



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Chicago
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To the Honorable, the Chief Justice
and Justices of the Supreme Court
of Illinois:

The annual report of the Attorney Registration and Disciplinary Commission for 2007 is submitted to the Court, to the members of the Bar of Illinois, and to the public in accordance with Supreme Court Rule 751.

The report is a statement of activities of the Commission for calendar year 2007 and an accounting and audit of the monies received and expended during the twelve-month period that ended December 31, 2007.

Respectfully submitted,

Benedict Schwarz II, Chairman
Derrick K. Baker
John R. Carroll
Joan Myers Eagle
R. Michael Henderson
John Paul Kujawski
Brian McFadden, Commissioners

Jerome Larkin, Administrator

I. Introduction.

This annual report provides an opportunity to examine the growth of the legal profession and the ARDC since the establishment of the agency 35 years ago. In 1970, the ABA Special Committee on the Evaluation of Disciplinary Enforcement issued its report, which was critical of disciplinary systems nationwide. The report, commonly called the Clark report after its chairman, may be found at http://www.abanet.org/cpr/reports/Clark_Report.pdf. Illinois was one of many states to revise its disciplinary system in the aftermath of the Clark report.

Upon petition of the Chicago and Illinois State Bar Associations, the Court founded the ARDC by adopting Rules 751 through 756 on February 1, 1973, effective April 1, 1973. Before then, the Chicago Bar and the Illinois State Bar Associations had assisted the Court in the registration and discipline of Illinois lawyers, but the Court concluded that those duties required significantly more resources and improved procedures. The ARDC was known initially as the Attorney Registration Commission. The Court appointed the five founding Commissioners, Lester Asher, James H. Bandy, John F. Grady, George J. Cotsirilos, and Justin Stanley (the Chairman), effective February 5, 1973, and appointed founding Administrator Carl H. Rolewick, effective March 1, 1973.

In 1973, the ARDC sent registration forms to the 26,507 attorneys who had registered previously through the Illinois State Bar Association. By comparison, as of October 31, 2007, the Master Roll of attorneys had grown to 82,380 attorneys. Early ARDC annual reports did not break down the demographics of the legal profession. The 1992 Annual Report indicated that 23% of registered lawyers were female and 22% were in the age 50 to 74 category. Representation in both of those categories has increased substantially in the past 15 years. In 2007, females accounted for 34% of the profession and those in the age 50 to 74 category accounted for 37% of the profession. *See* Chart 1, at page 6.

During the first reporting year, the ARDC initiated 1,680 investigations; during 2007 that number rose to 5,988. In the first few years, the ARDC presented to the Court, and the Court imposed orders in, 55 disciplinary cases, including 39 disbarments on consent (21 of which resulted from convictions). Most of those cases involved conversion of client funds or criminal convictions. In 2007, the Court imposed sanctions in 120 cases, 12 of which were disbarments on consent. Disciplinary proceedings now involve a wider array of cases, including elder abuse, mortgage and insurance fraud, aiding in the unauthorized practice of law in marketing living trusts, solicitation, business transactions with clients, and sexual misconduct. Over the course of the past 35 years, the Illinois Supreme Court has imposed disciplinary sanctions in 3,074 different lawyer disciplinary matters. Out of that total, 1,062 lawyers were disbarred or disbarred on consent. Charts 26 and 27, at pages 23-24, show the trend of disciplinary orders and reinstatements entered over 35 years. Chart 28, at page 26, describes the 10,310 misconduct reports received from members of the profession in the 20 years following the *Himmel* decision of the Supreme Court.

During the past 35 years, ARDC practices and rules have been changed to allow for quicker resolution of investigations. Separate Intake and Litigation departments resolve 93.2% of grievances (all but 412 of 6,070 investigations) without the Inquiry Board approval that was necessary to close any investigation early in ARDC history. *See* Chart 12, at page 12. The clear majority of investigations are closed expeditiously, with 75% of investigations closed upon an initial review concluded within 10 days of receipt of a request for investigation (*see* Chart 13A, at page 13), and with 76% of investigations closed by Intake Staff within 90 days. *See* Chart 13B, at page 14. Litigation staff handles investigations that become much more involved, but still concludes all but 27% within one year (*See* Chart 13C, at page 14).

Changes have also been made to resolve formal proceedings more quickly, many of which changes followed the reports of an ABA Consultation team and a Blue Ribbon Committee convened in the mid-1980s and early 1990s. Roughly one-half of disciplinary complaints are now resolved by consent, a procedure that became available in 1989 (S.Ct. Rule 762(b)). A single hearing panel Chair is given authority to manage pre-hearing aspects of a disciplinary case (Com. Rule 260(a)), avoiding the pre-

hearing scheduling difficulties of a full three-member panel. In 1990, the Supreme Court limited appellate consideration of cases by the Review Board to proceedings in which the Respondent or the Administrator filed exceptions, resulting in the Board's review of approximately one-quarter of contested disciplinary cases, as opposed to all Hearing Board reports under initial rules. The Court also ordered that the Review Board sit in three-member panels, as opposed to acting as a nine-member tribunal (S.Ct. Rule 753(d)(1)). The Court also determined to require that the Administrator and the Respondent/Petitioner must seek leave to obtain plenary review by the Court (S.Ct. Rule 753(e)(1)).

In 1981, the Supreme Court expanded disciplinary sanctions to include probation in *In re Driscoll*, 85 Ill.2d 312, 53 Ill.Dec. 204, 423 N.E.2d 873 (1981). In *Driscoll*, the Court authorized, for the first time, probation for an attorney who had engaged in conversion while impaired by alcoholism, but who had demonstrated that he was in recovery. In 1983, the Court adopted Rule 772 to provide additional guidance regarding when probation would be available for lawyers who were addressing their impairments. In 1990, the Commission adopted its Rule 108, which authorized the Inquiry Board to defer prosecution of minor charges and to impose supervision. In a ten-year period between 1998 and 2007, there was indication that 28% of lawyers sanctioned were impaired by substance addiction or mental illness. See Chart 29A, below at page 28. In 1993, the Court expanded the availability of probation to include other circumstances in which the respondent would be able to remedy practice deficiencies that had given rise to misconduct. *In re Jordan*, 191 Ill.2d 486, 157 Ill.Dec. 266, 623 N.E.2d 1372 (1993). The 2006 ARDC *Annual Report* provided results of a study on the utilization of probation, showing that 88% of those sanctions were concluded successfully (<http://www.iardc.org/2006AnnualReport.pdf>). The Commission recognizes the extraordinary work of the Lawyers Assistance Program and the Cook County Bar Association and the Chicago Bar Association Law Practice Management Committees in assisting lawyers addressing impairments and office management difficulties that otherwise could contribute to misconduct.

The ARDC has incorporated improvements that enhance the integrity of the disciplinary process and contribute to its fairness. For example, one change in 1989 to the procedural rules governing disciplinary proceedings was that prior discipline may not be disclosed to the hearing panel, unless the panel makes findings of misconduct (S.Ct. Rule 753(c)(5) and Com. Rules 277 and 314). Another change was that investigations closed by the Administrator will be expunged three years after closure (S.Ct. Rule 778). Further, in 1992, the Office of Adjudication Services was established, staffed by lawyers who do not report to the Administrator, but who report independently to the Hearing Board and its Chair. Those lawyers provide legal advice to the volunteer board members and draft board reports under the direction of the panel. Similarly, the Review Board is assisted by other lawyers who report directly to that board.

The disciplinary system has become more open in the past 35 years. In 1989, disciplinary proceedings become public upon filing and service of a formal disciplinary complaint, rather than upon docketing of the proceedings in the Supreme Court, as was previously the case (S.Ct. Rule 766 (a)(3)). Non-lawyers are now included on the Inquiry and Hearing Boards and the Commission (S.Ct. Rules 751(b), 753(a)(1), and 753(c)(1)); initially all board members were required to be lawyers. Boards have become much more diverse, with 23% of all board members being female and 25% of board members, including 20 of whom are female, belonging to a racial minority. The ARDC also conducted surveys to gauge the perception of members of the bar regarding its proceedings and followed up by meeting with representatives of minority bar associations. See Perception Survey in the 2002 *Annual Report* and Study of Demographic Data for Lawyers Disciplined (1998-2002) in the 2003 *Annual Report*, at <http://www.iardc.org/orginfo.html>. The ARDC makes disciplinary decisions and basic registration and supporting information regarding Illinois lawyers available via its web site at <http://www.iardc.org>. The web site receives approximately 138,000 visits per month.

In 1973, the Supreme Court and the profession looked to the codes of professional responsibility promulgated by the Chicago and Illinois State Bar Associations for guidance in resolving ethical dilemmas and in determining whether ethical violations had occurred. The Court adopted, with the force

of law, the Illinois Code of Professional Responsibility in 1980, and, in 1990, the Illinois Rules for Professional Conduct, both based upon model rules published by the American Bar Association. Substantial amendments to the rules of conduct are presently under consideration based upon the ABA's "Ethics 2000" proposals and the review of those proposals by the CBA, ISBA, and the Court's Rules and Professional Responsibility Committees.

The ARDC has made consistent efforts to help lawyers avoid conduct that leads to grievances. In 1995, the ARDC established its Ethics Inquiry Program, under which the Administrator's staff lawyers provide guidance annually to more than 3000 lawyers who pose ethics questions anonymously, in hypothetical format. *See* Page 32. The ARDC web site provides practical ethics guidance, such as the *Client Trust Account Handbook*, first published in 1994, and an article entitled "Avoiding ARDC Anxiety: A Disciplinary Primer," both available at <http://www.iardc.org/pubs.html>. In 1995, the ARDC established the Illinois Professional Responsibility Institute, which presents a seminar primarily for lawyers who have become involved in disciplinary proceedings. The ARDC is an accredited MCLE provider. In 2007, the ARDC presented two ethics seminars in the Second Judicial District, providing approximately 1,000 lawyers the opportunity to earn two hours of ethics and professionalism MCLE credit without charge. ARDC staff attorneys also participate frequently in lectures presented by other providers.

In 1994, the Supreme Court established the Client Protection Program as part of the ARDC. The Client Protection Program reimburses victims for losses occasioned by the dishonest conduct of Illinois lawyers who are ultimately disciplined. The Client Security Fund, the predecessor to the Client Protection Program, was administered by the CBA and ISBA, but resources were insufficient to maintain the program. From 1994 through 2007, the Program docketed 2,964 claims and paid more than \$6,250,000 on 1,354 approved claims involving about 400 lawyers.

The Commission recognizes the contributions of those who have helped to establish the ARDC as it is today and, with its volunteer board members and staff, remains committed to its stewardship of the organization.

II. Registration Report

A. Master Roll Demographics

The Master Roll of attorneys registered to practice law in Illinois for the year 2007 contained the names of 82,380 attorneys as of October 31, 2007. After that date, the Commission began the 2008 registration process, so that the total reported as of October 31, 2007, does not include the 2,363 attorneys who first took their oath of office in November or December 2007. The number of newly admitted lawyers continues to increase, posting a record high number for a second year in a row. Overall, the 2007 legal population in Illinois shows a modest 1.5% increase over 2006. *See* Chart 25A, at page 22.

Chart 1 shows the demographics for the lawyer population in 2007. The most noticeable change was in the number of female lawyers in Illinois. The percentage of female lawyers has risen from 23% to 34% over the last 15 years. A similar increase was noted in last year's report where lawyers in the age 50 to 74 category increased 11% over the past ten years. Chart 2 below shows the breakdown by the registration categories set forth in Supreme Court Rule 756, including a breakdown of those removed from the Master Roll. A new removal category depicts the eight recently admitted attorneys who were removed from the roll for failure to report compliance with MCLE Basic Skills course requirements as of October 31, 2007. Those removals, authorized by Supreme Court Rule 796(e) were the result of non-compliance referrals from the Director of the MCLE Board and the attorneys' failure to report their compliance to the MCLE Board in response to a further notice from the ARDC. The ARDC and the MCLE Board have entered into protocols to automate the process of sharing data related to compliance with MCLE reporting requirements. These protocols are intended to make the compliance process more efficient and to facilitate the process by which lawyers make their required MCLE compliance reports.

Chart 1: Age, Gender and Years in Practice for Attorneys Registered in 2007

| | |
|-------------------------------|-----|
| Gender | |
| Female | 34% |
| Male | 66% |
| Years in Practice | |
| Fewer than 5 years | 15% |
| Between 5 and 10 years | 14% |
| Between 10 and 20 years | 27% |
| Between 20 and 30 years | 24% |
| 30 years or more | 20% |
| Age | |
| 21-29 years old | 7% |
| 30-49 years old | 54% |
| 50-74 years old | 37% |
| 75 years old or older | 2% |

Chart 2: Registration Categories for 2007

| <u>Category</u> | <u>Number of Attorneys</u> |
|---|-----------------------------------|
| Admitted between January 1, 2006, and October 31, 2007 | 3,434 |
| Admitted between January 1, 2004, and December 31, 2005 | 4,890 |
| Admitted before January 1, 2004 | 60,644 |
| Serving active military duty | 232 |
| Serving as judge or judicial clerk | 2,090 |
| Birthday before December 31, 1931 | 1,797 |
| In-House Counsel | 264 |
| Foreign Legal Consultant | 9 |
| Legal Service Program Counsel | 1 |
| Inactive status | <u>9,019</u> |
| Total attorneys currently registered | 82,380 |
| Removed from the Master Roll: | |
| Unregistered | 429 |
| Deceased | 648 |
| Retired | 847 |
| Disciplined (disbarred or suspended until further order of Court) | 60 |
| Failure to fulfill MCLE Basic Skills course requirement | <u>8</u> |
| | (1,992) |

Charts 3 and 4 show the distribution by judicial circuit and by county of the 61,466 registered attorneys who report a principal business address in Illinois, a 1.8% increase over 2006. Another 20,914 attorneys report a business address outside Illinois but register as either active (65%) and able to practice in Illinois or inactive (35%). This is the highest number of lawyers reporting a business address outside of Illinois and continues a trend reported in the 2006. Those 20,914 attorneys are not included in Charts 3 and 4. Judicial districts in Illinois saw little change in 2007, except for the First District (Cook County) and Second District, which both experienced a 2% increase over last year. 42 counties experienced a decrease in the number of attorneys from 2006 to 2007.

Chart 3: Registration by Judicial Districts: 2003-2007

| | 2003 | 2004 | 2005 | 2006 | 2007 | | 2003 | 2004 | 2005 | 2006 | 2007 |
|--------------------------------|--------------|--------------|--------------|--------------|--------------|--------------------------------|---------------|---------------|---------------|---------------|---------------|
| First District | | | | | | | | | | | |
| Cook County | 41,229 | 41,796 | 42,510 | 42,142 | 43,026 | Fourth District | | | | | |
| Second District | | | | | | 5 th Circuit | 267 | 263 | 262 | 257 | 247 |
| 15 th Circuit | 206 | 207 | 212 | 200 | 203 | 6 th Circuit | 833 | 854 | 866 | 860 | 853 |
| 16 th Circuit | 1,228 | 1,268 | 1,334 | 1,325 | 1,360 | 7 th Circuit | 1,218 | 1,214 | 1,252 | 1,230 | 1,244 |
| 17 th Circuit | 737 | 750 | 768 | 761 | 782 | 8 th Circuit | 197 | 198 | 200 | 198 | 190 |
| 18 th Circuit | 3,859 | 3,983 | 4,086 | 3,952 | 4,015 | 11 th Circuit | 593 | 591 | 643 | 643 | 643 |
| 19 th Circuit | 3,272 | 3,365 | 3,520 | 3,383 | 3,483 | Total | 3,108 | 3,120 | 3,223 | 3,188 | 3,177 |
| Total | 9,302 | 9,573 | 9,920 | 9,621 | 9,843 | Fifth District | | | | | |
| Third District | | | | | | 1 st Circuit..... | 433 | 449 | 453 | 440 | 444 |
| 9 th Circuit | 210 | 210 | 205 | 198 | 198 | 2 nd Circuit..... | 297 | 295 | 305 | 296 | 288 |
| 10 th Circuit | 861 | 880 | 916 | 896 | 894 | 3 rd Circuit | 636 | 684 | 714 | 725 | 714 |
| 12 th Circuit | 740 | 808 | 860 | 866 | 887 | 4 th Circuit | 258 | 254 | 253 | 244 | 241 |
| 13 th Circuit | 324 | 323 | 323 | 320 | 316 | 20 th Circuit | 756 | 763 | 776 | 764 | 785 |
| 14 th Circuit | 495 | 511 | 512 | 514 | 500 | Total | 2,380 | 2,445 | 2,501 | 2,469 | 2,472 |
| 21 st Circuit | 162 | 161 | 160 | 156 | 153 | Grand Total | 58,811 | 59,827 | 61,130 | 60,370 | 61,466 |
| Total | 2,792 | 2,893 | 2,976 | 2,950 | 2,948 | | | | | | |

Chart 4: Registered Attorneys by County for 2006-2007

| <u>Principal Office</u> | <u>Number of Attorneys</u> | | <u>Principal Office</u> | <u>Number of Attorneys</u> | | <u>Principal Office</u> | <u>Number of Attorneys</u> | |
|-------------------------|----------------------------|-------------|-------------------------|----------------------------|-------------|-------------------------|----------------------------|-------------|
| | <u>2006</u> | <u>2007</u> | | <u>2006</u> | <u>2007</u> | | <u>2006</u> | <u>2007</u> |
| Adams | 127 | 123 | Hardin | 5 | 7 | Morgan | 41 | 41 |
| Alexander | 12 | 9 | Henderson | 5 | 6 | Moultrie | 13 | 14 |
| Bond | 13 | 13 | Henry | 49 | 48 | Ogle | 48 | 50 |
| Boone | 45 | 43 | Iroquois | 27 | 24 | Peoria | 746 | 750 |
| Brown | 10 | 9 | Jackson | 213 | 218 | Perry | 22 | 21 |
| Bureau | 40 | 43 | Jasper | 5 | 6 | Piatt | 27 | 27 |
| Calhoun | 5 | 5 | Jefferson | 107 | 109 | Pike | 10 | 9 |
| Carroll | 15 | 14 | Jersey | 17 | 16 | Pope | 3 | 4 |
| Cass | 10 | 10 | Jo Daviess | 36 | 40 | Pulaski | 6 | 6 |
| Champaign | 541 | 537 | Johnson | 9 | 11 | Putnam | 9 | 10 |
| Christian | 34 | 36 | Kane | 1,089 | 1,107 | Randolph | 29 | 30 |
| Clark | 14 | 12 | Kankakee | 129 | 129 | Richland | 21 | 23 |
| Clay | 13 | 16 | Kendall | 64 | 80 | Rock Island | 381 | 365 |
| Clinton | 26 | 26 | Knox | 68 | 67 | Saline | 34 | 37 |
| Coles | 98 | 94 | Lake | 2,823 | 2,919 | Sangamon | 1,117 | 1,130 |
| Cook | 42,142 | 43,026 | LaSalle | 208 | 203 | Schuyler | 11 | 11 |
| Crawford | 21 | 22 | Lawrence | 15 | 15 | Scott | 6 | 6 |
| Cumberland | 9 | 9 | Lee | 46 | 43 | Shelby | 20 | 16 |
| DeKalb | 172 | 173 | Livingston | 47 | 43 | St. Clair | 656 | 676 |
| DeWitt | 20 | 19 | Logan | 33 | 30 | Stark | 8 | 7 |
| Douglas | 22 | 23 | Macon | 236 | 233 | Stephenson | 55 | 56 |
| Du Page | 3,952 | 4,015 | Macoupin | 35 | 36 | Tazewell | 119 | 113 |
| Edgar | 20 | 20 | Madison | 712 | 701 | Union | 26 | 23 |
| Edwards | 6 | 5 | Marion | 51 | 45 | Vermilion | 116 | 112 |
| Effingham | 43 | 45 | Marshall | 14 | 14 | Wabash | 17 | 12 |
| Fayette | 17 | 18 | Mason | 12 | 11 | Warren | 21 | 21 |
| Ford | 13 | 12 | Massac | 14 | 15 | Washington | 20 | 20 |
| Franklin | 59 | 55 | McDonough | 42 | 43 | Wayne | 12 | 11 |
| Fulton | 43 | 43 | McHenry | 560 | 564 | White | 16 | 14 |
| Gallatin | 6 | 5 | McLean | 529 | 533 | Whiteside | 74 | 77 |
| Greene | 14 | 15 | Menard | 13 | 12 | Will | 867 | 887 |
| Grundy | 72 | 70 | Mercer | 10 | 10 | Williamson | 123 | 121 |
| Hamilton | 11 | 10 | Monroe | 37 | 38 | Winnebago | 716 | 739 |
| Hancock | 19 | 18 | Montgomery | 35 | 33 | Woodford | 21 | 25 |

B. Registration Mandatory Disclosure Reports

As part of the annual registration process, lawyers must complete *pro bono*, trust account and malpractice insurance reports as required by Supreme Court Rule 756. A lawyer is not registered if the lawyer fails to provide any of this information, pursuant to Supreme Court Rule 756(g). The information reported by individual attorneys concerning voluntary *pro bono* service and trust accounts is confidential under Supreme Court Rule 766 and is not reported as part of a lawyer’s listing under “Lawyer Search” on the ARDC web site. Malpractice insurance reports are shown on the web site along with a lawyer’s public registration information displayed under “Lawyer Search.” Information regarding each of these reports is presented below in the aggregate.

1. Report on Pro Bono Activities

Beginning with the 2007 registration, Supreme Court Rule 756(f) requires Illinois lawyers to report voluntary *pro bono* service and monetary contributions. While *pro bono* service and contributions are voluntary, the required report serves as an annual reminder to Illinois lawyers that *pro bono* legal service is an integral part of lawyers' professionalism. For the 82,369 lawyers registered for the 2008 registration year as of April 28, 2008, 25,903 attorneys indicated that they had provided *pro bono* legal services, as defined by Rule 756, totaling, in the aggregate, 2,170,775 *pro bono* legal service hours, including 1,088,829 hours of legal services provided directly to persons of limited means. The hourly total

represented a modest increase over the total number of hours reported in 2007, the first year this information was reportable by Illinois lawyers. 56,466 attorneys indicated that they had not provided *pro bono* legal services, 9,591 of whom indicated that they were prohibited from providing *pro bono* legal services because of their employment. Chart 5 provides a breakdown of the *pro bono* hours reported as required by Rule 756. The reported information does not include hours that legal service or government lawyers provide as part of their employment.

Chart 5: Report on Pro Bono Hours: 2007-2008 Registration

| | 2007 | 2008 |
|--|---------------|---------------|
| Type of Pro Bono Services | Service Hours | Service Hours |
| Legal services to persons of limited means | 1,087,501 | 1,088,829 |
| Legal services to enumerated organizations designed to address needs of persons of limited means | 316,849 | 298,421 |
| Legal services to enumerated organizations in furtherance of their purposes | 630,005 | 710,533 |
| Training intended to benefit legal service organizations or lawyers providing <i>pro bono</i> services | 57,984 | 72,992 |
| TOTAL: | 2,092,339 | 2,170,775 |

In addition, 13,798 lawyers reported making a total of \$14,747,688 in contributions to organizations that provide legal services to persons of limited means, as compared with 12,501 lawyers reporting \$17,456,053 in contributions in 2007. Thus, while the amount of contributions decreased, more lawyers reported making monetary contributions (17%) than in the previous year (15%). 68,571 lawyers reported making no monetary *pro bono* contributions, as compared to the 68,355 lawyers reporting no monetary contributions last year. The reported information does not include the \$42 portion of the registration fee paid by most active status lawyers and remitted to the Lawyers Trust Fund, which distributes grants to programs providing legal assistance in civil matters to low-income Illinois residents.

2. Report on Trust Accounts

Supreme Court Rule 756(d) requires all Illinois lawyers to disclose whether they or their law firm maintained a trust account during the preceding year and to disclose whether the trust account was an IOLTA (Interest on Lawyer Trust Account) trust account, as defined in Rule 1.15. If a lawyer did not maintain a trust account, the lawyer was required to disclose why no trust account was maintained. Chart 6 sets forth the responses received from the 82,380 lawyers who were registered for 2007.

Chart 6: 2007 Trust Account Disclosure Reports

| | |
|--|--------|
| A. Lawyers with Trust Accounts: | 42,656 |
| B. Lawyers without Trust Accounts: | 39,724 |
| Full-time employee of corporation or governmental agency (including courts) with no outside practice | 19,262 |
| Not engaged in the practice of law | 9,624 |
| Engaged in private practice of law (to any extent), but firm handles no client or third party funds | 7,865 |
| Other explanation | 2,973 |

3. Report on Malpractice Insurance

Supreme Court Rule 756(e) requires Illinois lawyers to report whether they carry malpractice insurance coverage and, if so, the dates of coverage for the policy. Only sitting judges or magistrates who are exempt from paying a registration fee are exempt from this requirement. The rule does not require Illinois lawyers to carry malpractice insurance in order to practice law in Illinois. Chart 7 shows the responses received from lawyers who were registered for 2007.

Chart 7: 2007 Malpractice Disclosure Reports

| Malpractice Insurance | |
|-----------------------|--------|
| Yes | No |
| 44,203 | 37,364 |

III. Report on Disciplinary and Non-Disciplinary Matters

A. Investigations Initiated in 2007

During 2007, the Commission docketed 5,988 investigations, a 3.2% increase from 2006. Those 5,988 investigations involved charges against 4,190 different attorneys, representing about 5% of all registered attorneys. About 22% of these 4,190 attorneys were the subject of more than one investigation docketed in 2007, as shown in Chart 8.

Charts 9 and 10 report the classification of investigations docketed in 2007, based on an initial assessment of the nature of the misconduct alleged, if any, and the type of legal context in which the facts apparently arose. Chart 9 reflects that the most frequent areas of a grievance were neglect of the client’s cause, failure to communicate with the client, fraudulent or deceptive activity, and excessive fees.

Chart 8: Investigations Docketed in 2007

| <i>Number of Investigations</i> | <i>Number of Attorneys</i> |
|---------------------------------|------------------------------|
| 1..... | 3,272 |
| 2..... | 613 |
| 3..... | 169 |
| 4..... | 61 |
| 5 or more | 75 |
| | Total: 4,190 |
| | |
| <i>Gender</i> | <i>Years in Practice</i> |
| Female..... | 22% |
| Male..... | 78% |
| | Fewer than 10 years 18% |
| | 10 years or more..... 82% |

Chart 9: Classification of Charges Docketed in 2007 by Violation Alleged

| <i>Type of Misconduct</i> | <i>Number*</i> | <i>Type of Misconduct</i> | <i>Number*</i> |
|---|----------------|---|----------------|
| Neglect | 2,712 | Improper communications with a party known to be represented by counsel or with unrepresented party | 62 |
| Failing to communicate with client, including failing to communicate the basis of a fee | 1,207 | Failing to preserve client confidences or secrets | 53 |
| Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client | 1,027 | Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter | 39 |
| Excessive or improper fees, including failing to refund unearned fees | 854 | Practicing after failing to register..... | 29 |
| Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks | 390 | Aiding a nonlawyer in the unauthorized practice of law | 25 |
| Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal | 360 | Failing to supervise subordinates | 17 |
| Conduct prejudicial to the administration of justice, including conduct which is the subject of a contempt finding or court sanction | 323 | Improper division of legal fees with another lawyer | 14 |
| Conflict of Interest:..... | 322 | Improper division of legal fees/partnership with nonlawyer..... | 12 |
| Rule 1.7: Concurrent conflicts..... | 228 | Failing to report misconduct of another lawyer or judge | 11 |
| Rule 1.8(a) Improper business transaction with client..... | 21 | Incapacity due to chemical addiction or mental condition | 11 |
| Rule 1.8(c) Improper preparation of instrument benefiting lawyer .. | 5 | Sexual harassment/abuse or violation of law prohibiting discrimination | 10 |
| Rule 1.8(d) Financial assistance to client..... | 6 | Bad faith avoidance of a student loan | 8 |
| Rule 1.8(e) Improper aggregate settlement for multiple clients..... | 4 | False statements in a bar admission or disciplinary matter | 8 |
| Rule 1.8(h): Improper agreement to limit/avoid disciplinary action | 2 | Improper <i>ex parte</i> communication with judge..... | 8 |
| Rule 1.8(i): improper acquisition of interest in client matter..... | 3 | Improper employment where lawyer may become a witness..... | 6 |
| Rule 1.9: Successive conflicts | 47 | Improper extrajudicial statement | 6 |
| Rule 1.10: Imputed disqualification | 4 | Failing to comply with Rule 764..... | 5 |
| Rule 1.11: Former government lawyer..... | 2 | Failing to maintain an appropriate attorney-client relationship with disabled client | 4 |
| Filing frivolous or non-meritorious claims or pleadings | 276 | Failing to report lawyer's discipline in another jurisdiction..... | 3 |
| Failing to properly withdraw from representation, including failing to return client files or documents..... | 153 | Assisting a judge in conduct that violates the judicial code..... | 2 |
| Criminal activity, including criminal convictions, counseling illegal conduct or public corruption | 139 | Investigation of bar applicant..... | 2 |
| Failing to provide competent representation | 125 | Improper agreement restricting a lawyer's right to practice..... | 2 |
| Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf | 101 | Failing to pay tax obligation in bad faith | 1 |
| Practicing in a jurisdiction where not authorized..... | 94 | Failing to pay child support | 1 |
| Improper commercial speech, including inappropriate written or oral solicitation | 73 | No misconduct alleged..... | 287 |
| Prosecutorial misconduct | 64 | | |

*Totals exceed the number of charges docketed in 2007 because in many charges more than one type of misconduct is alleged.

Consistent with prior years, the top areas of practice most likely to lead to a grievance of attorney misconduct are criminal law, domestic relations, tort, and real estate, as shown in Chart 10.

Chart 10: Classification of Charges Docketed in 2007 by Area of Law

| <i>Area of Law</i> | <i>Number*</i> |
|--|----------------|
| Criminal/Quasi-Criminal | 1,421 |
| Domestic Relations | 945 |
| Tort (Personal Injury/Property Damage) | 604 |
| Real Estate/Landlord-Tenant | 552 |
| Probate | 351 |
| Labor Relations/Workers' Comp | 271 |
| Contract..... | 231 |
| Bankruptcy..... | 225 |
| Debt Collection..... | 173 |
| Criminal Conduct/Conviction..... | 137 |
| Immigration | 118 |
| Civil Rights..... | 109 |
| Corporate Matters | 103 |
| Local Government Problems | 50 |
| Personal misconduct | 40 |
| Tax | 23 |
| Patent and Trademark | 23 |
| Adoption | 20 |
| Social Security | 13 |
| Mental Health | 3 |
| Other | 39 |
| Undeterminable..... | 197 |
| No misconduct alleged..... | 322 |

*Totals exceed the number of charges docketed in 2007 because in many charges more than one area of law is involved.

B. Investigations Concluded in 2007

If an investigation does not reveal sufficiently serious, provable misconduct, the Administrator will close the investigation. If an investigation produces evidence of serious misconduct, the case is referred to the Inquiry Board, unless the matter is filed directly with the Supreme Court under Rules 757, 758, 761, 762(a), or 763. The Inquiry Board operates in panels of three, composed of two attorneys and one nonlawyer, all appointed by the Commission. An Inquiry Board panel has authority to vote a formal complaint if it finds sufficient evidence to support a charge, to close an

investigation if it does not so find, or to place an attorney on supervision under the direction of the panel pursuant to Commission Rule 108. The Administrator cannot pursue formal charges without authorization by an Inquiry Board panel.

About 5% of investigations concluded in 2007 resulted in the filing of formal charges. Charts 11 and 12 show the number of investigations docketed and terminated during 2007, and the type of actions that terminated the investigations.

Chart 11: Investigations Docketed: 2003-2007

| Year | Pending January 1st | Docketed During Year | Concluded During Year | Pending December 31st |
|-------------|---------------------------------------|-----------------------------|------------------------------|---|
| 2003 | 2,079 | 6,325 | 6,215 | 2,189 |
| 2004 | 2,189 | 6,070 | 6,315 | 1,944 |
| 2005 | 1,944 | 6,082 | 6,185 | 1,841 |
| 2006 | 1,841 | 5,801 | 5,746 | 1,896 |
| 2007 | 1,896 | 5,988 | 6,070 | 1,814 |

Chart 12: Investigations Concluded in 2007

| | |
|---|--------------|
| Concluded by the Administrator: | |
| Closed after initial review..... | 1,508 |
| (No misconduct alleged) | |
| Closed after investigation | 4,117 |
| Filed at Supreme Court pursuant to | |
| Supreme Court Rules 757, 758, 761, 762(a) | |
| and 763 | <u>33</u> |
| | 5,658 |
| Concluded by the Inquiry Board: | |
| Closed after panel review | 125 |
| Complaint or impairment petition voted... | 279 |
| Closed upon completion of conditions | |
| of Rule 108 supervision | <u>8</u> |
| | 412 |
| Total..... | 6,070 |

1. Timeliness of Investigations Concluded in 2007

It is the policy of the Commission that disciplinary matters be handled expeditiously. In keeping with that policy, Charts 13A-C show the average number of days that the 6,070 investigations concluded in 2007 were pending before either being closed after investigation or filed in a formal action. How long it takes before an investigation is resolved is influenced by the complexity of the issues, the amount of information and documents that the ARDC counsel must review, whether the lawyer or other sources are cooperating with the ARDC’s requests for information, and whether all concerns raised during the investigation have been addressed.

Like most lawyer discipline authorities throughout the country, the ARDC undertakes to investigate any grievance that has facial validity, not just the most serious charges. The ARDC employs 35 lawyers who have caseload responsibilities. Six lawyers are assigned to the Intake division, which reviews most incoming grievances and performs the initial inquiry into the facts in most cases. The Intake staff screens most written submissions from complainants to determine whether the submission, read liberally, describes some misconduct by a lawyer. That review may include obtaining clarification from the complainant or review of other documents but does not usually involve asking the lawyer who was the subject of the submission for further information. If the grievance does not describe misconduct, or if the submission falls within one of a few categories where the Commission has determined to investigate only under defined conditions that do not appear in the case, staff will close the file, generally explaining the decision in a letter to the complainant, and notifying the lawyer in writing that a grievance was received.

Chart 13A shows that 1,508, or 25%, of the 6,070 investigations concluded in 2007 were closed after an initial review of the complainant’s concerns. 96% of these 1,508 investigations were concluded within 60 days of the docketing of the grievance. In 2007, the Intake staff closed 94% of these investigations at this preliminary stage, and Litigation staff concluded the remaining 6%.

Chart 13A

| | | | |
|---|--------------|--------------|-------------------|
| Total Number of Investigations Closed After Initial Review in 2007 | | | |
| 1,508 | | | |
| <i>Average Number of Days Pending Prior to Closure:</i> | | | |
| Fewer than 10 days | 10 - 20 days | 21 - 60 days | More than 60 days |
| 75% | 5% | 16% | 4% |

In the remaining 4,562 investigations closed in 2007, the staff determined that an investigation was warranted and in most cases, these investigations began with a letter from Intake counsel to the lawyer named in the grievance, enclosing a copy of the complainant's submission and asking the lawyer to submit a written response within 14 days. The lawyer's written response was usually forwarded for comment to the complainant, and the file was reviewed by Intake counsel after the complainant's reply was received or past due. If, at that stage, the submissions and any back-up documentation obtained demonstrated that the lawyer did not violate professional conduct rules, or at least that a violation could not be proved, Intake counsel closed the file. If counsel determined that more expansive investigation was warranted, the file was reassigned to Litigation counsel. Chart 13B shows that for the 4,562 investigations closed after a determination to conduct an investigation was made, 2,772 or 63% were closed by Intake counsel, with 76% of those closed within 90 days of receipt. Chart 13C indicates that 37% were closed by Litigation counsel. 73% of the files referred to Litigation counsel were closed within one year, reflecting the fact that investigations are usually assigned to Litigation counsel when there is some evidence to suggest misconduct may have occurred. Accordingly, investigations at this level are more extensive and time consuming, in order to determine if the filing of formal action is warranted based on the evidence produced during the investigation.

Chart 13B

| | | | |
|---|--------------------------|---------------------------|--------------------|
| Total Number of Investigations Concluded in 2007 by the Intake Staff After Investigation 2,772 | | | |
| <i>Average Number of Days Pending Prior to Closure:</i> | | | |
| Fewer than 90 days | Between 90 - 180 days | Between 180 - 365 days | More than 365 days |
| 76% | 17% | 4% | 3% |

Chart 13C

| | | | |
|---|--------------------------|---------------------------|--------------------|
| Total Number of Investigations Concluded in 2007 by the Litigation Staff After Investigation 1,790 | | | |
| <i>Average Number of Days Pending Prior to Closure:</i> | | | |
| Fewer than 90 days | Between 90 - 180 days | Between 180 - 365 days | More than 365 days |
| 24% | 22% | 27% | 27% |

C. Hearing Matters

Once an Inquiry Board panel authorizes the filing of charges, a formal complaint setting forth all allegations of misconduct pending against the attorney is filed, and the matter proceeds before the Hearing Board. The Hearing Board functions much like a trial court in a civil case and is comprised of three panel members, two lawyers and one nonlawyer, appointed by the Commission. Upon filing and service of the complaint, the case becomes public. In addition to complaints alleging misconduct filed

pursuant to Supreme Court Rule 753, and complaints alleging conviction of a criminal offense under Rule 761, the Hearing Board also entertains petitions for reinstatement pursuant to Rule 767, petitions for transfer to inactive status because of impairment pursuant to Rule 758, and petitions for restoration to active status pursuant to Rule 759.

Chart 14 shows the activity before the Hearing Board in 2007. There were 144 cases added to the Hearing Board’s docket in 2007. Of those, 133 were initiated by the filing of a new disciplinary complaint.

Chart 14: Matters Before the Hearing Board in 2007

| | |
|---|-----|
| Cases Pending on January 1, 2007 | 150 |
| New Cases Filed in 2007: | |
| <i>Disciplinary Complaints Filed:*</i> | |
| ➤ Rules 753, 761(d) | 133 |
| <i>Reinstatement Petitions Filed:</i> | |
| ➤ Rule 767 | 11 |
| Total New Cases | 144 |
| Cases Concluded During 2007 | 121 |
| Cases Pending December 31, 2007 | 173 |
| * The number of cases filed at Hearing is significantly lower than the number of matters voted by Inquiry, because multiple investigations against a particular attorney in which the Inquiry Board has voted a complaint are consolidated into a single complaint for purposes of filing at Hearing. | |

Chart 15 shows the years in practice of the 132 lawyers (one lawyer had two complaints filed in 2007) who were the subject of a formal complaint in 2007.

Chart 15: Disciplinary Complaints Filed in 2007

| | | | | |
|---|------------------------|----------------------------------|-----------------------------------|-----|
| <i>Number of Complaints Filed in 2007</i> | | | | 133 |
| Respondents’ Years in Practice | # of Complaints | % of Complaints Filed | % of Lawyer Population | |
| Fewer than 5 years | 8 | 6% | 15% | |
| Between 5 and 10 years | 20 | 15% | 14% | |
| Between 10 and 20 years | 37 | 28% | 27% | |
| Between 20 and 30 years | 38 | 29% | 24% | |
| 30 or more years | 29 | 22% | 20% | |

Chart 16 shows the types of misconduct alleged in the 133 disciplinary complaints filed during 2007, and Chart 17 indicates the areas of practice in which the alleged misconduct arose. In large part, the categories most frequently seen in formal complaints track the categories most frequently seen in the initial charges, as reported in Charts 9 and 10.

Chart 16: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 2007

| <i>Type of Misconduct</i> | <i>Number of Cases*</i> | <i>% of Cases Filed*</i> | <i>Type of Misconduct</i> | <i>Number of Cases*</i> | <i>% of Cases Filed*</i> |
|---|-------------------------|--------------------------|---|-------------------------|--------------------------|
| Neglect/lack of diligence | 41 | 31% | Improper withdrawal from employment without court approval or avoiding prejudice to client..... | 7 | 5% |
| In many cases where neglect was charged, the neglect was accompanied by one or both of the following: | | | Not abiding by client's decision or taking unauthorized action on client's behalf..... | 6 | 5% |
| Misrepresentation to client..... | 19 | | Unauthorized practice after discipline..... | 5 | 4% |
| Failure to return unearned fees..... | 17 | | Misrepresentation to third persons | 4 | 3% |
| Failure to communicate with client..... | 40 | 30% | Assisting client in criminal/fraudulent conduct..... | 3 | 2% |
| Fraudulent or deceptive activity..... | 38 | 29% | Unauthorized practice after failure to register | 3 | 2% |
| Improper handling of trust funds | 34 | 26% | Aiding in the unauthorized practice of law | 2 | 2% |
| Criminal conduct/conviction of lawyer..... | 34 | 26% | False statement about judge | 2 | 2% |
| False statement or failure to respond in bar admission or disciplinary matter | 27 | 20% | Improper <i>ex parte</i> communication with judge..... | 2 | 2% |
| Conflict of interest | 20 | 15% | Improper commercial speech, including improper direct solicitation | 2 | 2% |
| Rule 1.7: concurrent conflicts | 12 | | Prosecutor's failure to disclose exculpatory evidence..... | 2 | 2% |
| Rule 1.8(a): improper business transaction with client | 5 | | Failure to comply with Rule 764..... | 1 | 1% |
| Rule 1.8(d): improper financial assistance to client..... | 1 | | Failure to supervise employees | 1 | 1% |
| Rule 1.9: successive conflicts | 2 | | Improper communication with a represented person | 1 | 1% |
| Falsifying evidence or making false statements to tribunal | 14 | 11% | Improper employment where lawyer may become witness | 1 | 1% |
| Pursuing/filing frivolous or non-meritorious claims or pleadings..... | 13 | 10% | Inducing/assisting another to violate rules | 1 | 1% |
| Excessive or unauthorized fees..... | 10 | 8% | | | |
| Failure to provide competent representation..... | 7 | 5% | | | |

*Totals exceed 133 disciplinary cases and 100% because most complaints allege more than one type of misconduct.

Chart 17: Area of Law Involved in Complaints Filed Before Hearing Board in 2007

| <i>Area of Law</i> | <i>Number of Cases*</i> | <i>% of Cases Filed*</i> | <i>Area of Law</i> | <i>Number of Cases*</i> | <i>% of Cases Filed*</i> |
|--------------------------|-------------------------|--------------------------|-------------------------------------|-------------------------|--------------------------|
| Real Estate | 21 | 16% | Immigration | 4 | 3% |
| Tort | 19 | 14% | Workers' Comp/Labor Relations | 4 | 3% |
| Domestic Relations | 16 | 12% | Civil Rights | 2 | 2% |
| Criminal | 16 | 12% | Tax | 2 | 2% |
| Probate | 15 | 11% | Corporate Matters | 2 | 2% |
| Bankruptcy | 13 | 10% | Debt Collection | 1 | 1% |
| Contract | 10 | 8% | | | |

*Totals exceed 133 disciplinary complaints and 100% because many complaints allege several counts of misconduct arising in different areas of practice.

Chart 18 shows the type of action by which the Hearing Board concluded 121 cases during 2007.

Chart 18: Actions Taken by Hearing Board in Matters Terminated in 2007

| | |
|--|------------|
| A. Disciplinary Cases: Rules 753 & 761(c) and (d) | |
| Case closed by filing of petition for discipline on consent other than disbarment..... | 49 |
| Recommendation of discipline after hearing .. | 44 |
| Case closed by filing of motion for disbarment on consent | 5 |
| Case closed by administration of a reprimand to respondent | 5 |
| Recommendation of dismissal after hearing | 5 |
| Complaint dismissed without prejudice | 2 |
| Case closed upon respondent's death..... | 1 |
| Case closed, no sanction recommended..... | 1 |
| Case closed by filing of petition to transfer to disability inactive status..... | <u>1</u> |
| Total Disciplinary Cases..... | 113 |
| B. Reinstatement Petitions: Rule 767 | |
| Recommendation of Petition denied | 1 |
| Recommendation of Petition allowed with conditions..... | 1 |
| Recommendation of Petition withdrawn..... | 4 |
| C. Restoration Cases: Rule 759 | |
| Petition denied | 1 |
| Petition allowed with conditions..... | <u>1</u> |
| Total Matters Terminated..... | 121 |

C. Matters Filed Before the Review Board in 2007

Once the Hearing Board files its report in a case, either party may file a notice of exceptions to the Review Board, which serves as an appellate tribunal. Chart 19 shows activity at the Review Board during 2007.

Chart 19: Trend of Matters Before the Review Board in 2007

| | |
|--|-----------|
| Cases pending on January 1, 2007 | 21 |
| Cases filed during 2007: | |
| Exceptions filed by Administrator..... | 17 |
| Exceptions filed by Respondent | 12 |
| Exceptions filed by both..... | <u>3</u> |
| Total..... | 32 |
| Cases decided in 2007: | |
| Hearing Board affirmed..... | 11 |
| Hearing Board reversed on findings and/or sanction | 10 |
| Notice of exceptions withdrawn | 5 |
| Notice of exceptions stricken | <u>3</u> |
| Total..... | 29 |
| Cases pending December 31, 2007 | 24 |

D. Supreme Court – Disciplinary Cases

The Supreme Court has sole authority to sanction attorneys for misconduct, except for a Board reprimand, which can be imposed in a disciplinary case without order of the Court by either the Hearing or Review Board. In 2007, the Hearing Board administered five reprimands. *See* Chart 18. Other than Board reprimands, the Hearing and Review Board reports are recommendations to the Supreme Court. During 2007, the Court entered 120 sanctions against 119 lawyers (one lawyer was disciplined twice in 2007). Chart 20 reflects the nature of the orders entered.

Chart 20: Disciplinary Sanctions Ordered by the Supreme Court in 2007

| | |
|------------------|-----|
| Disbarment | 24 |
| Suspension | 60* |
| Probation | 16 |
| Censure | 11 |
| Reprimand | 9 |
| Total | 120 |

*In addition to the 60 suspensions, the Court also ordered 11 interim suspensions, as reported in Chart 22 at (F) and (J).

Charts 21A and 21B provide demographic information on the 124 lawyers disciplined in 2007 (the 119 lawyers sanctioned by the Court and the five lawyers reprimanded by the Hearing Board).

Chart 21A: County of Practice of Lawyers Disciplined in 2007

| County | Number Disciplined | County | Number Disciplined |
|--------------------|--------------------|------------------|--------------------|
| Cook | 51 | Kane | 1 |
| Out-of-State | 34 | Lake | 1 |
| DuPage | 7 | Livingston | 1 |
| Peoria | 4 | Marion | 1 |
| Champaign | 3 | Monroe | 1 |
| Saint Clair | 3 | Pike | 1 |
| Sangamon | 3 | Will | 1 |
| Kankakee | 2 | Williamson | 1 |
| LaSalle | 2 | Union | 1 |
| Madison | 2 | | |
| McHenry | 2 | | |
| Rock Island | 2 | | |

Chart 21B: Profile of Lawyers Disciplined in 2007

| Years in Practice | # of Lawyers | % of Sanctions | % of Lawyer Population |
|----------------------------|--------------|----------------|------------------------|
| Fewer than 5 | 1 | 1% | 15% |
| Between 5 and 10 | 10 | 8% | 14% |
| Between 10 and 20 | 39 | 31% | 27% |
| Between 20 and 30 | 42 | 34% | 24% |
| 30 or more | 32 | 26% | 20% |
| Age: | | | |
| 21-29 years old | 0 | 0% | 7% |
| 30-49 years old | 54 | 43% | 54% |
| 50-74 years old | 63 | 51% | 37% |
| 75 or more years old | 7 | 6% | 2% |
| Gender: | | | |
| Female | 18 | 8% | 34% |
| Male | 106 | 92% | 66% |

Disciplinary cases reach the Court in several ways. Chart 22 reflects the actions taken by the Supreme Court in disciplinary matters in the varying procedural contexts in which those matters are presented.

Chart 22: Orders Entered by Supreme Court in Disciplinary Cases in 2007

| | |
|---|---|
| <p>A. <u>Motions for disbarment on consent: Rule 762(a)</u> Allowed..... 12 Denied..... <u>0</u> Total 12</p> <p>B. <u>Petitions for discipline on consent: Rule 762(b)</u> Allowed: Suspension 25 Suspension stayed in part, probation ordered 8 Suspension stayed in its entirety, probation ordered 3 Censure <u>9</u> Total 45 Denied..... <u>3</u> Total 48</p> <p>C. <u>Petitions for leave to file exceptions to report and recommendation of Review Board: Rules 753(e)(1) and 761</u> Allowed, and more discipline imposed 4 Denied, and same discipline recommended by Review Board imposed <u>11</u> Total 15</p> <p>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u> Allowed..... 3 Denied..... <u>0</u> Total 3</p> | <p>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u> Allowed 25 Denied <u>0</u> Total..... 25</p> <p>F. <u>Petitions for interim suspension due to conviction of a crime: Rule 761(b)</u> Rule enforced and lawyer suspended..... 4 Rule discharged 1 Petition to continue interim suspension allowed <u>1</u> Total..... 6</p> <p>G. <u>Petitions for reciprocal discipline: Rule 763</u> Allowed 19 Denied <u>0</u> Total..... 19</p> <p>H. <u>Petitions for reinstatement: Rule 767</u> Referred to Hearing Board 11 Petition withdrawn 4 Denied <u>1</u> Total..... 16</p> <p>I. <u>Motions to revoke probation: Rule 772</u> Allowed, probation revoked and respondent suspended 5 Denied..... <u>0</u> Total..... 5</p> <p>J. <u>Petitions for interim suspension: Rule 774</u> Rule enforced and lawyer suspended..... 7 Rule continued or discharged <u>0</u> Total..... 7</p> |
|---|---|

Chart 23 tracks the type of misconduct that led to the sanctions entered by the Court (120) and Hearing Board reprimands administered (5) in 2007.

Chart 23: Misconduct Committed in the 125 Disciplinary Cases Decided in 2007*

| Types of Misconduct | Number of Cases in Which Sanctions Were Imposed | | | |
|---|---|--------------|-----------|--------------|
| | Disbarment | Suspension** | Censure | Reprimand*** |
| Total Number of Cases: | 24 | 74 | 12 | 15 |
| Improper management of client or third party funds, including commingling and conversion..... | 10 | 16 | 1 | 1 |
| Neglect or lack of diligence | 7 | 28 | 3 | 4 |
| Fraudulent or deceptive activity..... | 17 | 31 | 4 | 0 |
| Criminal conduct by the lawyer..... | 11 | 17 | 2 | 0 |
| Failure to communicate with client, including failure to communicate basis of a fee..... | 5 | 28 | 3 | 2 |
| Failure to provide competent representation..... | 2 | 11 | 1 | 2 |
| Fee violations, including failure to refund unearned fees | 4 | 22 | 1 | 1 |
| Failure to cooperate with or false statement to disciplinary authority | 3 | 14 | 1 | 2 |
| Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf | 1 | 3 | 1 | 1 |
| Improper withdrawal, including failure to return file | 0 | 5 | 1 | 0 |
| Conflict of interest (between current clients)..... | 1 | 1 | 1 | 0 |
| Conflict of interest (lawyer's own interests)..... | 1 | 4 | 0 | 1 |
| Conflict of interest (improper business transaction with client)..... | 1 | 3 | 0 | 0 |
| Conflict of interest (improper agreement with client to limit lawyer's liability or avoid disciplinary action) | 0 | 0 | 0 | 1 |
| Conflict of interest (former client)..... | 0 | 1 | 0 | 0 |
| Conflict of interest (improper propriety interest in subject of representation)..... | 0 | 1 | 0 | 0 |
| Filing false, frivolous or non-meritorious claims or pleadings..... | 2 | 7 | 0 | 0 |
| Threatening to present criminal/disciplinary charges..... | 0 | 1 | 0 | 1 |
| Counseling/assisting a client in criminal or fraudulent conduct | 1 | 0 | 0 | 0 |
| Misrepresentation to a tribunal | 2 | 6 | 1 | 3 |
| Misrepresentation to clients to cover up neglect..... | 3 | 16 | 2 | 0 |
| Misrepresentation to third persons | 1 | 3 | 3 | 0 |
| Improper communication with a represented person | 1 | 1 | 0 | 1 |
| Improper employment where lawyer may be witness..... | 0 | 1 | 0 | 0 |
| Breach of client confidences..... | 0 | 1 | 0 | 0 |
| Prosecutor's failure to disclose exculpatory evidence..... | 0 | 0 | 2 | 0 |
| Unauthorized practice in another jurisdiction | 1 | 1 | 0 | 0 |
| Practice after failure to register..... | 1 | 3 | 1 | 0 |
| Practice during suspension..... | 0 | 1 | 0 | 0 |
| Improper solicitation or advertising..... | 0 | 1 | 0 | 0 |
| Failure to supervise lawyer's employees | 1 | 1 | 0 | 0 |
| Failure to comply with Rule 764..... | 1 | 2 | 0 | 0 |
| Assisting a non-lawyer in unauthorized practice of law..... | 1 | 0 | 0 | 0 |
| Failure to comply with Rule 769..... | 1 | 1 | 0 | 0 |

* Totals exceed 125 cases because in most cases more than one type of misconduct was found.
 ** Includes 60 suspensions, 5 of which were probations that were terminated, and 14 suspensions stayed in part or entirely by probation.
 *** Includes 5 Hearing Board reprimands.

E. Supreme Court – Non-Disciplinary Action

In addition to activity in disciplinary cases, the Supreme Court entertains pleadings in non-disciplinary matters that affect an attorney’s status. Chart 24 reflects the orders entered in such cases during 2007.

Chart 24: Non-Disciplinary Actions by the Supreme Court for 2007

| | |
|--|----------|
| A. Rule 759 | |
| Petitions for restoration to active status: | |
| Allowed | 12 |
| Denied | <u>0</u> |
| <i>Total</i> | 12 |
| B. Rule 757 | |
| Petition for involuntary transfer to disability inactive status due to mental disability | |
| Allowed | 1 |
| Denied | <u>0</u> |
| <i>Total</i> | 1 |
| C. Rule 758 | |
| Motions for involuntary transfer to inactive status due to mental disability or substance addiction: | |
| Allowed | 5 |
| Denied | <u>0</u> |
| <i>Total</i> | 5 |

Charts 25A and 25B show the registration and caseload trends for the past fifteen years.

Caseload Trends: 1993-2007

Chart 25A: Disciplinary Investigations

| | Number of Registered Attorneys | % of Growth Over Prior Year | Investigations Docketed | Closure By Administrator No Misconduct Alleged | Closure By Administrator After Investigation | Closure By Inquiry Board After Investigation | Complaint Voted By Inquiry Board* |
|------|---------------------------------------|------------------------------------|--------------------------------|---|---|---|--|
| 1993 | 63,328 | 3.6% | 6,345 | 974 | 5,422 | 137 | 241 |
| 1994 | 65,163 | 2.9% | 6,567 | 1,224 | 5,125 | 133 | 247 |
| 1995 | 67,121 | 3.0% | 6,505 | 1,359 | 5,134 | 73 | 277 |
| 1996 | 68,819 | 2.5% | 6,801 | 1,364 | 4,946 | 76 | 300 |
| 1997 | 70,415 | 2.3% | 6,293 | 1,202 | 5,018 | 81 | 342 |
| 1998 | 72,149 | 2.5% | 6,048 | 1,352 | 4,414 | 58 | 272 |
| 1999 | 73,514 | 1.9% | 5,877 | 1,131 | 4,268 | 69 | 231 |
| 2000 | 73,661 | 0.2% | 5,716 | 1,146 | 4,319 | 87 | 224 |
| 2001 | 74,311 | 0.9% | 5,811 | 1,077 | 4,318 | 55 | 273 |
| 2002 | 75,421 | 1.5% | 6,182 | 1,350 | 4,360 | 96 | 334 |
| 2003 | 76,671 | 1.7% | 6,325 | 1,396 | 4,332 | 61 | 353 |
| 2004 | 78,101 | 1.9% | 6,070 | 1,303 | 4,539 | 90 | 320 |
| 2005 | 80,041 | 2.5% | 6,082 | 1,460 | 4,239 | 102 | 317 |
| 2006 | 81,146 | 1.4% | 5,801 | 1,319 | 4,076 | 76 | 215 |
| 2007 | 82,380 | 1.5% | 5,988 | 1,508 | 4,117 | 125 | 279 |

*Totals are higher than number of complaints filed because a complaint may be based on more than one investigation.

Chart 25B: Disciplinary Proceedings

| | Matters Filed With Hearing Board | Matters Concluded at Hearing Board | Matters Filed With Review Board | Matters Concluded at Review Board | Sanctions Ordered By Court |
|------|---|---|--|--|-----------------------------------|
| 1993 | 106 | 115 | 44 | 41 | 114 |
| 1994 | 115 | 128 | 35 | 54 | 109 |
| 1995 | 113 | 137 | 35 | 32 | 148 |
| 1996 | 129 | 82 | 22 | 37 | 115 |
| 1997 | 129 | 131 | 32 | 24 | 117 |
| 1998 | 141 | 139 | 31 | 28 | 138 |
| 1999 | 123 | 112 | 28 | 24 | 116 |
| 2000 | 119 | 116 | 29 | 32 | 120 |
| 2001 | 137 | 129 | 28 | 28 | 123 |
| 2002 | 131 | 122 | 36 | 30 | 126 |
| 2003 | 141 | 125 | 35 | 30 | 137 |
| 2004 | 156 | 170 | 45 | 41 | 149 |
| 2005 | 144 | 134 | 28 | 47 | 167 |
| 2006 | 108 | 132 | 25 | 23 | 144 |
| 2007 | 144 | 121 | 32 | 29 | 120 |

**F. Discipline and Reinstatement Matters before the Illinois Supreme Court:
A 35-Year Statistical Review**

Over the course of the past thirty-five years, the Illinois Supreme Court imposed disciplinary sanctions in 3,074 different lawyer disciplinary matters. Out of that total, 1,062 lawyers were disbarred or disbarred on consent. Chart 26 below tracks the disciplinary orders entered by the Court over that time period.

Chart 26: Disciplinary Orders Entered by the Supreme Court: 1973-2007

| Period | Disbarments | Suspensions | Censures or Reprimands | Probations** | Total |
|--------------------------------|-------------|-------------|------------------------|--------------|-------|
| July 1, 1973- June 30, 1974 | 10 | 0 | 0 | 0 | 10 |
| July 1, 1974- June 30, 1975 | 23 | 3 | 3 | 0 | 29 |
| July 1, 1975- Dec. 31, 1975 | 12 | 2 | 0 | 0 | 14 |
| 1976 | 13 | 5 | 3 | 0 | 21 |
| 1977 | 12 | 7 | 4 | 0 | 23 |
| 1978 | 9 | 14 | 3 | 0 | 26 |
| 1979 | 13 | 7 | 1 | 0 | 21 |
| 1980 | 14 | 11 | 2 | 0 | 27 |
| 1981 | 8 | 6 | 3 | 0 | 17 |
| 1982 | 16 | 18 | 13 | 0 | 47 |
| 1983 | 26 | 17 | 5 | 0 | 48 |
| 1984 | 23 | 15 | 11 | 1 | 50 |
| 1985 | 36 | 43* | 9 | 0 | 88 |
| 1986 | 42 | 38* | 6 | 0 | 86 |
| 1987 | 54 | 39* | 10 | 0 | 103 |
| 1988 | 32 | 55* | 25 | 0 | 112 |
| 1989 | 60 | 48* | 18 | 6 | 132 |
| 1990 | 34 | 46* | 18 | 2 | 100 |
| 1991 | 20 | 38* | 17 | 3 | 78 |
| 1992 | 32 | 42* | 13 | 2 | 89 |
| 1993 | 45 | 47 | 14 | 8 | 114 |
| 1994 | 34 | 48 | 14 | 13 | 109 |
| 1995 | 54 | 57 | 22 | 15 | 148 |
| 1996 | 44 | 51 | 11 | 9 | 115 |
| 1997 | 56 | 41 | 10 | 10 | 117 |
| 1998 | 52 | 56 | 10 | 20 | 138 |
| 1999 | 32 | 50 | 20 | 14 | 116 |
| 2000 | 39 | 55 | 14 | 12 | 120 |
| 2001 | 26 | 68 | 13 | 16 | 123 |
| 2002 | 31 | 61 | 16 | 18 | 126 |
| 2003 | 37 | 63 | 17 | 20 | 137 |
| 2004 | 35 | 74 | 17 | 23 | 149 |
| 2005 | 32 | 85 | 29 | 21 | 167 |
| 2006 | 32 | 63 | 25 | 24 | 144 |
| 2007 | 24 | 60 | 20 | 16 | 120 |
| 35-year totals | 1,062 | 1,333 | 416 | 253 | 3,074 |

* Includes interim suspension orders.

** Probation orders can be either where the suspension is stayed in part or in its entirety by probation.

Over the course of the Commission's history, the Supreme Court has also had occasion to review petitions for reinstatement to the bar where an attorney has been disbarred, disbarred on consent, or suspended for a given period and until further order of the Court. Chart 27 tracks the reinstatement orders entered by the Court from 1974 through 2007. The Court entered no orders in reinstatement matters during the Commission's first year of existence. The chart reveals that, during the last seventeen years, reinstatements have been granted by the Court on only 20 occasions, a rate 72% less than that for the first 17 years of the Commission's history. Of the 72 lawyers reinstated from 1974 through 2007, 54 had initially been disbarred or disbarred on consent and 18 had been suspended until further order of the Court.

Chart 27: Reinstatement Orders Entered by the Supreme Court: 1974-2007

| Decision Year | Allowed | Dismissed or Denied | Withdrawn |
|---------------|----------------|----------------------------|------------------|
| 1974 | 2 | 1 | 0 |
| 1975 | 3 | 1 | 0 |
| 1976 | 3 | 1 | 2 |
| 1977 | 5 | 2 | 4 |
| 1978 | 4 | 0 | 1 |
| 1979 | 5 | 0 | 2 |
| 1980 | 3 | 1 | 1 |
| 1981 | 5 | 2 | 2 |
| 1982 | 2 | 3 | 0 |
| 1983 | 2 | 1 | 0 |
| 1984 | 3 | 2 | 2 |
| 1985 | 1 | 3 | 2 |
| 1986 | 2 | 1 | 3 |
| 1987 | 3 | 3 | 0 |
| 1988 | 3 | 0 | 0 |
| 1989 | 2 | 2 | 2 |
| 1990 | 4 | 3 | 0 |
| 1991 | 3 | 1 | 1 |
| 1992 | 1 | 2 | 4 |
| 1993 | 0 | 1 | 3 |
| 1994 | 0 | 8 | 7 |
| 1995 | 3 | 2 | 5 |
| 1996 | 3 | 3 | 2 |
| 1997 | 0 | 1 | 4 |
| 1998 | 3 | 0 | 1 |
| 1999 | 3 | 1 | 1 |
| 2000 | 0 | 1 | 1 |
| 2001 | 1 | 0 | 1 |
| 2002 | 0 | 0 | 2 |
| 2003 | 1 | 2 | 3 |
| 2004 | 0 | 1 | 2 |
| 2005 | 1 | 2 | 3 |
| 2006 | 1 | 2 | 2 |
| 2007 | 0 | 2 | 4 |
| TOTALS | Allowed | Dismissed or Denied | Withdrawn |
| 1974-1990 | 52 | 26 | 21 |
| 1991-2007 | 20 | 29 | 46 |
| 1974-2007 | 72 | 55 | 67 |

G. The Himmel Duty: 20 Years Later

One of the most significant Illinois Supreme Court lawyer disciplinary decisions marks its 20th anniversary in 2008. On September 22, 1988, the Court filed an opinion in *In re Himmel*, 125 Ill.2d 531, 127 Ill.Dec. 708, 533 N.E.2d 790 (Ill. 1988). Rehearing was denied the following January. The case established that an attorney's failure to report his unprivileged knowledge of another attorney's serious wrongdoing warranted a suspension from the practice of law. The Attorney-Respondent was prosecuted under old Rule 1-103 of the Illinois Code of Professional Responsibility. That reporting provision was superseded in 1990 by Rule 8.3 of the Illinois Rules of Professional Conduct, a substantively identical ethics standard.

The facts that led to the landmark case involved lawyer John R. Casey, who was hired by a client to represent her in a personal injury claim. Casey negotiated a \$35,000 settlement on her behalf. Pursuant to an agreement between the client and Casey, one-third of any monies received would be paid to Casey as his attorney's fee. Casey eventually received a \$35,000 settlement check, endorsed it, and deposited the check into his client trust fund account. Subsequently, he converted the funds. The client unsuccessfully attempted to collect her \$23,233.34 share of the proceeds. Later, she retained Mr. Himmel to collect her money and agreed to pay him one-third of any funds recovered above \$23,233.34. Himmel investigated the matter and discovered that Casey had misappropriated the settlement funds. He drafted an agreement in which Casey would pay the client \$75,000 in settlement of any claim she might have against Casey for the misappropriated funds. By the terms of the agreement, the client promised not to initiate any criminal, civil, or attorney disciplinary action against Casey. Himmel stood to gain \$17,000 or more if Casey honored the agreement. Later, Himmel filed suit against Casey for breaching the agreement and a \$100,000 judgment was entered against Casey. If Casey had satisfied the judgment, Himmel's share would have been \$25,588. In April 1985, the ARDC Administrator filed a petition for interim suspension because Casey had converted client funds in matters unrelated to Himmel's client's claim. Casey misappropriated those funds after Himmel's duty to report Casey had arisen. Casey was subsequently disbarred on consent. In sanctioning Himmel, the Court noted: "Perhaps some members of the public would have been spared from Casey's misconduct had respondent reported the information as soon as he knew of Casey's conversions of client funds. We are particularly disturbed by the fact that respondent chose to draft a settlement agreement with Casey rather than report his misconduct."

The Court's decision was not without precedent, as it had previously considered the reporting requirement in the context of a lawyer reinstatement proceeding. During May Term 1988, the Court released an opinion in *In re Anglin*, 122 Ill.2d 531, 120 Ill.Dec. 520, 524 N.E.2d 550 (Ill. 1988). There, a disbarred attorney refused to answer questions during the reinstatement proceeding about the involvement of other persons in the criminal activity that had led to the initial disciplinary sanction. The Court ruled that the petitioner's code of silence indicated that he was not fully rehabilitated or fit to practice law.

Since the issuance of the *Himmel* opinion, the Illinois ARDC has received more than 10,000 reports filed by lawyers and judges against members of the Illinois Bar. An average of 500 reports has been made each year. Although investigations opened as a result of attorney reporting are usually concluded without the filing of formal disciplinary charges, more than 17% of the formal disciplinary caseload over the past sixteen years, the period in which such data was tabulated, included an average of one charge generated as a result of a lawyer or judge filing an attorney report. In some years, one out of every five formal complaints was the product of an attorney report; in 2007, however, that number jumped to almost 29% of all formal filings.

Chart 28 tracks attorney report filings for a twenty-year reporting period, from 1988 through 2007.

Chart 28: Attorney Reports: 1988-2007

| Year | Number of Grievances | Numbers of Attorney Reports | Percent of Attorney Reports to Grievances | Number of Complaints Voted | Number of Complaints Voted Involving Attorney Reports | Percent of Attorney Reports to Formal Complaints |
|------------------------------|----------------------|-----------------------------|---|----------------------------|---|--|
| 1988 | est. 5,817 | 154 + | 2.6% | 214 | - | - |
| 1989 | est. 6849 | 922 | 13.4% | 343 | - | - |
| 1990 | est. 7634 | 681 | 8.9% | 349 | - | - |
| 1991 | est. 7,022 | 539 | 7.6% | 325 | - | - |
| 1992 | 7,338 | 554 | 7.5% | 277 | 50 | 18.0% |
| 1993 | 6,345 | 594 | 9.4% | 241 | 48 | 19.9% |
| 1994 | 6,567 | 578 | 8.8% | 247 | 54 | 21.8% |
| 1995 | 6,505 | 555 | 8.5% | 277 | 38 | 13.7% |
| 1996 | 6,801 | 549 | 8.0% | 300 | 60 | 20.0% |
| 1997 | 6,293 | 591 | 9.4% | 342 | 64 | 18.7% |
| 1998 | 6,048 | 539 | 8.9% | 259 | 54 | 20.8% |
| 1999 | 5,877 | 517 | 8.8% | 231 | 54 | 23.0% |
| 2000 | 5,716 | 512 | 8.9% | 224 | 31 | 13.8% |
| 2001* | 5,811 | 201 | 3.5% | 273 | 27 | 9.8% |
| 2002* | 6,182 | 346 | 5.6% | 334 | 53 | 15.8% |
| 2003 | 6,325 | 510 | 8.1% | 353 | 44 | 12.5% |
| 2004 | 6,070 | 503 | 8.3% | 320 | 42 | 13.1% |
| 2005 | 6,082 | 505 | 8.3% | 317 | 47 | 14.8% |
| 2006 | 5,800 | 435 | 7.5% | 217 | 35 | 16.1% |
| 2007 | 5,988 | 525 | 8.8% | 284 | 82 | 28.9% |
| Totals for 1988-2007 | 127,070 | 10,310 | 8.1% | 5,727 | - | - |
| Totals for 1992-2007 | 99,748 | 8,014 | 8.0% | 4,496 | 783 | 17.4% |
| Average For 1992-2007 | 6,234 | 501 | 8.0% | 281 | 49 | 17.4% |

The Supreme Court has sanctioned a number of lawyers since 1988 for violating the reporting obligation. Two examples include *In re Daley*, M.R. 17023, 98 SH 2 (Ill. Nov. 27, 2000) (attorney

+ Reporting statistics were not kept until October 4, 1988.

* The method of tracking attorney reports changed in these years, and as a result a number of attorney reports were not recorded. Therefore, the number of attorney reports is likely underreported for 2000 and 2001.

suspended nine months, in part for failing to report another lawyer's use of a court order to obstruct a federal investigation); and *In re Arnold*, M.R. 10462, 93 SH 436 (Ill. Nov. 30, 1994) (attorney suspended one year, in part, for failing to report judicial misconduct).

In *Skolnick v. Altheimer & Gray*, 191 Ill.2d 214, 246 Ill.Dec. 324, 730 N.E.2d 4 (Ill. 2000), the Supreme Court had the opportunity to discuss the reporting obligation in a non-disciplinary case. There, the necessary degree of knowledge that triggers a Rule 8.3 reporting obligation was defined: a lawyer must have "more than a mere suspicion" of another lawyer's misconduct, but such knowledge need not amount to "absolute certainty." Further, the Court ruled that misconduct reports in Illinois must be made to the ARDC, not to a trial court.

The Supreme Court has dealt with a widely held concern that a lawyer could threaten others with filing an attorney report to gain an advantage in litigation or negotiation. When adopting a new ethics code in 1990, it adopted Rule 1.2(e) of the Illinois Rules of Professional Conduct. Rule 1.2(e) provides that a lawyer shall not present, participate in presenting, or threaten to present criminal charges or professional disciplinary actions to obtain an advantage in a civil matter. The Court recently sanctioned a lawyer who attempted to use the threat to report an ethics violation to secure an advantage in a civil matter. *In re Soble*, M.R. 21558, 07 RC 1502 (Ill. May 18, 2007). Finally, the Court has ruled that any report filed with the ARDC must be truthful. *In re Olivero*, M.R. 17228, 98 SH 54 (Ill. March 22, 2001) (attorney suspended six months for filing a false disciplinary grievance against another attorney and then lying about his conduct, under oath, to the disciplinary authority).

Finally, questions about the reporting rule continue to be answered by the Commission's Ethics Inquiry Program. Over the course of 2006 and 2007, 6,500 Illinois attorneys contacted the Program, and 568 of those callers inquired about the *Himmel* obligation.

H. Study of Demographic Data for Lawyers Disciplined with Identified Impairments During Ten-Year Period (1998-2007)

It is frequently seen in discipline cases that an attorney-respondent is impaired by addiction to alcohol or other substance or suffers some mental illness or disorder. Charts 29A and 29B show the 339 cases between 1998 and 2007 in which the disciplined lawyer suffered from some type of substance and/or mental impairment. The chart breaks down the impairments identified for two five-year periods, 1998 to 2002 and 2003 to 2007, and shows the overall impact of impairments for all lawyers disciplined in each time period. Charts 29A, 29B and 29C reflect only those cases in which an impairment was raised by the lawyer or otherwise known by staff counsel. It is likely that many cases involving impaired lawyers are never so identified.

Chart 29A: Impairments Identified for Attorneys Sanctioned Between 1998-2007

| | 1998-2002 | | 2003-2007 | | 1998-2007 | |
|---|-----------|-----|-----------|-----|-----------|-----|
| Number of Lawyers Sanctioned | 519 | | 676 | | 1,195 | |
| Number of Sanctioned Lawyers with Impairment | 124 | 24% | 215 | 32% | 339 | 28% |

Chart 29B: Impairments Identified for Attorneys Sanctioned Between 1998-2007

| | 1998-2002 | | 2003-2007 | | 1998-2007 | |
|--|-----------|-------|-----------|-------|-----------|-------|
| Impairments of Lawyers Sanctioned | | | | | | |
| Substances: | | | | | | |
| Alcohol | 30 | 24.2% | 30 | 14% | 60 | 17.7% |
| Cocaine | 7 | 5.6% | 7 | 3.2% | 14 | 4.2% |
| Other drugs | 4 | 3.2% | 23 | 11% | 27 | 8% |
| Mental Illness: | | | | | | |
| Depression | 45 | 36.3% | 73 | 34% | 118 | 35% |
| Bipolar Disorder | 8 | 6.5% | 5 | 2.3% | 13 | 3.8% |
| Schizophrenia | 2 | 1.6% | 3 | 1.4% | 5 | 1.5% |
| Other: | | | | | | |
| Gambling | 5 | 4% | 10 | 4.6% | 15 | 4.4% |
| Sexual Disorder | 5 | 4% | 4 | 1.8% | 9 | 2.7% |
| Combinations: | | | | | | |
| Alcohol & Depression | 5 | 4% | 22 | 10.2% | 27 | 8% |
| Alcohol & Other Drugs | 9 | 7.3% | 35 | 16.2% | 44 | 13% |
| Alcohol & Gambling | 1 | 1% | | | | |
| Depression & Drugs | 2 | 1.6% | 2 | 1% | 4 | 1.2% |
| Gambling & Drugs | 1 | 1% | 1 | 1% | 2 | 1% |

Based on information available for the 2003-2007 period, Chart 29C shows the 215 lawyers with identified impairments disciplined in that five-year period, grouped by the practice setting around the time of the misconduct. 86% of impaired lawyers were sole practitioners or practiced in a firm of 2-10 lawyers at the time of the misconduct.

**Chart 29C: Impairments Identified for Attorneys Sanctioned
Between 2003-2007, By Practice Setting**

| <i>Practice Setting</i> | <i>Solo</i> | <i>Firm 2-10</i> | <i>Firm 11-25</i> | <i>Firm 26+</i> | <i>Gov't/ Judicial</i> | <i>In-House</i> | <i>No Practice</i> |
|--------------------------|-------------|----------------------|-----------------------|---------------------|----------------------------|-----------------|------------------------|
| # Sanctioned: | 144 | 40 | 2 | 4 | 5 | 1 | 19 |
| <i>Impairment</i> | | | | | | | |
| Substances: | | | | | | | |
| Alcohol | 18 | 8 | | | 1 | | 4 |
| Cocaine | 4 | 1 | | | 1 | | |
| Other drugs | 17 | 3 | | 1 | 1 | | 2 |
| Mental Illness: | | | | | | | |
| Depression | 32 | 14 | 2 | 1 | 1 | | 3 |
| Bipolar | 2 | 2 | | | 1 | | |
| Schizophrenia | 3 | | | | | | |
| Other: | | | | | | | |
| Gambling | 6 | 2 | | | | | 2 |
| Sexual Disorder | 2 | 1 | | | | 1 | |
| Combinations: | | | | | | | |
| Alcohol & Depression | 18 | 3 | | 1 | | | 3 |
| Alcohol & Other Drugs | 34 | 4 | | | | | 1 |
| Alcohol & Gambling | | | | 1 | | | |
| Depression & Drugs | 8 | 1 | | | | | |
| Gambling & Drugs | | 1 | | | | | |
| Total % per Group | 67% | 18% | 1% | 2% | 2% | 1% | 9% |

IV. Client Protection Program

The Supreme Court of Illinois created the Client Protection Program in 1994 to reimburse clients who lost money as the result of the dishonest conduct of an Illinois lawyer.¹ The Program does not cover losses resulting from professional negligence or malpractice and does not consider claims involving contractual disputes. The Commission rules governing the administration of the Program are Rules 501 through 512.

The purpose of the Client Protection Program is to promote public confidence in the administration of justice and the integrity of the legal profession. The Program was originally part of the Disciplinary Fund budget, but funding issues limited the ability of the Program to fulfill its purpose. In September 2006, in order to enhance the effectiveness of the Program, the Court amended its Rules 756 and 780 to change the way the Program is funded. Rule 780 now provides that the Program shall be funded by an annual assessment paid by each lawyer and remitted to the Client Protection Program Trust Fund, and Rule 756 sets the assessment amount at \$25 per lawyer.

In 2007, the Program collected \$1,627,458 for payment of claims (\$1,531,163 from assessments, \$25,058 from reimbursement, and \$71,237 from interest). Based on the new funding, the Commission determined that an increase in the claim caps was appropriate, and effective January 31, 2007, the Commission amended Commission Rule 510 and increased the maximum payment on a claim from \$25,000 to \$50,000 and the maximum aggregate payments arising from the conduct of one attorney from \$250,000 to \$500,000. In 2007, the Program approved 90 claims against 44 lawyers and paid \$697,358 to claimants as shown in Chart 30. Five approvals were for the \$50,000 maximum, and 49 were for \$2,500 or less.

Chart 30: Client Protection Program Claims: 2002-2007

| Year | Claims filed | # Claims Approved | # Claims Denied² | For Claims Approved, # Respondent Attys | Total Amounts Paid |
|-------------|---------------------|--------------------------|------------------------------------|--|---------------------------|
| 2002 | 187 | 57 | 86 | 31 | \$215,564 |
| 2003 | 208 | 68 | 83 | 31 | \$477,595 |
| 2004 | 357 | 153 | 113 | 40 | \$617,772 |
| 2005 | 242 | 179 | 132 | 46 | \$951,173 |
| 2006 | 222 | 111 | 69 | 38 | \$843,054 |
| 2007 | 217 | 90 | 138 | 44 | \$697,358 |

Chart 31 provides a summary of the claims approved in 2007, by type of misconduct and area of law.

¹ Illinois Supreme Court Rule 780.

² The figure for 2007 includes 61 claims that were closed as ineligible under the Rules and 5 claims that were closed after the involved lawyer reimbursed the claimant's loss.

Chart 31: Classification of Approved Client Protection Claims in 2007

| | |
|--------------------------------------|----|
| Type of Misconduct: | |
| Failure to refund unearned fees..... | 68 |
| Conversion..... | 21 |
| Improper Loan..... | 1 |
| Area of Law | |
| Personal Injury/Workers' Comp..... | 14 |
| Family Law..... | 13 |
| Labor Employment..... | 12 |
| Immigration..... | 11 |
| Real Estate..... | 10 |
| Criminal/Quasi-Criminal..... | 10 |
| Bankruptcy..... | 6 |
| Probate/Trusts..... | 4 |
| Contract..... | 4 |
| Corporate..... | 3 |
| Debt Collection..... | 2 |
| Property Damage..... | 1 |

V. Commission Outreach Programs

A. Commission Web Site

Since 2001, the ARDC web site (www.iardc.org) has provided public information regarding all aspects of the ARDC organization and recent developments affecting the legal profession in Illinois. The site attracts up to 138,000 visitors each month, and over 27,000 lawyers registered on-line or made changes on-line to their registration information. The Lawyer Search function enables a visitor to search the Master Roll for certain basic public registration information, including business address and public disciplinary information about Illinois lawyers. The ARDC web site is also a resource for researching Illinois disciplinary cases, with a searchable database of disciplinary decisions issued by the Supreme Court and reports filed by the disciplinary boards. The site also includes a schedule of public hearings and arguments on public disciplinary matters pending before the Hearing and Review Boards as well as information about the Ethics Inquiry Program and links to other legal ethics research sites.

B. Ethics Inquiry Program

The Commission's Ethics Inquiry Program, a telephone inquiry resource, continues to serve more than 3,400 Illinois attorneys each year who are seeking help in resolving hypothetical, ethical dilemmas. The top five subjects of inquiry during 2007 included:

| <u>Subject of Inquiry</u> | <u># of calls</u> |
|--|-------------------|
| Conflicts of interest | 387 |
| Duty to report misconduct | 307 |
| Retention/ownership of client files | 154 |
| Handling client trust accounts..... | 135 |
| Multi-jurisdictional practice of law | 128 |

To make an inquiry, please call the Commission offices in Chicago (312-565-2600) or Springfield (217-522-6838). Additional information about the program can be obtained at www.iardc.org/ethics.html.

C. Education

1. ARDC CLE Accredited Programs

The ARDC is an accredited CLE provider and has sponsored and will continue to sponsor

the following CLE programs:

a. Judicial District Seminars

In 2007, the ARDC hosted two professional responsibility programs in the Second Judicial District, one in DuPage County in September and the other in McHenry County in November. Chief Justice Robert R. Thomas was the keynote speaker at both programs. The seminar consisted of an interactive panel, including representatives from the Illinois Commission on Professionalism and the Lawyers' Assistance Program (LAP), discussing professional responsibility issues that may bring a lawyer before ARDC. Nearly 1,000 lawyers were in attendance and received 2 hours of professional responsibility credit without charge. This was the third and fourth times the ARDC presented this seminar, having done so in the Fifth Judicial District in Collinsville in 2005 and in the Fourth Judicial District in Champaign in 2006. The ARDC plans to present this seminar in the other Judicial Districts, as well as expand its CLE seminar offerings, in 2008, all at no charge.

b. ARDC Professionalism Seminar

Since November 1996, the ARDC Professional Responsibility Institute has presented the *ARDC Professionalism Seminar* at its Chicago office. This seminar, taught by a select faculty of distinguished lawyers and other professionals, focuses on the Rules of Professional Conduct and their practical day-to-day application in operating a law office and in resolving the common ethical dilemmas faced by all lawyers. At the present time, the seminar is limited to lawyers who have been referred to it by Commission lawyers or who are required to attend as part of a disciplinary sanction.

2. ARDC Presentations and Outreach

The Commission continued its efforts to participate in CLE programs sponsored by others. Since the adoption of MCLE in Illinois, the ARDC legal staff has noted an increase in the number of requests for an ARDC lawyer to speak at CLE sponsored events. In 2007, the ARDC legal staff made 145 presentations to bar associations, law firms, law schools, continuing legal education seminars and civic groups. The Commission has increased its efforts to reach out to the legal community in Illinois and will

continue to work with CLE providers, along with providing its own programs, in presenting more continuing legal education opportunities for Illinois lawyers on topics relevant to legal ethics and professional responsibility issues in Illinois.

VI. Recent Developments

A. Retired, Inactive and In-House Counsel Allowed to Perform Pro Bono Service

On March 26, 2008, effective July 1, 2008, the Supreme Court amended Rule 756 to allow lawyers on retirement or inactive status, as well as in-house counsel admitted under Supreme Court Rule 716, to perform *pro bono* legal services for certain sponsoring entities. The amendment permits otherwise qualified and experienced lawyers who are no longer active bar members, or are licensed in another state but are in Illinois under the limited in-house counsel license of Rule 716, to participate in *pro bono* service. Amended Rule 756 will encourage *pro bono* practice while also establishing guidelines to protect both the public and the profession by requiring that (1) the volunteer activity be performed under the auspices of a legitimate legal service or other non-profit organization that has been approved by the ARDC; and (2) the sponsoring organization and the volunteer both agree in submissions to the ARDC that the volunteer will be provided appropriate training, support and malpractice insurance. Upon approval of the submissions, the Master Roll will reflect that the lawyer is authorized to provide *pro bono* service for one year unless the program or lawyer's participation in the program ends before then.

B. Dowling: New Standards for Retainers

On May 3, 2007, the Illinois Supreme Court issued an opinion, in a case of first impression, recognizing the viability of advance payment retainers in Illinois. Previously, only two types of retainers were explicitly recognized by the Court: classic and security interest retainers. *Dowling v. Chicago Options Associates, Inc.* 226 Ill.2d. 277, 314 Ill.Dec. 725 (2007), 875 N.E.2d 1012, *reh'g denied* (Sept. 24, 2007). In *Dowling*, the Court recognized the following three types of retainers:

(1) A classic retainer, also referred to as a true or general retainer, is paid by a client to the lawyer in order to secure the lawyer's availability during a specified period of time or for a specified matter. This type of retainer is earned when paid and immediately becomes property of the lawyer, regardless of whether the lawyer ever actually performs any services for the client. *Dowling*, 226 Ill.2d at 286.

(2) A security retainer is money paid to the lawyer to secure payment of fees for the future services the lawyer is expected to perform. These funds are not intended by the client and lawyer to be present payment for future services. This type of retainer remains the property of the client and, therefore, must be deposited in a trust account and kept separate from the lawyer's own property until the lawyer applies it to charges for services that are actually rendered. *Dowling*, 226 Ill.2d at 286. Any unused portion of the retainer is refunded to the client under Rules 1.15(b) and 1.16(e) of the Illinois Rules of Professional Conduct. *Dowling*, 226 Ill.2d at 286.

(3) An advance payment retainer³, consists of a present payment to the lawyer in exchange for the provision of legal services in the future. Ownership of this retainer passes to the lawyer immediately upon payment. *Dowling*, 226 Ill.2d at 287, 292.

The Court stated that advance payment retainer agreements "***must be in writing*** and must clearly disclose to the client the nature of the retainer, explain why an advance payment retainer is advantageous to the client, where it will be deposited, and how the lawyer or law firm will handle withdrawals from the retainer in payment for services rendered." *Dowling*, 226 Ill.2d at 294 [emphasis supplied]. Also, if the

3 *The Restatement of the Law Governing Lawyers* (ALI 2001) notes that in some instances the client and lawyer might agree that an advance payment fee is neither a deposit nor an engagement retainer but a lump sum fee constituting complete payment for the lawyer's services, *i.e.*, flat fee. *Restatement*, sec 38, com. g. Under *Dowling*, the decision where to deposit such funds must meet with the standards set forth in that decision.

attorney is unwilling to represent the client without receiving an advance payment retainer, the agreement must so state, setting forth the reasons why. The Court indicated that “[i]n the vast majority of cases” a security retainer will best protect the client’s interests and “advance payment retainers should be used only sparingly, when necessary to accomplish some purpose for the client that cannot be accomplished by using a security retainer.” *Dowling*, 226 Ill.2d at 292. The Court also stated that any written retainer agreement, regardless of the type of retainer contemplated, should clearly define the kind of retainer being paid. *Dowling*, 226 Ill.2d at 293.

While the Court stated that the standards will be given prospective application (*Dowling*, 226 Ill.2d at 299), all lawyers who take fees in advance of services should read the *Dowling* decision, review their existing fee agreements and determine what changes may be necessary to conform retainer agreements entered into after September 2007 to the *Dowling* standards.

The opinion, as well as *Frequently Asked Questions (FAQs)* developed by the ARDC to help educate lawyers about the *Dowling* decision and what the decision means for their practice, is available on the ARDC web site at: <http://www.iardc.org/DowlingFAQs.html>.

The ARDC recognizes that the *Dowling* decision may require practitioners to make substantive changes in the way they handle retainers. As a result, primary efforts in 2008 will be to educate the legal profession regarding *Dowling* requirements, as opposed to enforcement efforts in cases that would not have been warranted before *Dowling*.

B. Commission Board Appointments

1. Commissioners

Appointment of Joan Myers Eagle upon the Conclusion of Service of Patricia C. Bobb

Effective January 1, 2008, the Illinois Supreme Court appointed Joan M. Eagle of Chicago to serve as a lawyer member Commissioner. Ms. Eagle is a partner at the law firm of Schwartz Cooper, where she concentrates her practice in the areas of labor and employment law. She previously served for nine years on various ARDC panels, including

the Hearing Board. Admitted to practice in Illinois in 1983, Ms. Eagle received her J.D. from IIT-Chicago Kent College of Law and her undergraduate and master’s degrees from the University of Michigan. Ms. Eagle succeeds Patricia C. Bobb, who served as an ARDC Commissioner for nine years.

On December 31, 2007, Patricia C. Bobb concluded her term as a lawyer member Commissioner. Ms. Bobb served as a Commissioner since 1999. She is a nationally recognized trial lawyer who handles medical malpractice and product liability cases at the firm of *Patricia C. Bobb & Associates PC*, and is Of Counsel to the Chicago firm of *Propes & Kaveny LLC*. During her tenure on the Commission, Ms. Bobb was active in fostering the development of professionalism standards and minimum continuing legal education requirements.

Ms. Bobb is a past president of the Chicago Bar Association and was a member of the Board of Governors of the Illinois State Bar Association. She also serves on the Board of Trustees for the National Institute for Trial Advocacy (NITA).

Death of Former Commissioner Donn Bailey

On December 21, 2007, the Commission was saddened by the death of Donn F. Bailey, Ph.D., who served as a non-lawyer member Commissioner for over six years until his retirement in 2006. During his tenure as a Commissioner, Dr. Bailey helped support the ARDC’s establishment of community outreach initiatives, fostered the appointment of non-lawyers to the various ARDC Boards, and actively sought minority participation at all levels of the lawyer regulatory system. Prior to his appointment as a Commissioner, Dr. Bailey served for six years as an ARDC Hearing Board member. Dr. Bailey earned B.A. and M.A. degrees in Speech Pathology and Audiology at Indiana University in Bloomington and his Ph.D. in Speech Communication from Penn State, and he co-founded the Center for Inner City Studies at Northeastern Illinois University, where he served as a director and professor for over 22 years. Derrick K. Baker of Evergreen Park was appointed a Commissioner upon Dr.

Bailey's retirement.

Death of Former Commissioner Edward Egan

On March 26, 2008, former ARDC Commissioner and Appellate Court Justice Edward Egan died at age 84. Judge Egan was a member of the Commission from 1984 through 1988. He served during a time when the agency was occupied with hundreds of investigations arising from the federal judicial corruption probe known as Operation Greylord. In addition, he was on the Commission during the years when the ARDC sought court review of a decision excluding ARDC employees from Social Security eligibility. Also during his tenure, the Court appointed a Blue Ribbon Committee to study the ARDC, and non-lawyers were first appointed to serve as Commissioners.

2. Review Board Appointments

Appointment of Gordon B. Nash, Jr. upon the Conclusion of Service of Leonard Amari

Effective January 1, 2008, the Court appointed Gordon B. Nash, Jr., of Chicago to a three-year term to serve on the Review Board. Mr. Nash, who is a partner at the law firm of *Drinker Biddle & Reath LLP*, is a trial and appellate attorney with extensive experience in federal and state courts. He concentrates his practice in the areas of white-collar criminal defense, securities, antitrust and commercial litigation, and he is often called upon to conduct internal investigations for corporate clients. Mr. Nash has served as President of the Chicago Bar Association, President of the Chicago Inn of Court, Chairman of the State of Illinois Board of Ethics, Chair of the Constitutional Rights

Foundation, Vice Chair of the Illinois Supreme Court Committee on Professionalism, and is a member of the Illinois Supreme Court Commission on Professionalism and of the MCLE Board.

Mr. Nash graduated from the University of Notre Dame with a Bachelor of Arts degree and received his J.D. degree from the Loyola University of Chicago School of Law. He succeeds Leonard F. Amari, who served on the Review Board for eight years.

Leonard F. Amari was appointed to serve as chair of the Review Board on January 23, 2001. Mr. Amari had been a member of the Review Board since 1999. He is the managing partner in the Chicago firm of *Amari & Locallo*, where he concentrates his practice in the area of real estate taxation. Mr. Amari received his J.D. from The John Marshall Law School in 1968. He served as President of the Illinois State Bar Association and as a member of the House of Delegates for the American Bar Association. Mr. Amari is a member of the Justinian Society of Lawyers, the Lawyers Trust Fund of Illinois, and numerous other organizations.

VII. Financial Report

The Commission engaged the services of Legacy Professionals LLP to conduct an independent audit as required by Supreme Court Rule 751(e)(6). The audited financial statements for the year ended December 31, 2007, including comparative data from the 2006 audited statements, are attached. In addition, a five-year summary of revenues and expenditures as reported in this and prior audited statements appears after the text in this section.

**Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois**

Five Year Summary of Operations

| | 2007 | 2006 | 2005 | 2004 | 2003 |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|
| Revenue | | | | | |
| Registration fees and delinquent charges | \$ 15,926,372 | \$ 12,367,335 | \$ 12,158,815 | \$ 11,897,576 | \$ 11,716,104 |
| Investment income | | | | | |
| Interest | 1,095,254 | 760,886 | 461,504 | 281,816 | 272,336 |
| Net unrealized (depreciation) of investments | | (15,138) | (10,906) | (86,014) | (83,150) |
| Costs reimbursements collected | 94,244 | 80,237 | 128,036 | 106,223 | 65,374 |
| Client protection reimbursements | 25,058 | 43,543 | 34,785 | 30,041 | - |
| Miscellaneous | (69) | | 2,240 | - | 1,293 |
| Total revenue | <u>17,140,859</u> | <u>13,236,863</u> | <u>12,774,474</u> | <u>12,229,642</u> | <u>11,971,957</u> |
| Expenditures | | | | | |
| Salaries and related costs | 9,351,608 | 8,732,119 | 8,688,348 | 8,522,136 | 8,042,551 |
| Travel expenses | 128,500 | 93,443 | 105,353 | 96,862 | 105,250 |
| Library and continuing education | 230,042 | 174,870 | 152,474 | 179,152 | 173,191 |
| General expenses and office support | 1,842,050 | 1,931,622 | 1,953,714 | 1,953,849 | 1,815,962 |
| Computer expense | 304,775 | 236,231 | 212,009 | 137,304 | 153,814 |
| Other professional and case-related expenses | 939,267 | 944,733 | 983,152 | 967,780 | 942,123 |
| Client protection program payments | 697,358 | 843,305 | 951,173 | 617,772 | 477,595 |
| Depreciation and amortization expense | <u>157,942</u> | <u>154,605</u> | <u>171,091</u> | <u>198,430</u> | <u>180,641</u> |
| Total expenditures | <u>13,651,542</u> | <u>13,110,928</u> | <u>13,217,314</u> | <u>12,673,285</u> | <u>11,891,127</u> |
| Increase (decrease) in net assets | 3,489,317 | 125,935 | (442,840) | (443,643) | 80,830 |
| Unrestricted net assets | | | | | |
| Beginning of year | <u>5,151,825</u> | <u>5,025,890</u> | <u>5,468,730</u> | <u>5,912,373</u> | <u>5,831,543</u> |
| End of year | <u>\$ 8,641,142</u> | <u>\$ 5,151,825</u> | <u>\$ 5,025,890</u> | <u>\$ 5,468,730</u> | <u>\$ 5,912,373</u> |
| Other information at year end | | | | | |
| Number of active and registered attorneys | 82,380 | 81,146 | 80,041 | 78,101 | 76,671 |
| Registration fees | | | | | |
| More than one year and less than three years | \$ 105 | \$ 90 | \$ 90 | \$ 90 | \$ 90 |
| More than three years | \$ 205 | \$ 180 | \$ 180 | \$ 180 | \$ 180 |
| Inactive/out of state | \$ 105 | \$ 90 | \$ 90 | \$ 90 | \$ 90 |

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REPORT OF INDEPENDENT AUDITORS

To the Commissioners of
Attorney Registration
and Disciplinary Commission
of the Supreme Court of Illinois

We have audited the accompanying statements of financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission) as of December 31, 2007 and 2006 and the related statements of activities and of cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform an audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Commission's management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 2007 and 2006 and the changes in net assets and cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Legacy Professionals LLP

April 18, 2008

**Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois**

Statements of Financial Position

December 31, 2007 and 2006

| Assets | <u>2007</u> | <u>2006</u> |
|--|----------------------|----------------------|
| Current assets | | |
| Cash and cash equivalents | \$ 1,341,838 | \$ 861,451 |
| Short-term investments | 19,386,788 | 16,206,249 |
| Accrued interest receivable | 145,879 | 215,747 |
| Accounts receivable | 31,871 | 35,772 |
| Prepaid expenses | <u>79,323</u> | <u>91,894</u> |
| Total current assets | 20,985,699 | 17,411,113 |
| Property and equipment - net | 770,228 | 503,372 |
| Long-term investments | <u>3,904,822</u> | <u>3,970,420</u> |
| Total assets | <u>\$ 25,660,749</u> | <u>\$ 21,884,905</u> |
| Liabilities and Net Assets | | |
| Current liabilities | | |
| Cash overdraft | \$ 836 | \$ 223 |
| Accounts payable and other accruals | 324,611 | 885,692 |
| Amounts held for others | 1,396,538 | 1,310,852 |
| Accrued vacation | 317,968 | 294,875 |
| Deferred registration and program fees | 12,325,359 | 11,961,320 |
| Current portion of net postretirement benefit obligation | 8,198 | 7,736 |
| Deposits | <u>11,651</u> | <u>8,113</u> |
| Total current liabilities | <u>14,385,161</u> | <u>14,468,811</u> |
| Long-term liabilities | | |
| Net postretirement benefit obligation | 553,131 | 110,680 |
| Deferred rent expense | <u>2,081,314</u> | <u>2,153,589</u> |
| Total long-term liabilities | <u>2,634,445</u> | <u>2,264,269</u> |
| Total liabilities | 17,019,606 | 16,733,080 |
| Unrestricted net assets | <u>8,641,143</u> | <u>5,151,825</u> |
| Total liabilities and net assets | <u>\$ 25,660,749</u> | <u>\$ 21,884,905</u> |

See accompanying notes to financial statements.

**Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois**

Statements of Activities

Years Ended December 31, 2007 and 2006

| | 2007 | | | 2006 |
|---|--|--------------------------------------|--------------|--------------|
| | <u>Registration and Discipline</u> | <u>Client Protection Program</u> | <u>Total</u> | <u>Total</u> |
| Revenues | | | | |
| Investment income | | | | |
| Interest | \$ 748,553 | \$ 69,252 | \$ 817,805 | \$ 694,296 |
| Net appreciation (depreciation) of investments | 195,403 | 1,986 | 197,389 | (9,666) |
| Total investment income | 943,956 | 71,238 | 1,015,194 | 684,630 |
| Registration and program fees and delinquent charges | 14,395,209 | 1,531,163 | 15,926,372 | 12,367,335 |
| Cost reimbursements collected | 94,244 | - | 94,244 | 80,237 |
| Client Protection Program reimbursements | - | 25,058 | 25,058 | 43,543 |
| Total revenues | 15,433,409 | 1,627,459 | 17,060,868 | 13,175,745 |
| Expenditures | | | | |
| Salaries and related expenses | 8,877,241 | - | 8,877,241 | 8,671,001 |
| Travel expenses | 128,499 | - | 128,499 | 93,443 |
| Library and continuing education | 230,042 | - | 230,042 | 174,870 |
| General expenses and office support | 1,840,648 | - | 1,840,648 | 1,931,622 |
| Computer expenses | 304,775 | - | 304,775 | 236,231 |
| Other professional and case-related expenses | 939,268 | - | 939,268 | 944,733 |
| Client Protection Program direct expenses: | | | | |
| Awards | - | 697,358 | 697,358 | 843,305 |
| Bank fees | - | 1,471 | 1,471 | - |
| Depreciation and amortization expense | 157,942 | - | 157,942 | 154,605 |
| Total expenditures | 12,478,415 | 698,829 | 13,177,244 | 13,049,810 |
| Change in net assets before effect of adoption of FASB Statement No. 158 | 2,954,994 | 928,630 | 3,883,624 | 125,935 |
| Effect of adoption of recognition provisions of FASB Statement No. 158 | (394,306) | - | (394,306) | - |
| Change in net assets | 2,560,688 | 928,630 | 3,489,318 | 125,935 |
| Unrestricted net assets | | | | |
| Beginning of year | 5,148,681 | 3,144 | 5,151,825 | 5,025,890 |
| End of year | \$ 7,709,369 | \$ 931,774 | \$ 8,641,143 | \$ 5,151,825 |

See accompanying notes to financial statements.

**Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois**

Statements of Cash Flows

Years Ended December 31, 2007 and 2006

| | <u>2007</u> | <u>2006</u> |
|---|---------------------|--------------------|
| Cash flows from operating activities | | |
| Change in net assets | \$ 3,489,318 | \$ 125,935 |
| Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities | | |
| Net unrealized (appreciation) depreciation of investments | (157,949) | 15,138 |
| Loss on disposal of property and equipment | 69 | - |
| Depreciation and amortization expense | 157,942 | 154,605 |
| (Increase) decrease in assets | | |
| Accounts receivable and accrued interest receivable | 73,769 | (165,590) |
| Prepaid expenses | 12,571 | (1,643) |
| Increase (decrease) in liabilities | | |
| Accounts payable and other accruals | (561,081) | (223,443) |
| Amounts held for others | 85,686 | (478,358) |
| Accrued vacation | 23,093 | 12,749 |
| Deferred registration and program fees | 364,039 | 2,980,692 |
| Deposits | 3,538 | (3,269) |
| Net postretirement benefit obligation | 442,913 | 154,317 |
| Deferred rent expense | <u>(72,275)</u> | <u>(36,007)</u> |
| Net cash provided by operating activities | <u>3,861,633</u> | <u>2,535,126</u> |
| Cash flows from investing activities | | |
| Purchases of investment securities | (20,136,200) | (33,097,486) |
| Maturities of investment securities | 17,179,208 | 32,029,325 |
| Acquisitions of property and equipment | <u>(424,867)</u> | <u>(119,138)</u> |
| Net cash (used in) investing activities | <u>(3,381,859)</u> | <u>(1,187,299)</u> |
| Change in cash and cash equivalents | 479,774 | 1,347,827 |
| Cash and cash equivalents - net of (cash overdrafts) | | |
| Beginning of year | <u>861,228</u> | <u>(486,599)</u> |
| End of year | <u>\$ 1,341,002</u> | <u>\$ 861,228</u> |

See accompanying notes to financial statements.

**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS**

NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2007 AND 2006

NOTE 1. GENERAL PURPOSE DESCRIPTION

The Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (Commission) was created by the Illinois Supreme Court (Court) under Rules 751 through 756 of the Court effective February 1, 1973, and subsequent additional rules and amendments. The Commission and the Office of the Administrator (Administrator) maintain the Master Roll of Attorneys, and investigate and prosecute claims against Illinois attorneys whose conduct might tend to defeat the administration of justice or bring the Court or the legal profession into disrepute, and collect and administer the Disciplinary Fund and collect and remit funds due to other entities as provided in Rules 751 and 756.

Recent amendments to those rules and additional significant rules of the Court impacting the Commission's operations are as follows:

- Rule 756(a), as amended effective September 14, 2006, increased the annual registration and program fees, beginning in 2007, for active lawyers licensed to practice law for three years or more from \$239 to \$289, the annual registration fees for active lawyers licensed to practice between one and three years and inactive lawyers from \$90 to \$105. The amendment also raised the fee for late payment of annual registration fees from \$10 to \$25 per month for every month that fees are delinquent. The Rule requires that the Commission, as part of the annual \$289 fee, collect and remit the following amounts to the following other Supreme Court entities that are not administered by the Commission: \$42 to the Lawyers Trust Fund, \$10 to the Supreme Court Commission on Professionalism, and \$7 to the Lawyers Assistance Program Fund.
- Rule 780(b) provided for the establishment of the Client Protection Program and set forth that the purpose of the Program "is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct" of Illinois lawyers who have been disciplined. Since the Program's inception, the Commission has administered the Client Protection Program and has maintained a separate Client Protection Fund account. Amended Rule 756 provides that effective September 14, 2006 (beginning in 2007), \$25 of the \$289 fee be set aside for the Client Protection Program to fund awards made by the Client Protection Program. Prior to the Rule 756 amendment, the Commission funded payment of awards by making an annual allocation from the Disciplinary Fund. The Commission continues to include in its general budget allocations for administrative expenses of the Program to be paid from the Disciplinary Fund.

NOTE 1. GENERAL PURPOSE DESCRIPTION (CONTINUED)

- Rule 756(f), added effective June 14, 2006 provides that as part of the annual registration process, lawyers must provide information about voluntary hours and money contributed to *pro bono* legal services. Lawyers who do not provide the information will be deemed not to be registered until they do. Pursuant to an amendment to Supreme Court Rule 766, also effective June 14, 2006, the information about voluntary *pro bono* contributions is deemed confidential and is to be reported publicly only in the aggregate.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting - The financial statements of the Commission have been prepared on the accrual basis of accounting.

Basis of Presentation - The financial statements are presented in accordance with Statement of Financial Accounting Standard No. 117, *Financial Statements of Not-for-Profit Organizations*, which requires the Commission to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets and permanently restricted net assets. The Commission does not have any temporarily restricted or permanently restricted net assets.

Cash and Cash Equivalents - For purposes of the statement of cash flows, cash and cash equivalents include all deposits in checking and savings accounts. Money market accounts and cash balances held in investment trust accounts are not considered cash equivalents, since the Commission intends to reinvest these funds.

Accounts Receivable - Cost Reimbursements and Client Protection Program

Reimbursements - The Commission fully reserves reimbursements owed by attorneys under the Cost Reimbursement Program and Client Protection Program. Whether the Commission can fully collect all reimbursements is dependent upon each identified attorney's ability to pay and the current economic environment. Therefore, the Commission records these reimbursements as revenue under the cost recovery method when the reimbursements are received.

Property and Equipment - Property and equipment are stated at cost. Major additions are capitalized while replacements, maintenance and repairs which do not improve or extend the lives of the respective assets are expensed currently. Depreciation and amortization are provided over the estimated useful lives of the assets or asset groups, principally on the straight-line method. Upon disposal of assets, gains or losses are included in income. Leasehold improvements are amortized over the shorter of their estimated useful lives or the remaining lease period.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

The estimated useful lives of the property and equipment are as follows:

| | <u>Years</u> |
|--------------------------------|--------------|
| Computer and related equipment | 3 |
| Office furniture and equipment | 5 |
| Library | 7 |
| Leasehold improvements | 7 - 15 |

Investments - Investments are stated at fair value, which generally represents quoted market value as of the last business day of the year. Investments in money market accounts and certificates of deposit are carried at cost, which approximates market value. For U.S. Treasury bills, the difference between the cost and fair value is recorded as interest income.

Amounts Held for Others - Amounts held for others at December 31, 2007 and 2006 consist of funds collected for the Lawyers Assistance Program Fund of \$165,647 and \$155,415, the Lawyers Trust Fund of \$994,180 and \$933,257, and the Supreme Court Committee on Professionalism of \$236,711 and \$222,180 respectively, which were remitted subsequent to year end.

Deferred Registration and Program Fees - The Commission is funded by an annual registration fee assessed on Illinois attorneys which includes a \$25 fee for the Client Protection Program. The annual fee for the subsequent year is billed before November 1 and is due January 1. Deferred registration and program fees represent the fees for next year received in the current year.

Deposits - Portions of these funds are the reinstatement deposits that accompany the petition of any attorney who is filing for reinstatement under Rule 767. The amount the attorney actually owes will be assessed at the conclusion of the proceedings. Reinstatement deposits held at December 31, 2007 and 2006 are \$8,500 and \$5,000 respectively. The remaining deposits consist of funds owed by any attorney, who has been the subject of a disciplinary proceeding or who is in receivership, to the attorney's former clients who have not been located. At December 31, 2007 and 2006, the amounts held are \$3,151 and \$3,113 respectively.

Deferred Rent Expense - Deferred rent expense consists of a combination of "free rent" and past and future lease incentive payments from the landlord. The Commission is recognizing operating lease expense on the straight-line basis over the term of the lease.

Income Taxes - The Internal Revenue Service has determined that the Commission is exempt from Federal income taxes as an instrumentality of the State of Illinois.

Use of Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Commission to make estimates and assumptions that affect certain reported amounts and disclosures in the financial statements. Actual results may differ from those estimates.

NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Concentrations of Risk - The Commission places its cash with financial institutions deemed to be creditworthy. Cash balances may at times exceed federally insured deposit limits.

Functional Allocation of Expenses - The Commission has allocated certain administrative expenses, such as salary costs, among the various programs benefited. These allocations have been based on management's estimate of time incurred on these programs or other reasonable and consistent methodology (See Note 4). Indirect expenses allocated to the Client Protection Program are paid out of the unrestricted net assets of the Commission.

Reclassifications - Certain reclassifications have been made to prior year amounts to conform to the current year presentation.

NOTE 3. COST REIMBURSEMENTS

The Commission receives cost reimbursements for investigative and disciplinary costs from disciplined attorneys. Cost reimbursement is billed at the time that discipline is imposed by the Court, but may not be a total reimbursement or match the period in which the investigative disciplinary costs were incurred. The Commission is limited to \$1,000 in cost reimbursement for each disciplined attorney, absent exceptional circumstances. During the years ended December 31, 2007 and 2006, the Commission regularly sought entry of judgments by the Court with interest at the rate charged by the State of Illinois for all invoices not paid within 30 days of the initial billing. This interest rate was 9% for both 2007 and 2006. The Commission has also established payment plans for disciplined attorneys.

NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION

An analysis of the Commission's functional expenses, by natural classification, is as follows for the years ended December 31, 2007 and 2006:

| | 2007 | | | |
|--|--|-----------------------------|---|----------------------|
| | Program | | | Total |
| | Registration and <u>Discipline</u> | Client <u>Protection</u> | Administration and <u>Support</u> | |
| Salaries and related expenses | \$ 7,251,564 | \$ 185,762 | \$ 1,439,915 | \$ 8,877,241 |
| Travel expenses | 88,925 | 1,121 | 38,453 | 128,499 |
| Library and continuing education | 187,703 | 4,343 | 37,996 | 230,042 |
| General expenses and office support | 1,518,293 | 33,060 | 289,295 | 1,840,648 |
| Computer expenses | 248,681 | 5,755 | 50,339 | 304,775 |
| Other professional and case-related expenses | 907,592 | 2,270 | 29,406 | 939,268 |
| Client Protection Program direct expenses: | | | | |
| Awards | - | 697,358 | - | 697,358 |
| Bank fees | - | 1,471 | - | 1,471 |
| Depreciation and amortization expense | 128,873 | 2,982 | 26,087 | 157,942 |
| Total expenditures | <u>\$10,331,631</u> | <u>\$ 934,122</u> | <u>\$ 1,911,491</u> | <u>\$ 13,177,244</u> |

| | 2006 | | | |
|--|--|-----------------------------|---|----------------------|
| | Program | | | Total |
| | Registration and <u>Discipline</u> | Client <u>Protection</u> | Administration and <u>Support</u> | |
| Salaries and related expenses | \$ 7,073,856 | \$ 181,370 | \$ 1,415,775 | \$ 8,671,001 |
| Travel expenses | 73,821 | 901 | 18,721 | 93,443 |
| Library and continuing education | 142,684 | 3,302 | 28,884 | 174,870 |
| General expenses and office support | 1,592,579 | 34,779 | 304,264 | 1,931,622 |
| Computer expenses | 192,753 | 4,460 | 39,018 | 236,231 |
| Other professional and case-related expenses | 905,235 | 2,386 | 37,112 | 944,733 |
| Client Protection Program payments | - | 843,305 | - | 843,305 |
| Depreciation and amortization expense | 126,149 | 2,919 | 25,537 | 154,605 |
| Total expenditures | <u>\$10,107,077</u> | <u>\$1,073,422</u> | <u>\$ 1,869,311</u> | <u>\$ 13,049,810</u> |

NOTE 5. INVESTMENTS

Investments at December 31, 2007 and 2006 consist of the following:

| | <u>2007</u> | | <u>2006</u> | |
|-------------------------------|----------------------|----------------------|----------------------|----------------------|
| | <u>Cost</u> | <u>Fair Value</u> | <u>Cost</u> | <u>Fair Value</u> |
| U.S. Treasury notes and bills | \$ 14,832,636 | \$ 14,980,982 | \$ 18,075,432 | \$ 18,065,765 |
| U.S. bank certificates | 2,769,000 | 2,769,000 | - | - |
| Money market account | <u>5,541,628</u> | <u>5,541,628</u> | <u>2,110,904</u> | <u>2,110,904</u> |
| Total | <u>\$ 23,143,264</u> | <u>\$ 23,291,610</u> | <u>\$ 20,186,336</u> | <u>\$ 20,176,669</u> |

Short-term investments are readily liquid investments that mature within one year. Long-term investments are holdings with maturities in excess of one year.

The following table lists the maturities of securities held for the years ended December 31, 2007 and 2006:

| | <u>2007</u> | | <u>2006</u> | |
|--------------------------------------|----------------------|----------------------|----------------------|----------------------|
| | <u>Cost</u> | <u>Fair Value</u> | <u>Cost</u> | <u>Fair Value</u> |
| Due on demand or in one year or less | \$ 19,344,061 | \$ 19,386,788 | \$ 16,207,515 | \$ 16,206,249 |
| Due after one year to five years | <u>3,799,203</u> | <u>3,904,822</u> | <u>3,978,821</u> | <u>3,970,420</u> |
| Total | <u>\$ 23,143,264</u> | <u>\$ 23,291,610</u> | <u>\$ 20,186,336</u> | <u>\$ 20,176,669</u> |

NOTE 6. PROPERTY AND EQUIPMENT

Property and equipment at December 31, 2007 and 2006 consist of the following:

| | <u>2007</u> | <u>2006</u> |
|--|--------------------|--------------------|
| Office furniture and equipment | \$ 1,297,926 | \$ 1,320,533 |
| Computer and related equipment | 1,020,222 | 737,958 |
| Library | 79,673 | 69,784 |
| Leasehold improvements | <u>380,207</u> | <u>355,840</u> |
| | 2,778,028 | 2,484,115 |
| Less accumulated depreciation and amortization | <u>(2,007,800)</u> | <u>(1,980,743)</u> |
| Property and equipment - net | <u>\$ 770,228</u> | <u>\$ 503,372</u> |

NOTE 7. LEASE COMMITMENTS

The Commission leases its Chicago and Springfield offices under operating lease agreements. The Chicago office lease expires in May 2015. This lease provides for a minimum annual base rent plus related taxes and operating expenses. In addition, the lease provided 32 months "free rent" with the first rent payment made on January 1, 1996. Under the terms of an amendment, base rent was reduced from December 2003 through May 2008, and the landlord will provide certain rent concessions that will be available during the period from June 2008 to May 2009.

The Springfield office lease, which began in November 2002, has a term of 10 years and provides for a minimum annual rent. The lease gives the Commission the option to renew the lease for another five-year period. Under the terms of an amendment effective November 2007, additional storage space will be leased with increased payments for the remaining life of the original lease.

Rent expense under all lease agreements was \$1,134,545 in 2007 and \$1,218,634 in 2006.

Future minimum lease payments, including estimated liability for taxes and operating expenses, relating to lease agreements in excess of one year are:

| | <u>Springfield</u> | <u>Chicago</u> | <u>Total</u> |
|--------------------------|--------------------|----------------------|----------------------|
| Year ending December 31, | | | |
| 2008 | \$ 91,035 | \$ 1,138,709 | \$ 1,229,744 |
| 2009 | 91,324 | 1,200,739 | 1,292,063 |
| 2010 | 92,767 | 1,376,221 | 1,468,988 |
| 2011 | 93,055 | 1,418,822 | 1,511,877 |
| 2012 | 78,748 | 1,463,062 | 1,541,810 |
| Remaining | - | 3,730,526 | 3,730,526 |
| | <u>\$ 446,929</u> | <u>\$ 10,328,079</u> | <u>\$ 10,775,008</u> |

NOTE 8. POSTRETIREMENT BENEFIT OBLIGATION

On August 9, 1985, the Commission formed a trust to replace the Medicare coverage lost by its employees when the Social Security Administration ruled that Commission employees were ineligible for benefits.

Previously, the Commission had committed to pay the future cost of Medicare premiums for former employees who were employed by the Commission and met certain criteria before March 31, 1986. Furthermore, the Commission agreed to pay eligible former employees' reimbursement credits for supplemental medical and hospitalization insurance coverage beginning at age 65. Therefore, the Commission records a liability associated with its employees' lost Medicare coverage and supplemental health benefits for retirees.

NOTE 8. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)

The following sets forth information with respect to this benefit obligation as of and for the years ended December 31, 2007 and 2006 as estimated by a consulting actuary:

| | <u>2007</u> | <u>2006</u> |
|---|---------------------|---------------------|
| Accumulated benefit obligation at end of year | \$ 2,142,923 | \$ 1,549,000 |
| Fair value of Plan assets | <u>1,581,594</u> | <u>1,430,584</u> |
| Net postretirement benefit obligation | <u>\$ (561,329)</u> | <u>\$ (118,416)</u> |

Net periodic benefit costs for 2007 and 2006 are comprised of the following:

| | <u>2007</u> | <u>2006</u> |
|------------------------------|-------------------|-------------------|
| Service cost | \$ 73,132 | \$ 70,415 |
| Interest cost | 121,994 | 83,673 |
| Actual return on plan assets | (80,061) | (61,118) |
| Amortization | <u>12,689</u> | <u>7,965</u> |
| Net periodic benefit cost | <u>\$ 127,754</u> | <u>\$ 100,935</u> |
| Employer contribution | <u>\$ 8,198</u> | <u>\$ 7,736</u> |
| Benefits paid | <u>\$ 8,198</u> | <u>\$ 7,736</u> |

Key assumptions utilized by the consulting actuary for 2007 and 2006 are as follows:

| | |
|-----------------------|--|
| Measurement date | January 1, 2007 and 2006 respectfully |
| Actuarial cost method | Projected unit credit method |
| Actuarial assumptions | Mortality - 1994 GAR Discount rate - 2007 - 6.25%; 2006 - 5.50% Expected return on assets - 2007 - 6.25%; 2006 - 5.50% Retirement will occur between ages 55 and 65 Medical trend ultimate - 4.5% |

Assumed health care cost trend rates have a significant effect on the amounts reported for health care benefits. The effect of a 1% increase in health care cost trend rates would be an increase of \$37,000 on total service cost and interest cost components and an increase of \$361,025 on the postretirement benefit obligation.

NOTE 8. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)

The liability will increase or decrease in future years due to changes in eligible employees, benefits paid, and possible changes in assumptions based on experience factors and applicable discount rates.

The Commission maintains investments in a separate account for the Medicare replacement reserve. The assets at fair value for the years ended December 31, 2007 and 2006 are as follows:

| | <u>2007</u> | <u>2006</u> |
|-------------------------------|---------------------|---------------------|
| U.S. Treasury notes and bills | \$ 926,202 | \$ 1,409,846 |
| U.S. bank certificates | 95,000 | - |
| Money market account | 550,679 | 2,081 |
| Accrued interest receivable | <u>9,713</u> | <u>18,657</u> |
| | <u>\$ 1,581,594</u> | <u>\$ 1,430,584</u> |

The assets are invested in a balanced manner necessary to meet expected future benefits earned, maintain an investment portfolio that minimizes risk through prudent asset allocation parameters, achieve asset returns that meet or exceed actuarial assumptions, and achieve asset returns that are competitive with like institutions employing similar investment strategies.

The Commission expects to contribute \$84,168 to the Medicare replacement reserve in 2008.

Actuarially determined projected contributions and benefit payments for each of the next five years and the five years thereafter are as follows:

| | |
|-----------|-------------------|
| 2008 | \$ 26,902 |
| 2009 | 29,110 |
| 2010 | 30,349 |
| 2011 | 33,323 |
| 2012 | 34,618 |
| 2013-2017 | <u>322,142</u> |
| | <u>\$ 476,444</u> |

NOTE 9. ADOPTION OF FASB STATEMENT NO. 158

The Commission adopted Statement of Financial Accounting Standards Board No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans*, which requires the Commission to recognize, beginning with its 2007 financial statements, the underfunded position of its plan (the difference between the fair value of plan assets and the accumulated benefit obligation). The following illustrates the incremental effect on individual line items in the statement of financial position as of December 31, 2007:

| | Before Application of <u>Statement 158</u> | Statement 158 Adjustment | After Application of <u>Statement 158</u> |
|-----------------------------------|--|-----------------------------|---|
| Postretirement benefit obligation | \$ 1,748,617 | \$ 394,306 | \$ 2,142,923 |
| Unrestricted net assets | \$ 8,103,675 | \$ (394,306) | \$ 7,709,369 |

NOTE 10. EMPLOYEE BENEFIT PLANS

The Commission maintains a defined contribution retirement plan and trust for the benefit of all eligible employees. Based on the decision of the Social Security Administration discussed in Note 8, the Commission enhanced employees' retirement benefits. Employee contributions are not permitted under the plan's provisions. The Commission contributes 18% of compensation for eligible employees, which totaled \$1,171,232 in 2007 and \$1,151,567 in 2006. The Commission also pays the plan's administrative expenses, which totaled \$101,921 in 2007 and \$93,973 in 2006.

The Commission also maintains a Section 457 savings plan which is entirely funded by voluntary pre-tax employee contributions. The Commission paid the savings plan's administrative expenses, which totaled \$3,326 in 2007 and \$3,760 in 2006.

NOTE 11. LITIGATION

Various complaints and actions have been filed against the Commission. At December 31, 2007, the Commission believes that pending matters do not present any serious prospect of negative financial consequences.