 2013 processing and routing appeal files. Limited attorney time was expended in reviewing appeal letters and responding to some complainants who continued to correspond even after their appeals were decided.

E. Probation.

Attorney disciplinary probations are an important part of the attorney disciplinary system administered by the Director's Office. Disciplinary probations may be agreed to as part of the resolution of a complaint against a lawyer or they may be required by the Minnesota Supreme Court as a condition of a lawyer's reinstatement to the practice of law. Probations ordered by the Supreme Court are public. Those agreed to between the respondent lawyer and the Director, and approved by the Lawyers Board Chair, are private. The Director may pursue a private probation when the Director concludes that the lawyer's conduct does not warrant public discipline, but is too serious to justify an admonition (pursuant to Rule 8(d)(2), RLPR, the Director may

issue an admonition in any matter where the "Director concludes that a lawyer's conduct was unprofessional but of an isolated and non-serious nature").

In 2013, there were 31 new probations. This represents an increase from the 22 new probations in 2012. Of the 31 new probations in 2013, 18 were public. Of those, nine were ordered by the Court as a condition of reinstatement for attorneys who had been suspended from the practice of law.

Pursuant to Rule 18(e)(3), RLPR, subject to certain conditions, reinstated lawyers are required to pass the professional responsibility portion of the bar exam. "Unless specifically waived by this Court, any lawyer suspended for a fixed period of ninety (90) days or less, and any suspended lawyer for whom the Court waives the requirements of subdivisions (a) through (d), must, within one year from the date of the suspension order, successfully complete such written examination as may be required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility [MPRE]. Except upon motion and for good cause shown, failure to successfully complete this examination shall result in automatic suspension of the lawyer effective one year after the date of the original suspension order."

In 2013, three lawyers who were placed on probation following suspensions had their licenses again suspended, and hence their probations terminated, for failing to comply with this portion of the rules. On June 19, 2012, the Court reinstated attorney Barbara Ann Nimis to the practice of law, conditioned upon her successfully completing the professional responsibility portion of the state bar examination. Ms. Nimis failed to provide the required proof of her successful completion of the MPRE. By order dated June 26, 2013, the Court revoked Ms. Nimis' conditional reinstatement and effectively suspended her probation as well.

Similarly, on August 6, 2012, attorney Douglas Ruhland was conditionally reinstated to the practice of law, subject to his successful completion of the MPRE by June 19, 2013. Mr. Ruhland did not provide the Court with proof that he had passed the exam by the required deadline and in an order dated July 11, 2013, Mr. Ruhland's

reinstatement was revoked and he was again suspended. On October 3, 2013, after Mr. Ruhland provided proof of his successful completion of the MPRE, the Court reinstated him to the practice of law and placed him on supervised probation until August 6, 2014.

In addition to a probation being terminated because of the lawyer's suspension for failing to successfully complete the MPRE, the Director may also seek further discipline and termination of the probation if the lawyer engages in additional misconduct. One case in the past year involves both of these circumstances.

On December 12, 2012, the Court reinstated attorney Vincent Waters to the practice of law and placed him on probation for three years. His reinstatement was conditioned upon his successful completion of the MPRE by July 27, 2013. Mr. Waters failed to do so. By order dated September 4, 2013, the Court revoked Mr. Waters' conditional reinstatement. The Director subsequently filed another petition alleging further misconduct and the Director and Mr. Waters entered into a stipulation for a 90-day suspension. On March 21, 2014, the Court issued its order approving the stipulation and indefinitely suspending Mr. Waters for a minimum of 90 days. Mr. Waters remains suspended.

The types of attorney misconduct that often precedes a disciplinary probation include the lawyer's failure to provide competent or diligent representation to clients, failure to adequately communicate with clients, or failure to follow the requirements governing the lawyer trust accounts. Chemical dependency and mental health concerns also contribute to attorney misconduct and, accordingly, a number of the lawyers on probation have a history of such afflictions. Given this, probations frequently include requirements that promote sound practices to ensure that the conduct does not reoccur or a continued course of mental health treatment, abstinence, and support to ensure continued mental and chemical health. For example, to make sure a probationer is diligently pursuing client matters and communicating with clients, the lawyer may be

required to maintain case lists documenting the nature of the file, upcoming deadlines, communications with clients, and next anticipated action on the file.

Of the new probations in 2013 that resulted at least in part from the lawyer improperly maintaining his or her trust account, a majority of the probationers were required to provide their trust account books and records to the Director for review. Over the course of the probation, most probationers acquire the skills necessary to maintain their trust account books in compliance with the Rules of Professional Conduct.

Four of the new probations in 2013 involved lawyers with mental health issues. As part of these probations, the lawyers were required to treat with a licensed psychologist or other mental health professional acceptable to the Director, to complete all recommended therapy, and to provide the Director with authorizations to confirm compliance with treatment recommendations.

In cases involving chemical dependency issues, the terms of the probation may also require the attorney to demonstrate attendance in a twelve-step program or other abstinence-based program, such as Alcoholics Anonymous or Narcotics Anonymous. When appropriate, the Director may also require completion of a chemical dependency evaluation and the completion of all recommended treatment including in or out-patient treatment and aftercare or psychotherapy.

Probations involving underlying chemical dependency issues may also require the probationer to participate in the Director's random urinalysis (UA) program. In those cases, the probationer is required to call the Director's Office three days a week to determine if UA testing is required. Probationers are obligated to appear for testing, at their own expense, generally four times per month, but on occasion up to six times per month. Depending on the specific terms of the stipulation or order, the Director may decrease the number of tests per month or terminate the UA requirement if the probationer is fully compliant with the terms of the Director's UA program and all tests are negative. Currently, there are nine probationers participating in a random UA

program. Two others are required to participate in a UA program only if they return to the practice of law.

Probation Supervisors. Another common element of probations is the involvement of another lawyer to supervise the probationer. During 2013, 21 Minnesota attorneys served as volunteer probation supervisors. Twelve of the fifteen supervised probations opened in 2013 were supervised by volunteer lawyers who met with the probationers on a regular basis, reviewed the probationers' case lists, and offered suggestions on file management and law office procedures. Generally, supervisors monitor a probationer's legal work, but the Court can require a supervisor to monitor other issues in a probationer's life, such as mental health or sobriety. For example, the Court required one supervisor to monitor the probationer's compliance with the conditions of probation—all of which focused on the probationer's sobriety. In another public probation, the Court ordered the probationer to provide full written disclosure to the supervisor that he had remained abstinent and participated in all recommended treatment.

Not all supervised probations have volunteer supervisors. Where the probationer is unable to locate an appropriate supervisor, the Director will supervise the probationer. In other circumstances, the Director can determine that supervision is unnecessary such as when the probationer is employed outside the practice of law or simply has no clients.

While not every probationer has a supervisor, this does not mean that the probation is "unsupervised." Even in probations with no supervisor, the Director's Office is involved in monitoring various aspects of the lawyer's probation. For example, as indicated above, lawyers with trust account issues are required to submit their trust account books and records to the Director for audit. The Director also monitors probationers' ongoing sobriety and mental health by obtaining medical and mental health records, random urinalysis and other laboratory tests.

Of the probationers whose probations opened in 2013 (and accordingly for whom the Director has data on the nature of their practice while on probation), the majority were either in solo practice or were part of very small (i.e., 2- to 3-person) firms. With the exception of six probationers who were in practice less than ten years, half of the new probations in 2013 involved lawyers with ten or more years of experience. Ten probationers had practiced 30 or more years, including one lawyer with 39 years of practice and another with 42 years' experience.

DISABILITY RELATED PROBATIONS

Psychological Disorders – existing files on 1/1/13	5	
New files opened during 2013	4	
Total Psychological Disorder Related Files		9
Chemical Dependency[4] – existing files on 1/1/13	5	
New files opened during 2013	5	
Total Chemical Dependency Related Files		10
Total Disability Related Probations		19

Upon closing a probation, the Director asks supervisors to complete a survey regarding their practice of law, the probationer's law practice and their supervisory experience. Five probation supervisors (two solo practitioners, one lawyer from a small firm, and two lawyers from firms with more than 15 members) responded to the Director's survey in 2013.

The supervisors volunteered between one and two hours per month traveling to probationers' offices, reviewing client inventories and client files, communicating with probationers (either in-person or by phone and email), and reporting their observations quarterly to the Director. The primary focus of these probations was maintaining and documenting client communications, calendar and docket control systems, file organization, timekeeping and billing issues, improving law office management skills, and, in one probation, transitioning away from litigation.

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[4] Probations involving Alcoholics Anonymous attendance and/or random UAs.

It is not unusual for a supervisor's efforts to go beyond office management issues and focus on the probationer's overall well-being. One supervisor, in addition to telephone consultations and office visits, observed the probationer in the courtroom. Another supervisor focused her supervision solely on the probationer's sobriety.

All of the supervisors surveyed in 2013 were pleased with the probation system. All supervisors, with the exception of one, indicated they would likely serve again and would consider recommending service as a probation supervisor to a friend. Although one probationer's organizational skills were slow to improve, all supervisors responding to the Director's survey in 2013 found their probationers to be cooperative and responsive to their suggestions.

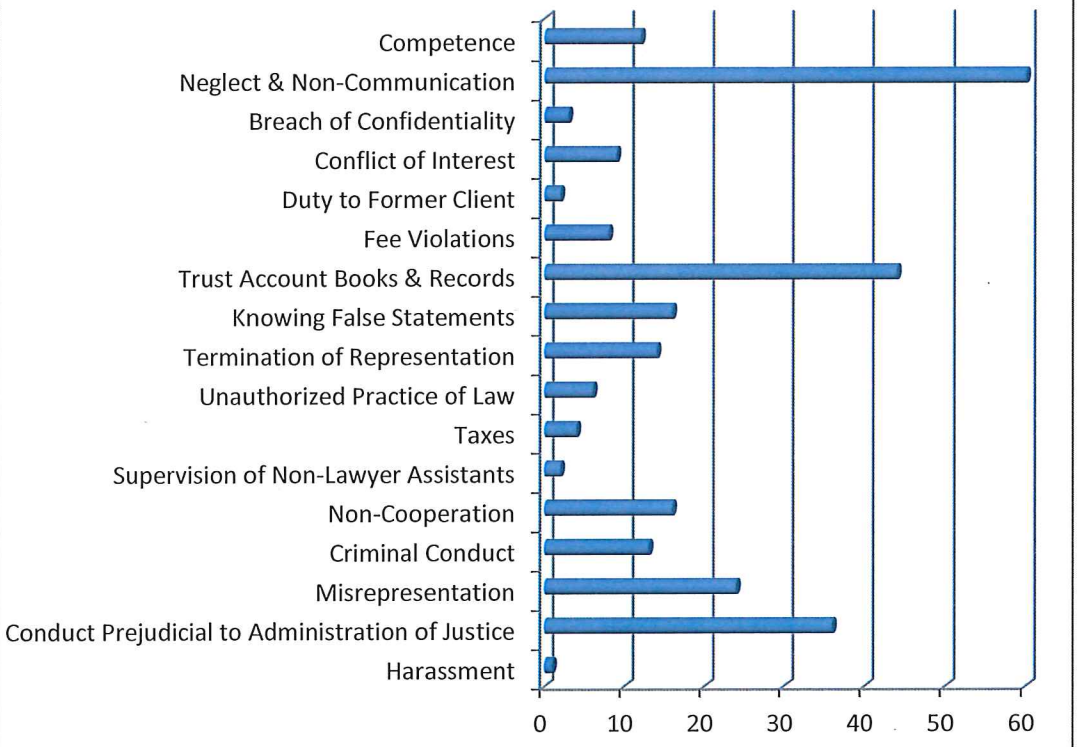
Overall, all supervisors were pleased with the probation system and the support received from the Director's Office. All believed that the purpose of the probation was well served. One supervisor would have liked more information concerning the probationer's disciplinary history and the specific issues needing to be addressed.

PROBATION STATISTICS

TOTAL PROBATION FILES OPEN DURING 2013		
Public Supervised Probation Files (35%)	33	
Public Unsupervised Probation Files (24%)	22	
Total Public Probation Files (59%)		55
Private Supervised Probation Files (10%)	9	
Private Unsupervised Probation Files (31%)	29	
Total Private Probation Files (41%)		38
Total Probation Files Open During 2013		93
TOTAL PROBATION FILES		
Total probation files as of 1/1/13		62
Probation files opened during 2013		31
Public probation extended during 2013		0
Probation files closed during 2013		(32)
Total Open Probation Files as of 12/31/13		61
PROBATIONS OPENED IN 2013		
Public Probation Files		
Court-ordered Probation Files		
Supervised	3	
Unsupervised	6	
		9
Reinstatements		
Supervised	8	
Unsupervised	1	
		9
Total Public Probation Files		18
Private Probation Files		
Supervised	4	
Unsupervised	9	
Total Private Probation Files		13
Total New Probation Files in 2013		31

AREAS OF MISCONDUCT

As reflected in 93 open probations during 2013[5]



Competence (Violation of Rules 1.1 and 1.2, MRPC)	9
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	50
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	2
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	13
Duty to Former Client (Violation of Rule 1.9, MRPC)	2
Fee Violations (Violation of Rule 1.5, MRPC)	8
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	37
Termination of Representation (Violation of Rule 1.16, MRPC)	11
Knowing False Statements to Others (Violation of Rule 4.1, MRPC)	15
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	5
Taxes	5
Supervision on Nonlawyer Assistants (Violation of Rule 5.3, MRPC)	3
Non-Cooperation (Violation of Rule 8.1, MRPC)	18
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	15
Misrepresentation (Violation of Rule 8.4(c), MRPC)	25
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	41

[5] A file may involve more than one area of misconduct.

Probation Department. During 2013 Senior Assistant Director Craig Klausing and Senior Assistant Director Robin Crabb, with the assistance of two paralegals, monitored all probations.

TIME BY PROBATION DEPT. STAFF (hrs./wk.)	
Attorney 1	12
Attorney 2	8
Paralegal 1	8
Paralegal 2	8
TOTAL PROBATION STAFF TIME PER WEEK	36

F. Advisory Opinions.

The number of advisory opinions requested by Minnesota lawyers and judges decreased slightly in 2013. In 2013 the Director's Office received 2,116 requests for advisory opinions, compared to 2,249 in 2012. This represents a six percent decrease over last year. *See* A. 14.

Minnesota attorneys submitted 244 advisory opinion requests via the email link on the OLPR Web site in 2013, compared to 236 requests received in 2012. Like telephone advisory opinion requests, inquiries from the Web site are responded to by telephone.

Advisory opinions are available to all licensed Minnesota lawyers and judges. Advisory opinions are limited to prospective conduct. Questions or inquiries relating to past conduct, third-party conduct (i.e., conduct of another lawyer), questions of substantive law or advertising and solicitation are not answered. Advisory opinions are the personal opinion of the staff lawyer issuing the opinion and are not binding upon the Lawyers Board or the Supreme Court. Nevertheless, if the facts provided by the lawyer requesting the opinion are accurate and complete, compliance with the opinion would likely constitute evidence of a good faith attempt to comply with the professional regulations. As a part of most Continuing Legal Education presentations

by members of the Director's Office, attorneys are reminded of the advisory opinion service and encouraged to make use of it.

Set forth below is a statistical summary of advisory opinions for the period 1991 through 2013:

YEAR	OPINIONS GIVEN BY TELEPHONE	OPINIONS GIVEN IN WRITING	TOTAL OPINIONS GIVEN	OPINIONS DECLINED	TOTAL
1991	1083 (84%)	23 (2%)	1106 (86%)	186 (14%)	1292
1992	1201 (86%)	15 (1%)	1216 (87%)	182 (13%)	1398
1993	1410 (87%)	16 (1%)	1426 (88%)	201 (12%)	1627
1994	1489 (84%)	10 (1%)	1499 (85%)	266 (15%)	1765
1995	1567 (87%)	22 (1%)	1589 (88%)	206 (12%)	1795
1996	1568 (88%)	16 (1%)	1584 (89%)	199 (11%)	1783
1997	1577 (90%)	15 (1%)	1592 (91%)	165 (9%)	1757
1998	1478 (91%)	23 (1%)	1501 (92%)	131 (8%)	1632
1999	1464 (90%)	17 (1%)	1481 (91%)	154 (9%)	1635
2000	1600 (90%)**	28 (2%)	1628 (92%)**	142 (8%)	1770*
2001	1682 (92%)	9 (.5%)	1691 (93%)	133 (7%)	1824
2002	1695 (93%)	15 (.8%)	1710 (94%)	115 (6%)	1825
2003	1758 (93%)	9 (.5%)	1767 (94%)	122 (6%)**	1889
2004	1840 (93%)	3 (.2%)	1843 (93%)	131 (7%)	1974
2005	2041 (94%)	1 (.5%)	2042 (94%)	135 (6%)	2177
2006	2119 (92%)	2 (.8%)	2121 (92%)	186 (8%)	2307
2007	2080 (94%)	2 (.9%)	2082 (94%)	141 (6%)	2223
2008	1982 (93%)	2 (.9%)	1984 (93%)	151 (7%)	2135
2009	2137 (94%)	1 (.4%)	2138 (94%)	144 (6%)	2282
2010	2134 (95%)	2 (.0%)	2136 (95%)	122 (5%)	2258
2011	2080 (99%)	2 (.0%)	2082 (94%)	133 (6%)	2215
2012	2137 (99%)	4 (.0%)	2141 (95%)	108 (5%)	2249
2013	1976 (93%)	3 (.0%)	1979 (94%)	137 (6%)	2116

* 2000 totals revised to reflect additional AOs that were not previously included.

** Percentage amount corrected.

In 2013 the Director's Office expended 323 Assistant Director hours in issuing advisory opinions. This compares with 348 hours in 2012. Dissolution/custody was the

most frequently inquired about area of law. Conflicts of interest was the most frequent area of specific inquiry.

G. Overdraft Notification.

The lawyer trust account overdraft reporting program provided for by Rule 1.15(j) – (o), MRPC, has been in effect since 1990. Since that time, Minnesota banks wanting to maintain lawyer trust accounts have had to be "approved" to do so, by agreeing to report all overdrafts on such accounts to the Director's Office.[6] When the Director receives notice of an overdraft on a lawyer trust account, the Director writes to the account-holder and requests an explanation for the cause of the overdraft and proof that it has been corrected, together with three months of the lawyer's trust account books and records, i.e., bank statements, checkbook register, client subsidiary ledgers, trial balances and reconciliations. The purposes of requesting these books and records are to (1) interpret and verify the account-holder's overdraft explanation, (2) where necessary, educate the account-holder regarding the trust account books and records requirements and assist him/her in conforming his/her trust account books and records to those requirements, and (3) identify shortages and other serious deficiencies requiring discipline.

The number of trust account overdraft notices reported to the Director in 2013 (84) increased slightly from those reported in 2012 (70). The total number of overdraft inquiries closed[7] by the Director in 2013 (80) also increased slightly from those closed in 2012 (71). The percentage of total closings that did not involve conversion to a

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[6] Banks are also required to agree to pay a certain minimum level of interest on lawyer trust accounts.

[7] When the Director receives a satisfactory explanation for the overdraft and is assured that the account-holder is adequately maintaining his/her trust account books and records, the Director will simply close the overdraft notice inquiry without any further action. Where, however, the overdraft appears to have been caused by a shortage in the account-holder's trust account and/or there are other serious deficiencies identified in the account, the Director will convert the overdraft inquiry into a formal disciplinary investigation. These numbers reflect a combination of these two types of overdraft inquiry closings.

disciplinary investigation in 2013 (66 or 83%) was comparable to 2012 (58 or 82%). At the end of 2013, 18 overdraft inquiry files remained open.

Overdrafts Reported by Banks

2013	84
2012	70

Closed Inquiries During 2013

• Closed Without Need for Disciplinary Investigation	66
• Inquiry Converted to Disciplinary Investigation	14
Total Trust Account Inquiries Closed	80

Public Discipline Decisions Related to Trust Account Overdraft Inquiry

Eleven disciplinary matters arising from a trust account overdraft inquiry were resolved in 2013. Three such matters contributed to a public discipline decision:

In re Voss, 830 N.W.2d 867 (Minn. 2013) (disbarment).

In re Skare, 832 N.W.2d 850 (Minn. 2013) (public reprimand/probation).

In re Hummel, 2013 W.L. 5928375 (Minn. 2013) (disbarment).

The other eight disciplinary matters were resolved as follows:

Private probation:	5
Admonition:	3
Dismissal:	0

In 52 (or 79%) of the inquiries closed without a disciplinary investigation, the Director recommended changes or improvements to the lawyer's trust account books, records and/or practices. This is comparable to the percentage of inquiries in which such guidance was given in 2012 (48 or 83%). The most common deficiencies discovered in lawyers' trust account books and records were a lack of proper books, failure to properly reconcile the account and minor unintentional commingling.

In 2013 the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:

Overdraft Cause	**No. of Closings**
Check written in error on TA	7
Bank error	12
Service or check charges	16
Late deposit	4
Mathematical/clerical error	8
Third party check bounced	6
Reporting error	1
Deposit to wrong account	3
Improper/lacking endorsements	1
Bank hold on funds drawn	7
Other	1

Disciplinary File Openings

As noted, the Director will convert an overdraft inquiry into a disciplinary investigation if shortages or other significant problems are identified in the lawyer's trust account books and records, the lawyer fails to respond to the overdraft inquiry or the lawyer's response does not adequately explain the overdraft. During 2013, overdraft inquiries were converted into disciplinary investigations for the following reasons:

Reason for Investigation	
Shortages	2
Response fails to explain overdraft	9
Commingling	2
Other	1
Total	14

Time Requirements

The Director's time requirements to administer the overdraft notification program are as follows:

	1/12-12/12	1/13-12/13
Attorney	94.00	91.25
Paralegal and other staff	144.00	203.00
Total	**238.00**	**294.25**

The total paralegal time requirements in 2013 (182 hours) increased quite significantly from 2012 (126.50 hours). In late 2013, the paralegal assigned to the overdraft program comprehensively reviewed and updated the list of approved institutions in preparation for the Office's January 2014 mailing of updated agreements to all approved institutions. The process of reviewing and updating the list of approved institutions accounts for the increased paralegal time requirements in 2013.

H. Judgments and Collections.

In 2013 judgments were entered in 48 disciplinary matters totaling $57,001.17. The Director's Office collected a total of $40,146.87 from judgments entered during or prior to 2013.

A comparison of the 2012 statistics and 2013 statistics is presented below:

	2012	2013
Number of judgments entered:	34	48
Dollar value of judgments entered:	$33,412.09	$57,001.17
Total amount collected:	$25,545.22	$40,146.87
Portion attributable to current year's judgment:	$20,111.69	$32,619.55
Portion attributable to judgments of prior years:	$4,533.53	$7,527.32

Twenty-eight out of the 48 judgments entered in 2013 were paid in full during the 2013 calendar year. Three additional judgments are being paid in monthly installments pursuant to signed payment agreements. The Director's Office collected more in 2013 than it has each year for the past 12 years.

I. Disclosure.

1. Department Function.

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with a properly executed authorization from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. Public

discipline information also is available through the OLPR Web site. These informal telephone requests and responses are not tabulated.

2. Source and Number of Written Requests for Disclosure. Calendar Year 2013.

		# of Requests	# of Attorneys	Discipline Imposed	Open Files
A.	National Conference of Bar Examiners	188	188	1	1
B.	Individual Attorneys	367	367	15	6
C.	Local Referral Services				
	1. RCBA	16	26	0	0
	2. Hennepin County	3	212	4	1
D.	Governor's Office	19	71	4	0
E.	Other State Discipline Counsels/State Bars or Federal Jurisdiction	76	76	0	0
F.	F.B.I.	15	15	1	1
G.	MSBA: Specialist Certification Program	12	147	11	3
H.	Miscellaneous Requests	25	68	0	0
	TOTAL	**721**	**1170**	**36**	**12**
	(2012 Totals)	(727)	(1221)	(53)	(8)

3. Press Releases.

The disclosure department also handles the issuance of press releases, which are issued upon the filing of contested public petitions seeking suspension or disbarment, and again with every Supreme Court public disciplinary decision. The Director's Office continues to see an increase in the number of news organizations requesting to be added to the list of recipients of news releases issued by the Office.

J. Trusteeships.

Rule 27(a), RLPR, states:

Appointment of Trustee. Upon a showing that a lawyer is unable to properly discharge responsibilities to clients due to disability,

> disappearance or death, or that a suspended, disbarred, resigned, or disabled lawyer, or a lawyer whose conditional admission has been revoked, has not complied with Rule 26, and that no arrangement has been made for another lawyer to discharge such responsibilities, this Court may appoint a lawyer to serve as the trustee to inventory the files of the disabled, disappeared, deceased, suspended, disbarred or resigned lawyer, or a lawyer whose conditional admission has been revoked, and to take whatever other action seems indicated to protect the interests of the clients and other affected parties.

The Director's Office was assigned two new trusteeships this year. On October 7, 2013, the Director was appointed trustee of the client files of George C. Riggs. Mr. Riggs passed away on February 1, 2013. The Director's Office took possession of and inventoried files relating to approximately 1,125 clients and is currently in the process of returning the files to former clients.

On November 20, 2013, the Director was appointed trustee of the client files of Joseph Awah Fru. It is believed that in or around October 2013, Mr. Fru abandoned his practice. The Director's Office took possession of the files relating to approximately 819 clients. The Director's Office is currently in the process of returning the files to former clients. This process was slowed because the files were extremely disorganized, the bulk of the files are immigration matters and identification of clients and associated parties was challenging; and the Director's Office had limited staffing resources available to focus on this project.

In August 2013, 150 boxes of files relating to the Steven K. Marden trusteeship were destroyed. These files were previously deemed to be contaminated by State Risk Management and pursuant to Supreme Court order, were destroyed without being inventoried.

Other trusteeship activities were:

- In September 2013 in accordance with Supreme Court order, 224 files relating to the William J. Platto trusteeship were expunged.

- In October 2013 in accordance with Supreme Court order, 4,800 files relating to the Centro Legal, Inc. trusteeship were expunged.

- In December 2013 in accordance with Supreme Court order, six (6) files relating to the Alfred Edwall trusteeship were expunged.

- In January 2014 in accordance with Supreme Court order, 442 files relating to the Albert A. Garcia trusteeship were expunged.

- In April 2013 the Director's Office was appointed trustee of the trust account of deceased attorney George C. Riggs. This trust account will be closed at the conclusion of the Riggs client files trusteeship matter.

- In July 2013 the Director's Office was appointed trustee of the trust account of deceased attorney Sandra K. Agvald. These client funds have been disbursed and a petition for discharge is pending before the Court.

The Director's Office continues to retain the following files:

- Deno Walter Berndt trusteeship—494 files which are eligible for expunction in March 2016.

- Steven K. Marden trusteeship—149 files which are eligible for expunction in March 2017.

Storage space continues to be maintained in the building for the long-term storage of trusteeship files.

K. Professional Firms.

Under the Minnesota Professional Firms Act, Minn. Stat. § 319B.01 to 319B.12, professional firms engaged in the practice of law must file an initial report and annual reports thereafter demonstrating compliance with the Act. The Director's Office has handled the reporting requirements under this statute since 1973. Annual reports are sought from all known legal professional firms, which include professional corporations, professional limited liability corporations and professional limited liability partnerships. The filing requirements for professional firms are described on the OLPR Web site.

Professional firms pay a filing fee of $100 for the first report and a $25 filing fee each year thereafter. In reporting year 2012,[8] there were 154 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2014, the Director's Office received $66,675 from 2,308 professional firm filings. There were 91 new professional firm filings for the reporting year. The Director's Office received $79,650 during fiscal year 2013.

An Assistant Director, paralegal, and file clerk staff the professional firms department in the Director's Office. The work rarely requires direct attorney involvement. For reporting year 2013 (as of April 30, 2014), the total attorney work time for overseeing the professional firms department was 14 hours. The total non-attorney work time was 720 hours.

IV. DISTRICT ETHICS COMMITTEES.

Minnesota is one of a few jurisdictions that extensively use local DECs to conduct the preliminary investigation of the majority of ethics complaints. The Supreme Court Advisory Committee considered the continued vitality of the DEC system in 2008 and determined that the Minnesota system continues to work well, and strongly urged its continuation. Each DEC is assigned a staff lawyer from the OLPR as a liaison to that DEC.

Initial review of complaints by practitioners and nonlawyers is valuable in reinforcing confidence in the system. The overall quantity and quality of the DEC investigative reports remain high. For calendar year 2013, the Director's Office followed DEC recommendations in 86 percent of investigated matters that were closed during the year. Many of the matters in which the recommendation was not followed involved situations in which the DEC recommended a particular level of discipline, but the Director's Office sought an increased level of discipline. This typically involved attorneys with substantial prior relevant discipline that was not considered by the DEC

[8] December 1, 2012 – November 30, 2013.

in making its recommendation. These matters are counted as not following the DEC recommendation.

In 2013 the monthly average number of files under DEC consideration was 140, fluctuating between a low of 113 and a high of 158. The year-to-date average for 2014 has decreased to 134 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of the investigation. For the calendar year 2013, the DECs completed 449 investigations, taking an average of four months to complete each investigation. The Hennepin DEC is the state's largest district and Hennepin statistics are separately monitored. In calendar year 2013, 182 matters were referred back to the Director's Office from the Hennepin DEC; it took an average of 3.8 months to complete the DEC investigation of these matters. Thirteen matters were withdrawn.

For calendar year 2013, of the completed DEC investigations statewide, the following dispositions were made (measured by number of files rather than lawyers):

Determination discipline not warranted	294
Admonition	89
Private probation	7
Disability	2
Suspension	11
Disbarment	7

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, October 3, 2014. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are invited. The seminar again will be held at the Ramada Plaza Minneapolis. Active DEC members are able to attend the annual DEC Seminar at no cost.

The Lawyers Board DEC Committee continues its efforts to review the DEC process and make recommendations for improvement. A continuing aim of that committee is to ensure that all DECs have the requisite number of nonlawyer members.

Rule 3(a)(2), RLPR, requires that at least 20 percent of each DEC be nonlawyers. Ten districts presently are not in full compliance. The committee is addressing how best to assist the DECs in meeting this requirement.

On May 2, 2014, the Third Annual DEC Chairs Symposium, sponsored by the Lawyers Board DEC Committee, was held. There, members of the Board and staff members from the Director's Office discussed a variety of DEC issues with an emphasis on improving the DEC process. Recruitment, training, investigation, meaningful participation of all committee members, and the relationship between the DECs and the OLPR liaisons was discussed.

The OLPR hired this past year Kimberly Ferencik to fill a newly created position in the office – DEC Volunteer Coordinator/SharePoint Clerk. Kim assists in monitoring the makeup of the DECs, assists in DEC recruitment and training, monitoring investigation progress, serves as a SharePoint resource, and assists the OLPR liaisons in matters regarding the DECs.

Each of the DECs is assigned a lawyer from the OLPR to serve as liaison to the DEC. The OLPR liaisons have been urged to try to meet with each of their DECs at least once a year to work on training and recruitment and to discuss any issues that the DECs might wish to raise.

The Office continues to implement and improve the SharePoint intranet project to facilitate effective involvement of, and communication between, DEC members by making it easier for DEC investigators to share reports and proposed recommendations and provide input. SharePoint intranet permits DEC members to post reports and recommendations on a secure Web site available only to the Office and the DEC members. DEC members are able to discuss the report and vote on the proposed recommendation via the intranet. Additionally, DEC members have access to a variety of resources through the intranet. As of May 1, 2013, a training session on the SharePoint intranet had been presented to all DECs.

The DECs provide a valuable service to the lawyer discipline system. The Board and the Office remain committed to the support and training of DEC volunteers, both lawyer members and public members.

V. FY2015 GOALS AND OBJECTIVES.

Implementation of the Board's recommendations to assist the DECs with recruitment and timely resolution of investigations will be an ongoing project this coming year. The process of building a new data and record-keeping system for the OLPR will be important to the long-term effectiveness of the system. The speedy processing of complaints, reduction of the overall number of open files, and particularly those matters that are more than a year old and still in investigation remains a major goal for the next year.

Dated: July 11, 2014.

Respectfully submitted,

MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY

and

JUDITH M. RUSH
CHAIR, LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

Judith M. Rush, St. Paul - Attorney member; current LPRB Chair; term expires January 31, 2016. Director of Mentor Externship, University of St. Thomas School of Law; served 6 years as member of the Lawyers Board and served 6 years on the Ramsey County District Ethics Committee. Areas of expertise: appellate and family law and ethics and professional liability advisory work.

Nancy Zalusky Berg, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2015. LPRB Vice-Chair and serves on the Executive Committee. Serves on the LPRB DEC Committee. Served on Hennepin County District Ethics Committee for 18 years. Founder of Walling, Berg & Debele, P.A. Areas of expertise: Family and juvenile.

Joseph P. Beckman, Edina - Attorney member. MSBA nominee. Term expires January 31, 2017. Partner in the law firm of Hellmuth & Johnson. Areas of expertise: Business Transactions (corporate governance, commercial transactions, technology); Criminal Litigation (contract disputes, business break-ups, insurance coverage).

Cassandra K. Ward Brown, Minneapolis - Attorney member. Term expires January 31, 2015. Serves on the LPRB Rules Committee. Served on Hennepin County District Ethics Committee for 6 years. Areas of expertise: Civil litigation (employment; insurance; school).

Christopher D. Cain, Mankato - Attorney member. MSBA nominee; term expires January 31, 2016. Serves on the LPRB DEC Committee. Assistant City Attorney for the City of Mankato. Served 5 years on the Sixth District Ethics Committee. Adjunct Professor Minnesota State University – Mankato. Areas of expertise: Criminal law and forfeitures.

Paul F. Carlson, Wadena - Attorney member. Term expires January 31, 2017. Served on Seventh District Ethics Committee for six years. Partner in the law firm of Kennedy, Carlson & Van Bruggen. Focus on civil litigation and defense of electrical cooperatives in liability cases throughout the State of Minnesota. Veteran of the U.S. Army and was awarded two Army Commendation Medals and the Korea Defense Service Medal.

James P. Cullen, Minneapolis - Attorney member. MSBA nominee. Term expires January 31, 2017. Served on Hennepin County District Ethics Committee for eight years. Owner of Cullen Law Firm, Ltd.

Carol E. Cummins, Golden Valley - Public member. Term expires January 31, 2015. Serves on LPRB Executive Committee. Serves on LPRB DEC Committee and as LPRB liaison to Director's Office. Served on Hennepin County District Ethics Committee for 6 years. Consultant/Principal at Brookridge Consulting, LLC. Areas of expertise: Law firm management; ethics in intellectual property law practice; human resources and employee benefits.

Norina Jo Dove, Minneapolis - Public member. Term expires January 31, 2016. Employed as a Senior Paralegal and Business Manager at Marilyn J. Michales & Associates, P.A. Areas of expertise: Family Law, Debtor/Creditor, Real Estate and Business Litigation.

Kenneth S. Engel, Minneapolis - Attorney member. Term expires January 31, 2016. Chair of LPRB DEC Committee. Serves on the LPRB Rules Committee. Served on Hennepin County District Ethics Committee for 4 years. Attorney in the firm of Engel Professional Association. Areas of expertise: Real estate, corporate, merger/acquisition/disposition, finance, and business/family business succession planning law, and strategic advisory counsel. Experience also in construction, entrepreneurial private placement/PPM, entity formation and governance, franchising and employment law.

Roger Gilmore, Brooklyn Park - Public member. Term expires January 31, 2017. Served 10 years on Hennepin County District Ethics Committee. Served as member of the Supreme Court Advisory Committee to Review Lawyer Discipline System 2007-2008. Retired Captain, U.S. Navy Supply Corps., and retired Manager, FMC Corporation, Fridley. Areas of expertise: Defense Department contracting; contract administration and claims resolution; logistic support; program management; community mediation.

Nancy L. Helmich, Minneapolis - Public member. Term expires January 31, 2017. Retired. Serves on LPRB Rules Committee. Formerly Senior Civil Litigation Paralegal at the Office of the Minnesota Attorney General for 29 years.

Mary L. Hilfiker, St. Paul - Public member. Term expires January 31, 2017. Served on Second District Ethics Committee. Consultant for Indian Education for University of Wisconsin and DOE. Areas of expertise: Special education, mediation, arbitration, investigation.

Gary M. Hird, St. Paul - Attorney member. MSBA Nominee. Term expires January 31, 2015. Serves on the LPRB Rules Committee. Served on 10th District Ethics Committees. Chief Operating Officer, Southern Minnesota Regional Legal Services, Inc. (SMRLS). Areas of expertise: Family, real estate, bankruptcy, juvenile, criminal and corporate law as well as labor relations.

Anne M. Honsa, Minneapolis - Attorney member. Term expires January 31, 2016. Served on the Fourth District Ethics Committee for 12 years - 4 years as Vice-Chair. Founder of Honsa & Associates, P.A. Area of expertise: Family Law.

Bentley R. Jackson, St. Paul - Public member. Term expires January 31, 2017. Adjunct Instructor at Rasmussen College - Law Enforcement Skills Program and Mankato State University. Retired Burnsville police officer. Areas of expertise: Criminal, internal, and forensic investigations.

Michael J. Leary, Burnsville - Public member. Term expires January 31, 2016. Served on the First District Ethics Committee for 2 years and the Second District Ethics Committee for 3 years. Retired as Executive Vice President of International Dairy Queen, Inc. Areas of expertise: Mediation and arbitration; management and contract issues.

Daniel Malmgren, Marine on St. Croix - Public member. Term expires January 31, 2015. Serves on LPRB Executive Committee. Peace Officer, Lecturer and Adjunct Faculty member for several colleges. Areas of expertise: Data Practices, complaint investigation, employment law, criminal law.

Cheryl M. Prince, Duluth - Attorney member. Term expires January 31, 2016. Chair of LPRB Rules Committee. Serves on LPRB DEC Committee. Shareholder in the Duluth firm of Hanft Fride, P.A. Served on Eleventh District Ethics Committee for many years, including 6 years as Chair. Areas of expertise: Family law and mediation.

Stacy L. Vinberg, Granite Falls - Lawyer member. Term expires January 31, 2017. Serves on LPRB DEC Committee. Assistant County Attorney for the Yellow Medicine County Attorney's Office. Served on Twelfth District Ethics Committee for 10 years, including one year as Chair. Areas of expertise: real estate transactions, criminal prosecution, family law and probate.

Terrie S. Wheeler, Rush City - Public member. Term expires January 31, 2015. Serves on LPRB DEC Committee. Served on Hennepin County District Ethics Committee for 2 years. President of Professional Services Marketing, Inc. for over 20 years. Areas of expertise: Strong background in ethical marketing practices for lawyers, marketing consulting and coaching for lawyers, marketing CLE presenter.

Todd A. Wind, Minneapolis - Lawyer member. Term expires January 31, 2017. Chair of LPRB Opinion Committee. Shareholder in the firm of Fredrikson & Byron. Served on Hennepin County District Ethics Committee from 1998 to 2010 as investigator, Vice-Chair and Chair. Areas of experience: civil litigation, antitrust, employment and construction.

Robin M. Wolpert, St. Paul - Attorney member. MSBA nominee. Term expires January 31, 2016. Serves on LPRB Executive Committee. Served on Nineteenth District Ethics Committee for 7 years. Employed as Assistant County Attorney, Washington County Attorney's Office.

The graph below shows the number of disbarments, suspensions, probations and reinstatements ordered by the Supreme Court over the last ten years. Clearly, these are the four largest public professional responsibility categories handled by the Director's Office and reviewed by the Court. The table below the graph indicates the variety of matters and exact number of Supreme Court dispositions and reinstatements since 2004.

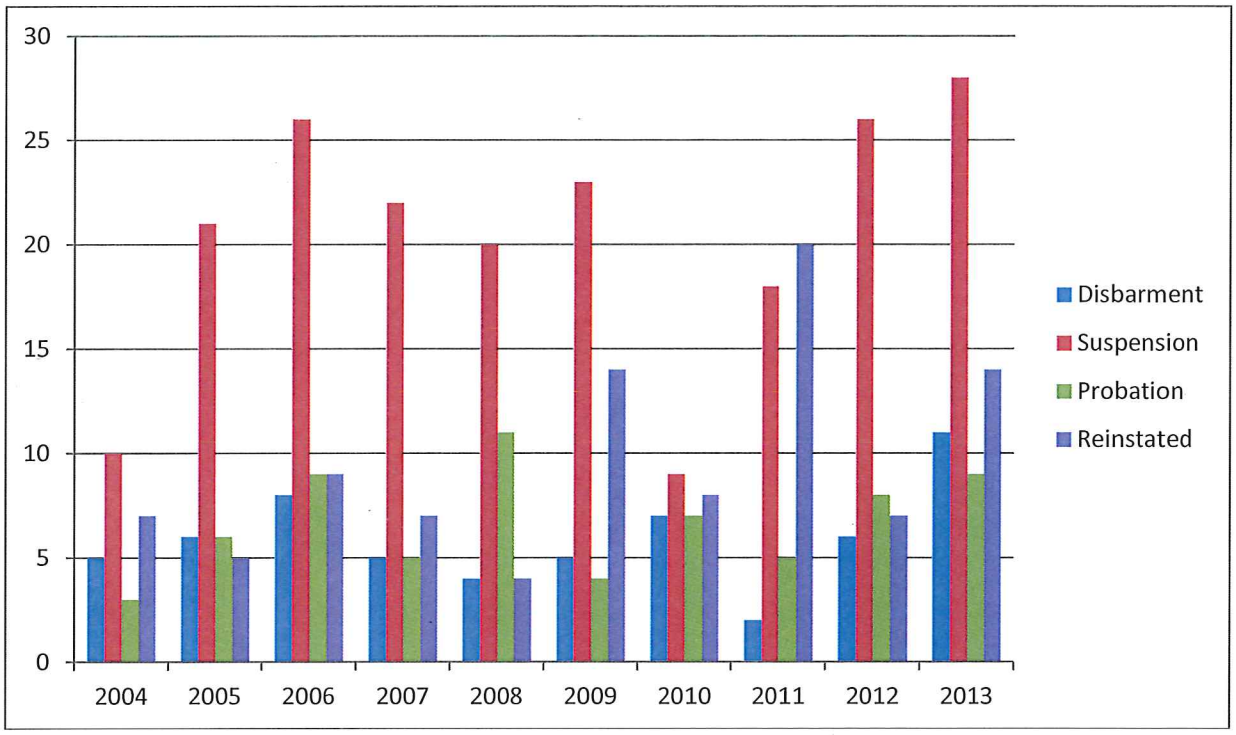
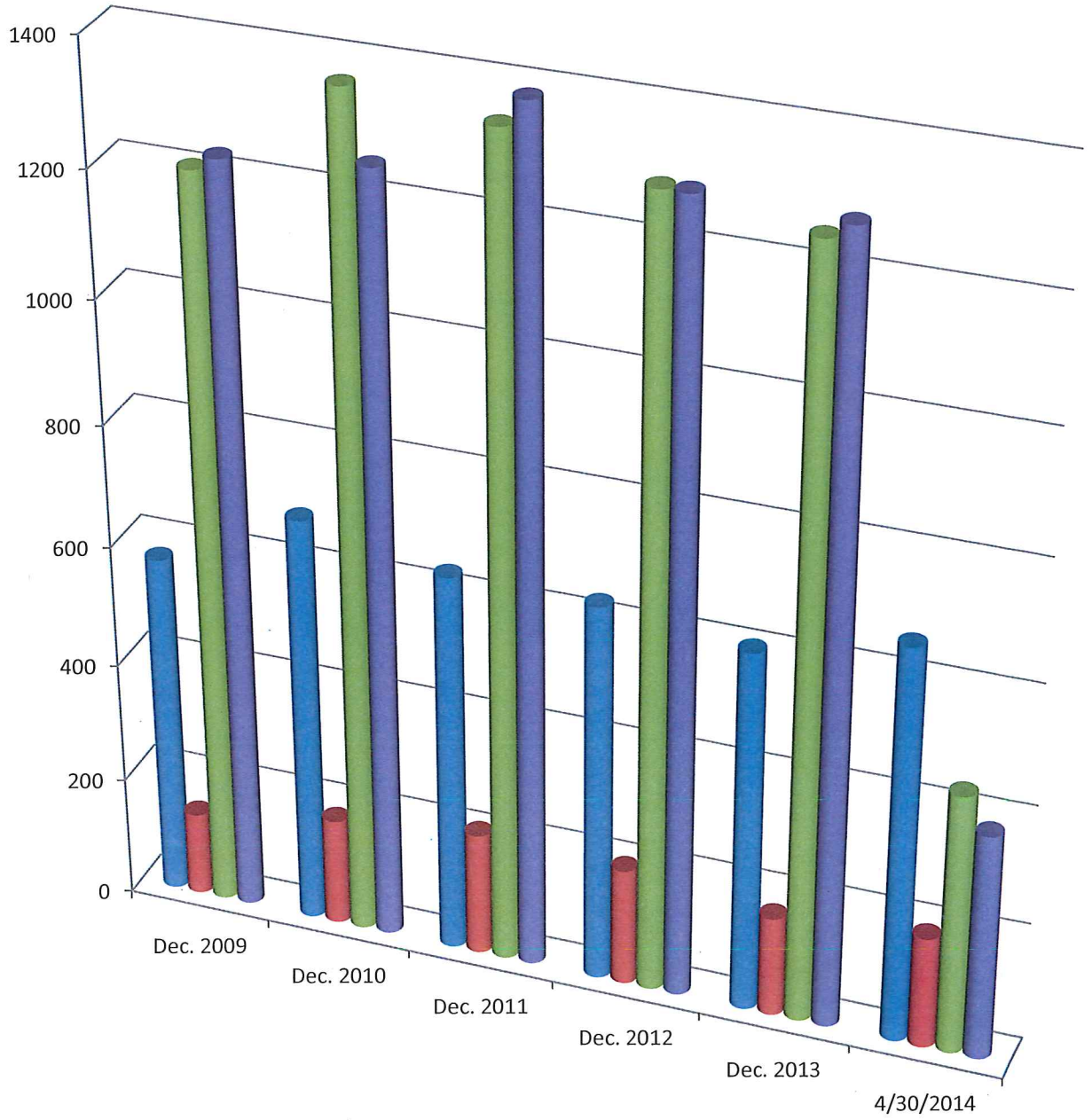


TABLE I
Supreme Court Dispositions and Reinstatements 2004-2013
Number of Lawyers

	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstate Denied	Disability	SC AD/Aff	Other	Total
2004	5	10	3	1	-	7	1	1	-	-	28
2005	6	21	6	1	-	5	-	2	1	-	42
2006	8	26	9	5	-	9	-	2	-	7*	67
2007	5	22	6	-	-	7	2	-	1	-	43
2008	4	20	11	2	-	4	2	2	-	-	45
2009	5	23	4	6	-	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	-	20	-	1	-	-	48
2012	6	26	8	1	1	7	-	-	-	-	49
2013	11	28	9	4	-	14	-	2	-	-	68

* 4 Supreme Court stays, 3 reinstated to retired status, 1 conditional reinstatement pending.

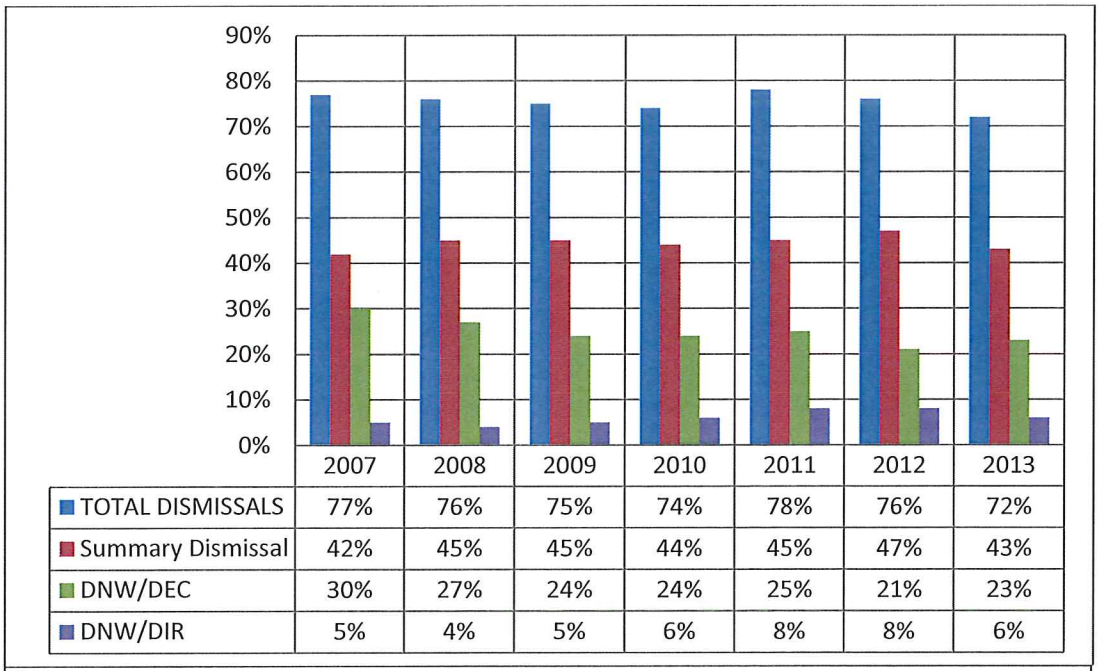
TABLE II



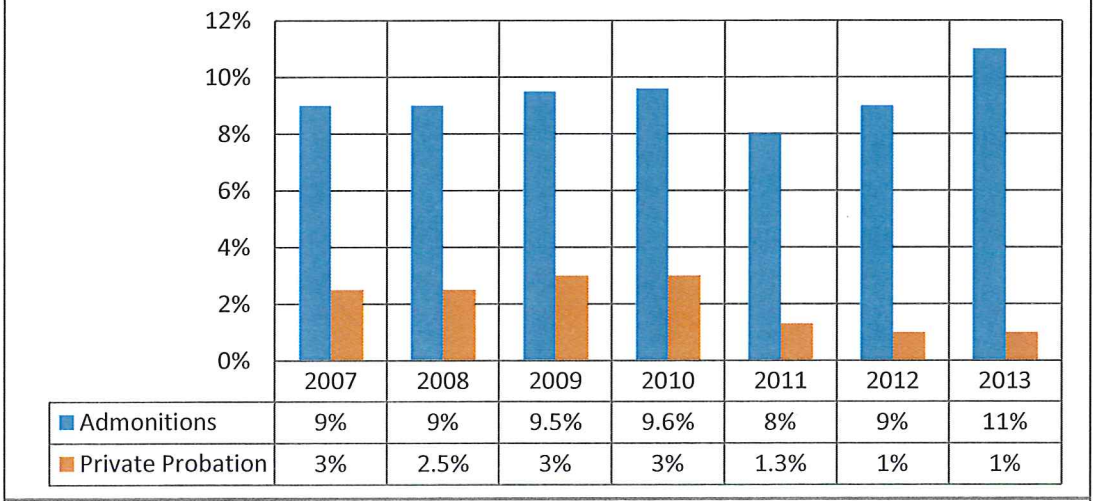
	Dec. 2009	Dec. 2010	Dec. 2011	Dec. 2012	Dec. 2013	4/30/2014
Total Open Files	572	682	634	632	605	662
Cases at Least One Year Old	139	179	206	197	168	188
Complaints Received YTD	1,206	1,365	1,341	1,287	1,253	438
Files Closed YTD	1,229	1,252	1,386	1,287	1,279	381

TABLE III

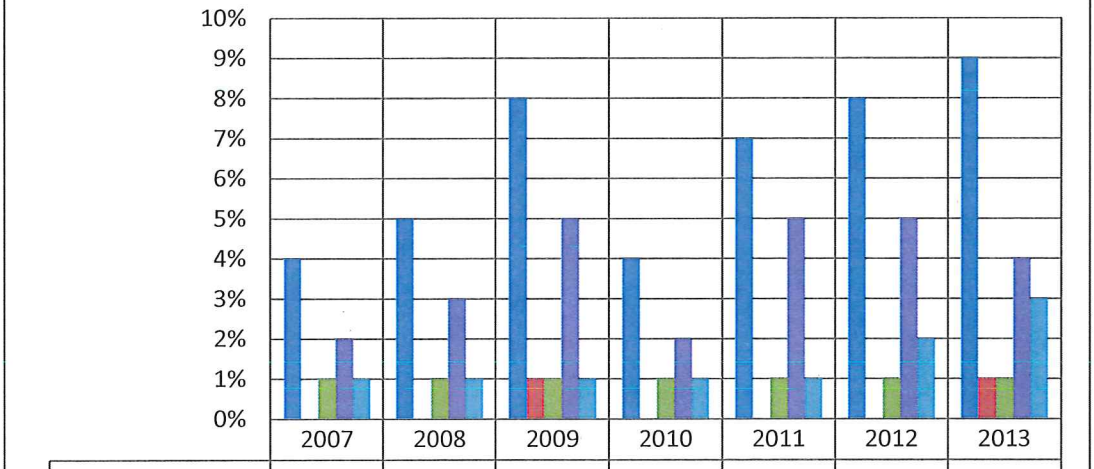
Percentage of Files Closed



	2007	2008	2009	2010	2011	2012	2013
TOTAL DISMISSALS	77%	76%	75%	74%	78%	76%	72%
Summary Dismissal	42%	45%	45%	44%	45%	47%	43%
DNW/DEC	30%	27%	24%	24%	25%	21%	23%
DNW/DIR	5%	4%	5%	6%	8%	8%	6%



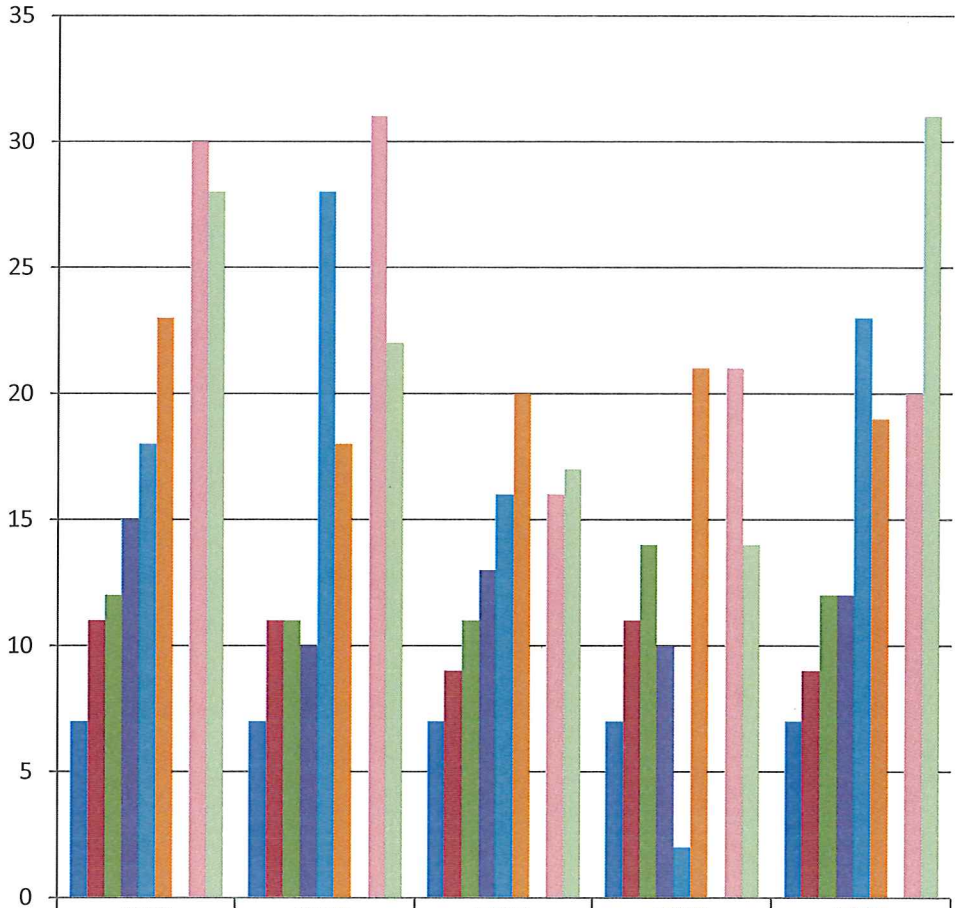
	2007	2008	2009	2010	2011	2012	2013
Admonitions	9%	9%	9.5%	9.6%	8%	9%	11%
Private Probation	3%	2.5%	3%	3%	1.3%	1%	1%



	2007	2008	2009	2010	2011	2012	2013
SC DISPOSITIONS	4%	5%	8%	4%	7%	8%	9%
SC Reprimand	0%	0%	1%	0%	0%	0%	1%
SC Probation	1%	1%	1%	1%	1%	1%	1%
SC Suspension	2%	3%	5%	2%	5%	5%	4%
SC Disbarment	1%	1%	1%	1%	1%	2%	3%

TABLE IV

Number of Months File was Open at Disposition



	2009	2010	2011	2012	2013
*DNW/DEC**	7	7	7	7	7
DNW/Director	11	11	9	11	9
Admonition	12	11	11	14	12
Private Probation	15	10	13	10	12
S.Ct. Reprimand	18	28	16	2	23
S.Ct. Reprimand & Probation	23	18	20	21	19
S.Ct. Suspension & Probation	0	0	0	0	0
S.Ct. Suspension	30	31	16	21	20
S.Ct. Disbarment	28	22	17	14	31

*Discipline Not Warranted
**District Ethics Committee

2013 OLPR Summary of Public Matters Decided
68 Decisions Involving 131 Files

Disbarment	33 *files*	11 *attorneys*
HAUGE , TERRI A	A13-794	1
HAWKINS , ALLAN R III	A11-1454	1
HUMMEL , TUCKER JOSEPH	A11-2072	2
JAEGER , HUGH D PA	A12-1184	4
JONES , HARVEY N	A11-1715	1
MCDONAGH , ALAN MARTIN	A11-1266	1
MORRIS , WILLIAM JOHN JR.	A12-943	1
PITERA , BRIAN LOUIS	A12-274	4
ULANOWSKI , LAWRENCE WALTER	A12-846	2
VOSS , BARRY V	A11-2038	15
WALCOTT , TERRY M FITZPATRICK	A11-224	1

Suspension	48 *files*	28 *attorneys*
AHL , VICKI M	A12-603	1
ANDERSON , SUSAN R	A13-1173	3
DUCHON , JAMES CARL	A12-1819	1
FRU , JOSEPH AWAH	A11-1693	7
FUNDAUN , ARLIE MARTIN	A13-65	3
GLASSER , SUSANNE MARIE	A11-2126	1
GRIFFIN , ALFRED AARON	A12-1081	1
GRIFFITH , CLARK CALVIN II	A12-2124	1
JENSEN , PATTI JO	A12-2087	1
KOBLE , AMANDA LYN	A13-184	1
LOWE , THOMAS P	A12-1159	1
MCCLOUD , SAMUEL A	A11-1547	1
MCCOLLISTER , MATTHEW DAVID	A13-633	1
MCCORMICK , DAVID LAWRENCE	A11-1052	1
MICHAEL , LORI MAE	A12-1101	1
NETT , REBEKAH MARIYA	A12-1442	1
NICKITAS , PETER JAMES	A12-821	1
NIMIS , BARBARA ANN	A11-1279	1
NIPPER , TIMOTHY THOMAS	A12-574	2
ONYEMEH SEA , BOBBY GORDON	A13-917	1
PETROS , CHRISTOPHER STEPHEN	A13-1003	3
PETTY , RICHARD WAYNE	A13-531	2
PLUNKETT , PETER DANIEL	A12-1631	1
RUHLAND , DOUGLAS A	A11-2265	1
SANNES , JON K	A13-683	1
STOCKMAN , LOUIS ANDREW	A12-1295	6
TAPLIN , LYNN M	A12-2002	2
WATERS , VINCENT FRANCIS	A12-1830	1

Reprimand & Probation	18 *files*	9 *attorneys*
AHOLA , AMBER JULIE	A12-1564	1
BARNETT , GARRY D	A11-1510	5
FISCHER , BRIAN CAMPBELL	A13-1431	4
GALL , JORDAN EDWARD	A13-657	1
JOHNSON , MARY IRENE	A13-855	1
KENNEDY , DUANE A	A13-755	2
KLEINSMITH , PHILIP MARTIN	A13-175	1
MILLER , ROBERT D	A13-1429	2
SKARE , THOMAS MICHAEL	A13-889	1

Reprimand	8 *files*	4 *attorneys*
BURNS , PATRICK CHRISTOPHER	A12-878	5
HANKEY , BLAKE DYLAN	A13-705	1
KALK , JACQUELINE ELISE	A12-2130	1
MAXIM CARLSON , ALLISON WILES	A13-1091	1

Disability Inactive Status	24 *files*	2 *attorneys*
BUCHANAN , SHANA GAIL	A12-163	7
CLARK , JILL ELEANOR	A12-326	17

Reinstatement	5 *files*	5 *attorneys*
JENSEN , PATTI JO	A12-2087	1
KOBLE , AMANDA LYN	A13-184	1
MCCOLLISTER , MATTHEW DAVID	A13-633	1
MCCORMICK , DAVID LAWRENCE	A11-1052	1
SANNES , JON K	A13-683	1

Reinstatement & Probation	9 *files*	9 *attorneys*
AITKEN , ROBERT H III	A09-1066	1
CROSBY , ANTHONY DURRIELL	A12-704	1
ELLENBECKER , JOHN D	A12-333	1
GLASSER , SUSANNE MARIE	A11-2126	1
LIEBER , DANIEL MARTIN	A10-1705	1
MICHAEL , LORI MAE	A12-1101	1
NICKITAS , PETER JAMES	A12-821	1
RUHLAND , DOUGLAS A	A11-2265	1
STANEK , JON ELTON	A12-525	1

PUBLIC DISCIPLINE DECISIONS 1984-2014 Avg. = 34.3 (*- as of June 2, 2014)

Year	Disbarments	Suspensions (all)	Probations	Reprimands	Total
1984	3	8	5	4	20
1985	4	13	**13**	**12**	42
1986	7	17	2	4	30
1987	5	18	4	7	34
1988	4	22	7	5	38
1989	5	19	8	3	35
1990	8	**27**	10	10	**55**
1991	8	14	10	6	38
1992	7	16	7	5	35
1993	5	15	12	3	35
1994	8	5	7	0	20
1995	6	**27**	8	4	45
1996	4	**27**	5	0	36
1997	10	16	7	2	35
1998	**15**	18	10	2	45
1999	3	12	6	0	21
2000	6	19	10	2	37
2001	3	15	9	2	29
2002	4	18	6	1	29
2003	6	14	4	0	24
2004	5	10	3	1	19
2005	6	22	6	1	35
2006	8	26	9	5	48
2007	5	21	5	0	31
2008	4	20	11	2	37
2009	5	23	4	6	38
2010	7	9	7	3	26
2011	2	17	5	2	26
2012	6	24	8	1	39
2013	11	23	8	5	47
2014*	2	10	4	1	17
TOTALS	**182**	**545**	**220**	**99**	**1046**

Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2013 – June 2014

Date	Topic	Location	Organization
7/26/13	MN Legal Services	Minneapolis	Fredrikson & Byron
8/22/13	Estate Planning for Nontraditional Families Webcast	Minneapolis	MNCLE
9/18/13	Family Law in the Barbarian Codes	Minneapolis	More Law
9/20/13	Ethical Concerns and Pitfalls in Taking *Pro Bono* Cases	Minneapolis	Legal Services State Support Fredrikson & Byron
9/24/13	Navigating the Attorney Discipline Process	Minneapolis	Fredrikson & Byron
9/27/13	Public Defenders CLE: Chemical Dependency, Mental Health and Ethics Issues	Roseville	Teamsters Local 320
9/27/13	ICWA		Phone/WebEx
10/8/13	MFSRC Seminar	St. Cloud	MFSRC
10/17/13	Paralegal Ethics	Minneapolis	PACE Study Group
10/24/13	Ethics Seminar	Minneapolis	Briggs & Morgan
10/25/13	3rd District Public Defender Seminar	Rochester	3rd District Public Defenders
10/29/13	Seminar	Minneapolis	Lindquist & Vennum
11/1/13	Speak at St. Thomas Law School	Minneapolis	St. Thomas Law School
11/8/13	1st Judicial District Judicial Clerks Seminar	Chaska	1st Judicial District
11/12/13	Speak at U of M Law School class	U of M	U of M Law School
11/13/13	Speak at West Metro CLE	Excelsior	West Metro CLE
11/13/13	Rebutting the Presumption-Overcoming the Stigma of Addiction in the Legal Profession	Minneapolis	
12/4/13	Technology, Social Media & Ethics	Minneapolis	MSBA/MNCLE
12/10/13	Criminal Law Ethics Seminar	Minneapolis	MNCLE
12/13/13	HCBA Professionalism Committee	Minneapolis	HCBA
1/7/14	Employment Law Seminar	Minneapolis	MNCLE
1/13/14	Moderate Seminar Replay		MNCLE
1/15/14	School Attorneys Seminar	Minneapolis	MSAA
1/16/14	Real Estate Practice Seminar	Minneapolis	MNCLE
2/7/14	Technology and the Law	St. Cloud	Stearns County Bar
2/8/14	Minnesota Association of City Attorneys	Bloomington	

Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2013 – June 2014

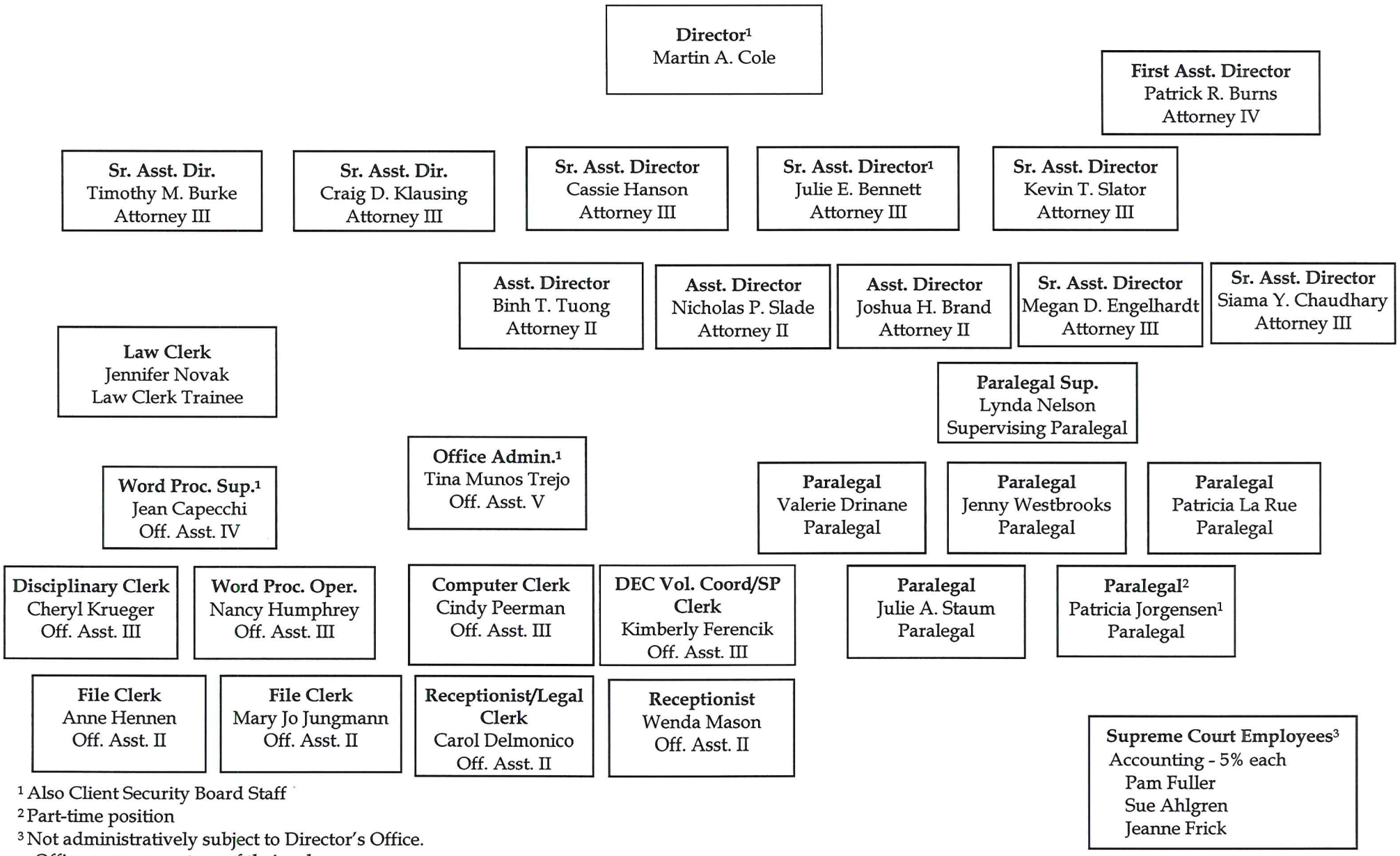
Date	Topic	Location	Organization
2/10/14	Social Security Practice Seminar	Minneapolis	MNCLE
2/12/14	OLPR Overview	Rudy's Red Eye Grill	White Bear Lake Rotary Club
2/19/14	Advising the Disadvantaged Seminar	Minneapolis	MNCLE
2/26/14	Speaker Segment: Your Feb. 26 Deskbook Session	Minneapolis	MNCLE
3/3/14	Moderate CLE Replay-Ethical Use of Evolving Technologies	Minneapolis	MNCLE
3/18/14	Moderate CLE Replay-Ethical Use of Evolving Technologies	Minneapolis	MNCLE
3/27/14	Office Management & Marketing Section Seminar	St. Louis Park	MSBA
4/8/14	Family Law Institute Webinar on Trust Accounts	Minneapolis	MNCLE
4/8/14	Real Estate CLE	St. Paul	MNCLE
4/9/14	Hennepin County Family Law CLE	City Center	HCBA
4/10/14	Social Media & Ethics for New Lawyers	Buffalo	10th Judicial Law Clerks
4/11/14	Tort Section CLE	St. Paul	MSBA
4/14/14	State District Court Practice Deskbook Seminar	Minneapolis	
4/21/14	WMCL class re: USPTO Ethics Rules	St. Paul	William Mitchell
4/25/14	Workers Comp Seminar	Minneapolis	MNCLE
4/29/14	How to Win Your Next Trial	Minneapolis	MNCLE
4/29/14	How to Win Your Next Trial	Minneapolis	MNCLE
4/29/14	How to Win Your Next Trial	Minneapolis	MNCLE
5/1/14	Trust Administration Deskbook Seminar	Minneapolis	MNCLE
5/2/14	Indian Law Seminar	Mystic Lake, Prior Lake	
5/9/14	Trial Lawyers Seminar	Minneapolis	
5/15/14	St. Louis County Family Law Section CLE	St. Louis County Law Library	St. Louis County Bar Association
5/16/14	Pro Bono CLE	Minneapolis	Dorsey & Whitney
5/16/15	Successor Planning	St. Paul	RCBA
5/22/14	"Ethical Issues Confronting Solo & Small Firm Lawyers"	St. Paul	RCBA
6/4/14	Brooklyn Park Rotary Club	Brooklyn Park	
6/13/14	Ethics and Elimination of Bias	St. Paul	Attorney General

Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2013 – June 2014

Date	Topic	Location	Organization
6/20/14	Common Ethical Pitfalls, Complaints and Investigations	Crookston	14th District Bar Association
6/24/14	Criminal Law Webinar		MNCLE
6/25/14	Ethics	Apple Valley	Dakota County Bar
6/30/14	Webinar on Public Discipline Cases		MNCLE

Office of Lawyers Professional Responsibility

FY'15 Organizational Chart



[1] Also Client Security Board Staff
[2] Part-time position
[3] Not administratively subject to Director's Office.
Office pays percentage of their salary

Login SEARCH



Announcements

- February 2014 Lawyers Board News Release
- 2014 Retiring Lawyers Board Members
- Congratulations to Ken Engel 2013 Volunteer of the Year
- Lawyers Board Meetings 2014
- Amendment to MN Rules of Prof. Conduct

What's New

- "Changes Ahead for Legal Education?" MN Bench and Bar, May/June 2014
- "When to Bring Ink and Paper into a Transaction," Minnesota Lawyer, June 2014
- "Office Uses Probation to Prevent Misconduct," Minnesota Lawyer, May 2014
- "Threatening Criminal Prosecution in Civil Case, Minnesota Lawyer, April 2014
- "Great Volunteers," MN Bench and Bar, April 2014
- 2013 LPRB-OLPR ANNUAL REPORT

Quick Links

Legal References

- Professional Responsibility Seminar
- Trust Accounts
- Professional Firms
- LPRB Opinions
- Disciplinary History Request
- Proposed and Pending Rules & Opinions

Contact

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Office of Lawyers Professional Responsibility

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1-800-657-3601
Fax: 651-297-5801

TTY users call MN relay service toll free:
1-800-627-3529

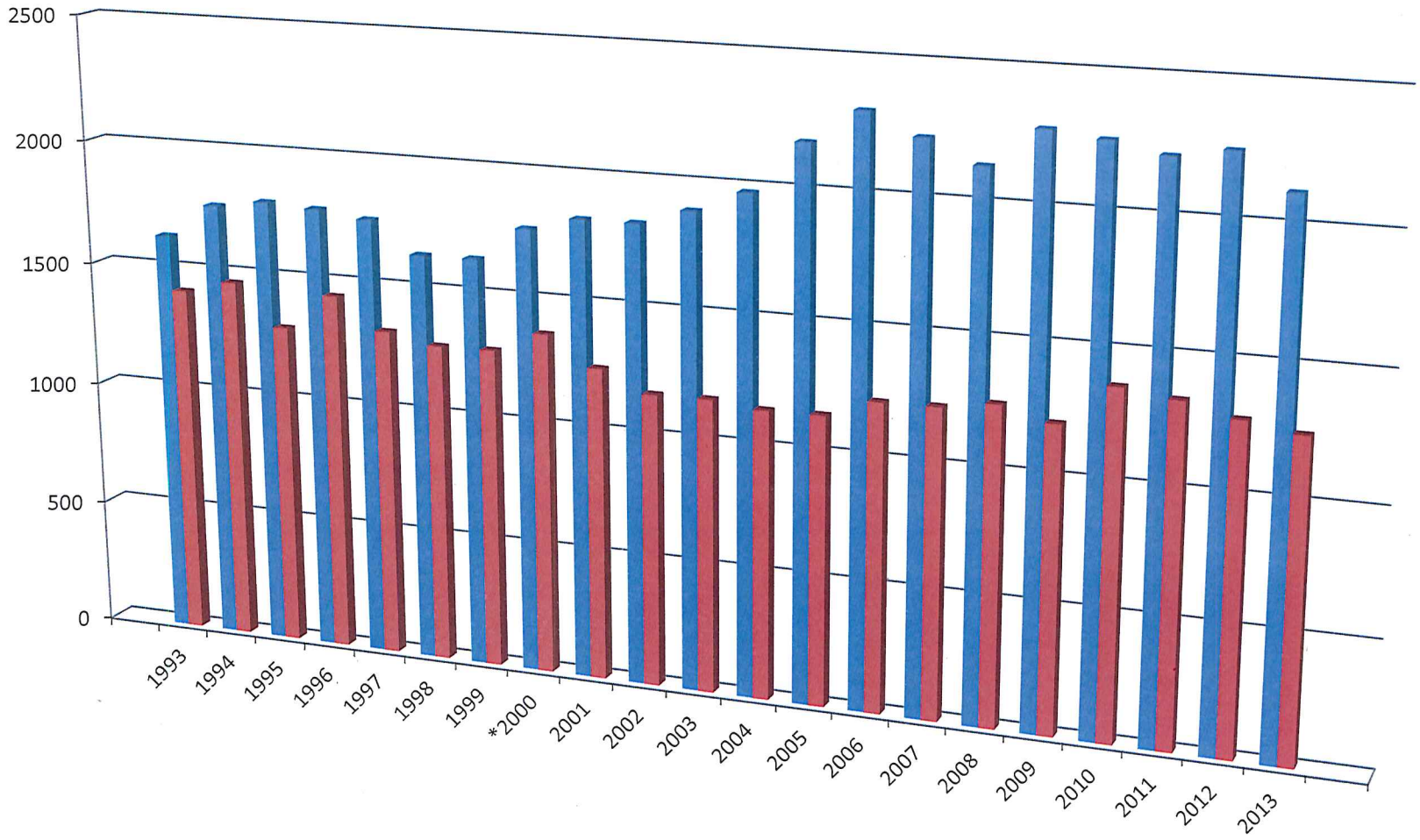
Resources

- MN Client Security Board
- MN Lawyer Registration Office
- MN IOLTA Information
- MN Board of Continuing Legal Education
- MN Board of Law Examiners
- MN Board of Legal Certification
- MN Judicial Branch
- MN State Bar Association
- ABA Center for Professional Responsibility

Links

- Lawyers Board Directory
- OLPR Lawyer Directory
- Annual Reports
- Contact Us

Advisory Opinion Requests Received
and
Number of Complaints Opened
1993 - 2013



	1993	1994	1995	1996	1997	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Advisory Opinions Received	1627	1765	1795	1783	1757	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135	2282	2258	2215	2249	2116
Complaints Opened	1405	1456	1290	1438	1314	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257	1206	1365	1337	1287	1253

* 2000 total advisory opinions (AO) received was revised to reflect additional AO's not previously included.