



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

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Chicago  
April 29, 2009

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 2008 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 2008 and an accounting and audit of the monies received and expended during the twelve-month period that ended December 31, 2008.

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. Registration Report***

***A. Master Roll Demographics***

The Master Roll of attorneys registered to practice law in Illinois for the year 2008 contained the names of 83,908 attorneys as of October 31, 2008. After that date, the Commission began the 2009 registration process, so that the total reported as of October 31, 2008, does not include the 2,323 attorneys who first took their oath of office in November or December 2008. The number of newly admitted lawyers continues to increase, posting a record high number for the second year in a row. Overall, the 2008 legal population in Illinois increased 1.9% over 2007, continuing a trend of steady but modest increases in the Illinois lawyer population since 2001. See Chart 25A, at page 20.

Chart 1 shows the demographics for the lawyer population in 2008. The most noticeable change was the continued increase in the number of lawyers in Illinois over the age of 50. The percentage of lawyers between the ages of 50 and 74 has risen from 22% to 39% over the last 15 years and is expected to increase over the next 5 to 10 years.

***Chart 1: Age, Gender and Years in Practice for Attorneys Registered in 2008***

<b><i>Gender</i></b>	
Female .....	34%
Male.....	66%
<b><i>Years in Practice</i></b>	
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%
<b><i>Age</i></b>	
21-29 years old.....	7%
30-49 years old.....	51%
50-74 years old.....	39%
75 years old or older .....	3%

Chart 2A on page 4 shows the breakdown by the registration categories set forth in Supreme Court Rule 756.

**Chart 2A: Registration Categories for 2008**

<u>Category</u>	<u>Number of Attorneys</u>
Admitted between January 1, 2007, and October 31, 2008.....	3,360
Admitted between January 1, 2005, and December 31, 2006 .....	5,049
Admitted before January 1, 2005 .....	62,056
Serving active military duty.....	248
Serving as judge or judicial clerk.....	1,277
Birthday before December 31, 1932.....	1,725
In-House Counsel under Rule 716 .....	416
Foreign Legal Consultant under Rule 713 .....	10
Legal Service Program Counsel under Rule 717.....	1
Pro Bono Authorization under Rule 765(j).....	6
Inactive status .....	9,760
Total attorneys currently registered	83,908

Chart 2B shows the trend of removals from the Master Roll between 2004 and 2008.

**Chart 2B: Removal from the Master Roll of Attorneys: 2004 - 2008**

<b>Reason for Removal</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
Unregistered	*	*	1,372	429	961
Deceased	*	*	274	648	373
Retired	*	*	521	847	901
Disciplined	*	*	55	60	45
<b>Total</b>	<b>1,256</b>	<b>1,198</b>	<b>2,222</b>	<b>1,984</b>	<b>2,280</b>

\*data not broken down into separate categories for these years

Chart 2B does not include the lawyers who were removed from the Master Roll for the 2009 registration year for non-compliance with Minimum Continuing Legal Education (MCLE) requirements. Starting with the 2009 registration year, lawyers for the first time were removed from the Master Roll for failure to report compliance with the MCLE hour requirement set forth in Supreme Court Rule 794. In May 2008, approximately 52,000 lawyers with last names beginning A through M received a Compliance Report form from the MCLE Board, which oversees and administers the MCLE system, notifying those lawyers that they had to report compliance with the MCLE requirement to the MCLE Board by July 31, 2008. Under Rule 796, attorneys who requested an extension to report compliance, and those who did not report compliance or request an extension, were automatically given an extension to September 30 but were required to pay a late fee. After the extension date had passed, pursuant to Rule 796(e), the MCLE Board referred to the ARDC about 2,000 attorneys who had not reported MCLE compliance. The ARDC sent a notice of impending striking of attorneys from the Master Roll due to non-compliance and followed up with additional communications, in light of the fact that the reporting requirement is new. On January 8, 2009, 680 lawyers, a total of 1.3% of those lawyers in the first reporting group, were removed from the Master Roll. Since January 2009, 105 of the lawyers removed have come into compliance and have been reinstated to the Master Roll. Lawyers with last names beginning N through Z will be notified to report MCLE compliance by July 31, 2009.

Also removed for the 2009 registration year were 52 newly admitted lawyers who failed to comply with the MCLE Basic Skills course requirement set forth in Supreme Court Rule 793.

Charts 3 and 4 show the distribution by judicial district, circuit and county of the 62,442 registered active and inactive attorneys who reported a principal business address in Illinois, a negligible increase over 2007. Another 21,439 attorneys reported a business address outside Illinois but registered as either active (64%) and able to practice in Illinois or inactive (36%). A 2.6% increase over 2007, the number of lawyers reporting a business address outside of Illinois now makes up 26% of all lawyers with an Illinois license. Those 21,439 attorneys are not included in Charts 3 and 4. The distribution of the attorney population in Illinois saw little change in 2008. Of the 102 counties, 39 counties experienced a slight increase in the number of attorneys from 2007 to 2008, 35 saw a slight decrease and 28 remained the same. The Third District experienced the largest increase, 1.8%, over 2007, followed by the First (Cook County) and Second Districts, both with a 1.7% increase over last year.

**Chart 3: Registration by Judicial Districts: 2004-2008**

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>		<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
<b><u>First District</u></b>											
Cook County .....	41,796	42,510	42,142	43,026	43,761	<b><u>Fourth District</u></b>					
						5 <sup>th</sup> Circuit .....	263	262	257	247	249
<b><u>Second District</u></b>						6 <sup>th</sup> Circuit .....	854	866	860	853	851
15 <sup>th</sup> Circuit .....	207	212	200	203	205	7 <sup>th</sup> Circuit .....	1,214	1,252	1,230	1,244	1,240
16 <sup>th</sup> Circuit .....	1,268	1,334	1,325	1,360	1,380	8 <sup>th</sup> Circuit .....	198	200	198	190	197
17 <sup>th</sup> Circuit .....	750	768	761	782	794	11 <sup>th</sup> Circuit .....	591	643	643	643	662
18 <sup>th</sup> Circuit .....	3,983	4,086	3,952	4,015	4,075	<b>Total</b>	<b>3,120</b>	<b>3,223</b>	<b>3,188</b>	<b>3,177</b>	<b>3,199</b>
19 <sup>th</sup> Circuit .....	3,365	3,520	3,383	*2,919	*2,987						
22 <sup>nd</sup> Circuit	---	---	---	*564	*577						
<b>Total</b>	<b>9,573</b>	<b>9,920</b>	<b>9,621</b>	<b>9,843</b>	<b>10,018</b>	<b><u>Fifth District</u></b>					
						1 <sup>st</sup> Circuit .....	449	453	440	444	448
<b><u>Third District</u></b>						2 <sup>nd</sup> Circuit .....	295	305	296	288	291
9 <sup>th</sup> Circuit .....	210	205	198	198	191	3 <sup>rd</sup> Circuit .....	684	714	725	714	703
10 <sup>th</sup> Circuit .....	880	916	896	894	911	4 <sup>th</sup> Circuit .....	254	253	244	241	238
12 <sup>th</sup> Circuit .....	808	860	866	887	913	20 <sup>th</sup> Circuit .....	763	776	764	785	783
13 <sup>th</sup> Circuit .....	323	323	320	316	327	<b>Total</b>	<b>2,445</b>	<b>2,501</b>	<b>2,469</b>	<b>2,472</b>	<b>2,463</b>
14 <sup>th</sup> Circuit .....	511	512	514	500	503						
21 <sup>st</sup> Circuit .....	161	160	156	153	156	<b>Grand Total</b>	<b>59,827</b>	<b>61,130</b>	<b>60,370</b>	<b>61,466</b>	<b>62,442</b>
<b>Total</b>	<b>2,893</b>	<b>2,976</b>	<b>2,950</b>	<b>2,948</b>	<b>3,001</b>						

\* **Note:** As of January 2007, McHenry County parted from the 19th Judicial to form the 22nd Judicial Circuit of Illinois when the Illinois legislature amended the Circuit Courts Act, 705 ILCS 35/1.

**Chart 4: Registered Active and Inactive Attorneys by County for 2007-2008**

<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>2007</u>	<u>2008</u>		<u>2007</u>	<u>2008</u>		<u>2007</u>	<u>2008</u>
Adams	123	128	Hardin	7	6	Morgan	41	39
Alexander	9	8	Henderson	6	5	Moultrie	14	13
Bond	13	13	Henry	48	50	Ogle	50	48
Boone	43	49	Iroquois	24	24	Peoria	750	774
Brown	9	9	Jackson	218	210	Perry	21	20
Bureau	43	40	Jasper	6	7	Piatt	27	27
Calhoun	5	5	Jefferson	109	108	Pike	9	10
Carroll	14	14	Jersey	16	17	Pope	4	6
Cass	10	10	Jo Daviess	40	40	Pulaski	6	6
Champaign	537	540	Johnson	11	9	Putnam	10	8
Christian	36	35	Kane	1,107	1,123	Randolph	30	26
Clark	12	11	Kankakee	129	132	Richland	23	22
Clay	16	15	Kendall	80	85	Rock Island	365	366
Clinton	26	26	Knox	67	61	Saline	37	41
Coles	94	96	Lake	2,919	2,987	Sangamon	1,130	1,129
Cook	43,026	43,761	LaSalle	203	214	Schuyler	11	11
Crawford	22	21	Lawrence	15	18	Scott	6	6
Cumberland	9	9	Lee	43	42	Shelby	16	17
DeKalb	173	172	Livingston	43	45	St. Clair	676	679
DeWitt	19	18	Logan	30	29	Stark	7	7
Douglas	23	23	Macon	233	230	Stephenson	56	61
Du Page	4,015	4,075	Macoupin	36	34	Tazewell	113	109
Edgar	20	20	Madison	701	690	Union	23	27
Edwards	5	5	Marion	45	44	Vermilion	112	113
Effingham	45	48	Marshall	14	13	Wabash	12	13
Fayette	18	17	Mason	11	11	Warren	21	22
Ford	12	12	Massac	15	13	Washington	20	20
Franklin	55	55	McDonough	43	43	Wayne	11	13
Fulton	43	42	McHenry	564	577	White	14	15
Gallatin	5	5	McLean	533	551	Whiteside	77	79
Greene	15	15	Menard	12	13	Will	887	913
Grundy	70	73	Mercer	10	8	Williamson	121	128
Hamilton	10	10	Monroe	38	38	Winnebago	739	745
Hancock	18	18	Montgomery	33	29	Woodford	25	25

**B. Mandatory Disclosures in Annual Registration**

Since 2007, lawyers must complete as part of the annual registration process *pro bono*, trust account and malpractice insurance reports as required by Supreme Court Rule 756. Pursuant to Supreme Court Rule 756(g), a lawyer is not registered if the lawyer fails to provide any of this information. 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 ([www.iardc.org](http://www.iardc.org)). Malpractice insurance reports are shown on the web site along with a lawyer’s public registration information displayed under “Lawyer Search.” The reports received for the 2008 registration year regarding *pro bono* activities, trust accounts and malpractice insurance are presented below.

**1. Report on Pro Bono Activities in 2008 Registration**

Under Supreme Court Rule 756(f), Illinois lawyers are required to report voluntary *pro bono* service and monetary contributions on their registration form. 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 lawyers registered for 2008, 26,213 attorneys indicated that they had provided *pro bono* legal services, as defined by Rule 756, totaling, in the aggregate, 2,192,345 *pro bono* legal service hours, including 1,102,907 hours of legal service provided directly to persons of limited means, a 3.3% increase over 2007. 57,695 attorneys indicated that they had

not provided *pro bono* legal services, 9,704 of whom indicated that they were prohibited from providing *pro bono* legal services because of their employment. Chart 5A provides a two-year breakdown of the *pro bono* hours reported under Rule 756. The reported information does not include hours that legal service or government lawyers provide as part of their employment.

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

	2007	2008	2007-2008
Type of Pro Bono Services	Service Hours	Service Hours	Total Service Hours
Legal services to persons of limited means	1,100,323	1,102,907	2,203,230
Legal services to enumerated organizations designed to address needs of persons of limited means	325,088	301,680	626,768
Legal services to enumerated organizations in furtherance of their purposes	637,128	714,308	1,351,436
Training intended to benefit legal service organizations or lawyers providing <i>pro bono</i> services	58,715	73,450	132,165
<b>TOTAL:</b>	2,121,254	2,192,345	4,313,599

Chart 5B provides a breakdown of monetary contributions of that same two-year period. 13,929 lawyers reported in 2008 making contributions to organizations that provide legal services to persons of limited means, an increase of 10% over 2007. The amount contributed in 2008, \$14,779,088, however, was a 16% decrease over 2007. 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.

**Chart 5B: Monetary Contribution to an Organization that Provides Pro Bono Services**

	2007	2008	Total
Amount Contributed	\$17,615,482	\$14,779,088	\$32,394,570
Number of lawyers who made contributions	12,637	13,929	---

## 2. Report on Trust Accounts in 2008 Registration

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 of the Rules of Professional Conduct. 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 83,908 lawyers who were registered for 2008. Slightly more than half of all lawyers reported on their 2008 registration that they or their law firms maintained a trust account sometime during 2008. Of those who reported that they or their law firm did not maintain a trust

account in 2008, nearly half explained that they were prohibited from an outside practice, because of their full-time employment in a corporation or governmental agency.

**Chart 6: Trust Account Disclosure Reports in 2008 Registration**

<b>A. Lawyers with Trust Accounts:</b> .....	43,768
<b>B. Lawyers without Trust Accounts:</b> .....	40,140
Full-time employee of corporation or governmental agency (including courts) with no outside practice .....	20,023
Not engaged in the practice of law ....	10,254
Engaged in private practice of law (to any extent), but firm handles no client or third party funds .....	8,321
Other explanation.....	1,542

**3. Report on Malpractice Insurance in 2008 Registration**

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 2008, with about 54% of all lawyers reporting that they have malpractice insurance.

**Chart 7: Malpractice Disclosure Reports**

Malpractice Insurance	
<i>Yes</i>	<i>No</i>
45,278	38,630

**II. Report on Disciplinary and Non-Disciplinary Matters**

**A. Investigations Initiated in 2008**

During 2008, the Commission docketed 5,897 investigations, a 1.5% decrease from 2007. Those 5,897 investigations involved charges against 4,171 different attorneys, representing about 5% of all registered attorneys. About 22% of these 4,171 attorneys were the subject of more than one investigation docketed in 2008, as shown in Chart 8.

Charts 9 and 10 report the classification of investigations docketed in 2008, 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 top three most frequent areas of a grievance make up 80% of grievances and are related to client-attorney relations: neglect of the client's cause (44%); failure to communicate with the client (22%); and excessive or improper fees (14%).

**Chart 8: Investigations Docketed in 2008**

<i>Investigations per Attorney</i>	<i>Number of Attorneys</i>
1 .....	3,272
2 .....	600
3 .....	183
4 .....	56
5 or more.....	60
	Total: 4,171
<i>Gender</i>	<i>Years in Practice</i>
Female .....	Fewer than 10 years....
Male.....	10 years or more.....
20%	15%
80%	85%

**Chart 9: Classification of Charges Docketed in 2008 by Violation Alleged**

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect .....	2,566	Practicing in a jurisdiction where not authorized .....	89
Failing to communicate with client, including failing to communicate the basis of a fee .....	1,280	Prosecutorial misconduct .....	65
Excessive or improper fees, including failing to refund unearned fees .....	824	Improper communications with a party known to be represented by counsel or with unrepresented party .....	61
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client .....	703	Failing to preserve client confidences or secrets .....	47
Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal .....	469	Failing to supervise subordinates .....	39
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks .....	358	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter .....	37
Conduct prejudicial to the administration of justice, including conduct that is the subject of a contempt finding or court sanction .....	357	Practicing after failing to register .....	26
Filing frivolous or non-meritorious claims or pleadings .....	269	Aiding a nonlawyer in the unauthorized practice of law .....	20
Conflict of Interest: .....	204	Incapacity due to chemical addiction or mental condition .....	12
Rule 1.7: Concurrent conflicts .....	144	Improper division of legal fees/partnership with nonlawyer .....	11
Rule 1.8(a) Improper business transaction with client .....	15	Bad faith avoidance of a student loan .....	10
Rule 1.8(b) Improper acquisition of publication/media rights .....	1	Inducing/assisting another to violate the Rules .....	10
Rule 1.8(c) Improper preparation of instrument benefiting lawyer .....	2	Failing to report misconduct of another lawyer or judge .....	7
Rule 1.8(d) Financial assistance to client .....	3	Sexual harassment/abuse or violation of law prohibiting discrimination .....	6
Rule 1.8(f) Improper agreement prospectively limiting lawyer's liability .....	2	Improper extrajudicial statement .....	5
Rule 1.8(h): Improper agreement to limit/avoid disciplinary action .....	1	Failing to comply with Rule 764 .....	5
Rule 1.9: Successive conflicts .....	28	False statements in a bar admission or disciplinary matter .....	4
Rule 1.10 Imputed disqualification .....	4	Improper <i>ex parte</i> communication with judge .....	4
Rule 1.11 Former government lawyer .....	2	Improper employment where lawyer may become a witness .....	4
Rule 1.12 Former judge or arbitrator .....	1	Failing to maintain an appropriate attorney-client relationship with disabled client .....	3
Rule 1.13 Failure to protect interest of organizational client .....	1	Abuse of public office to obtain advantage for client .....	3
Failing to properly withdraw from representation, including failing to return client files or documents .....	178	Assisting a judge in conduct that violates the judicial code .....	3
Criminal activity, including criminal convictions, counseling illegal conduct or public corruption .....	125	False statements about a judge, jud. candidate or public official .....	3
Failing to provide competent representation .....	119	Failing to pay child support .....	2
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf .....	107	No misconduct alleged .....	339
Improper commercial speech, including inappropriate written or oral solicitation .....	98		

\*Totals exceed the number of requests for investigations docketed in 2008 because in many requests more than one type of misconduct is alleged.

Consistent with prior years, the top subject areas 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 2008 by Subject Area**

<i>Area of Law</i>	<i>Number</i>
Criminal/Quasi-Criminal.....	1,468
Domestic Relations.....	907
Tort (Personal Injury/Property Damage).....	615
Real Estate/Landlord-Tenant.....	488
Probate.....	337
Labor Relations/Workers'Comp.....	256
Contract.....	233
Bankruptcy.....	199
Debt Collection.....	163
Civil Rights.....	130
Immigration.....	122
Corporate Matters.....	112
Local Government Problems.....	60
Personal misconduct.....	22
Patent and Trademark.....	19
Tax.....	18
Adoption.....	13
Social Security.....	10
Mental Health.....	4
No Area of Law Identified:	
Other.....	48
Criminal Conduct/Conviction of Attorney.....	84
Undeterminable.....	180
No misconduct alleged.....	200

**B. Investigations Concluded in 2008**

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 4% of investigations concluded in 2008 resulted in the filing of formal charges. Charts 11 and 12 show the number of investigations docketed and terminated during 2004 to 2008, and the type of actions that terminated the investigations in 2008.

**Chart 11: Investigations Docketed: 2004-2008**

<b>Year</b>	<b>Pending January 1<sup>st</sup></b>	<b>Docketed During Year</b>	<b>Concluded During Year</b>	<b>Pending December 31<sup>st</sup></b>
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
2008	1,814	5,897	6,127	1,584

<b>Concluded by the Administrator:</b>	
Closed after initial review.....	1,441 (No misconduct alleged)
Closed after investigation.....	4,305
Filed at Supreme Court pursuant to Supreme Court Rules 757, 758(b), 761, 762(a), 763 and 774.....	37
<b>Concluded by the Inquiry Board:</b>	
Closed after panel review.....	104
Complaint or impairment petition voted...	228
Closed upon completion of conditions of Rule 108 supervision.....	12
<b>Total.....</b>	<b>6,127</b>

**Chart 12: Investigations Concluded in 2008**

### **1. Timeliness of Investigations Concluded in 2008**

Charts 13A through C show the average number of days that the 6,127 investigations concluded in 2008 were pending before either being closed or filed in a formal action. In keeping with the Commission's policy that disciplinary matters be handled expeditiously, codified in Commission Rule 1, Charts 13A through C show the time periods required to conclude investigations. Chart 13A shows that 1,441, or 24%, of the 6,127 investigations concluded in 2008 were closed after an initial review of the complainant's concerns. 96% of these 1,441 investigations were concluded within 60 days of the docketing of the grievance. The five staff lawyers who make up the Intake division of the Administrator's staff review most incoming grievances and perform the initial inquiry into the facts to determine whether the written submissions from complainants, read liberally, describe some misconduct by a lawyer. In 2008, the Intake staff closed 94% of these investigations at this preliminary stage. The remaining 6% were concluded after initial review conducted by Administrator's litigation counsel who primarily handle investigations that are more likely to lead to formal proceedings. Generally, closures made after an initial review are completed without asking the lawyer to respond, although the lawyer and complainant are typically apprised of the determination.

**Chart 13A**

<b>1,441 Investigations Closed After Initial Review in 2008</b>			
<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%	6%	15%	4%

In the remaining 4,305 investigations closed in 2008 by the Administrator, 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. 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 4,305 investigations closed after a determination to conduct an investigation was made, 2,768, or 64%, were closed by Intake counsel, with 77% of those closed within 90 days of receipt. Chart 13C indicates that 36% were closed by Litigation counsel. Nearly half of the files referred to Litigation counsel were closed within six months, notwithstanding 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. How long it takes before an investigation is resolved is influenced by whether the lawyer has addressed all concerns raised during the investigation, whether other sources are cooperating with the ARDC's requests for information, the complexity of the issues, and the amount of information and documents that the ARDC counsel must review.

**Chart 13B**

<b>2,768 Investigations Concluded in 2008 by the Intake Staff After Investigation</b>			
<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
77%	18%	3%	2%

**Chart 13C**

<b>1,537 Investigations Concluded in 2008 by the Litigation Staff After Investigation</b>			
<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%	24%	26%	26%

## 2. Oversight Review of Investigations Closed

Pursuant to Supreme Court Rule 751(e)(3), the Commission conducts a review of a representative sample of investigative matters concluded by the Administrator without reference to the Inquiry Board. The Commissioners have delegated the initial review to its Oversight Committee, which consists of 104 current and former Inquiry and Hearing Board members (*see Back Cover*). The Oversight Committee reviews about 6% of the investigations closed by the Administrator's staff each year. The representative samples are of closed investigations selected by computer from two types of investigative closures: those closures decisions that the complaining witness has challenged (20%); and those where no such challenge was received (80%). The Oversight review is a quality assurance analysis, not an appeal of the closure decision. The analysis provided by the Oversight Committee members is helpful to the Commission and Administrator in formulating approaches to the pending caseload.

### 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 a panel of the Hearing Board. The Hearing Board functions much like a trial court in a civil case, and each panel is comprised of three members, two lawyers and one nonlawyer, appointed by the Commission. Upon filing and service of the complaint, the case becomes public. The panel chair presides over pre-hearing matters. 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 2008. There were 134 cases added to the Hearing Board's docket in 2008. Of those, 124 were initiated by the filing of a new disciplinary complaint.

**Chart 14: Matters Before the Hearing Board in 2008**

<b>Cases Pending on January 1, 2008</b> .....	173
<b>Cases Filed or Reassigned in 2008:</b>	
<i>Disciplinary Complaints Filed:*</i>	
➤ Rules 753, 761(d).....	124
<i>Reinstatement Petitions Filed:</i>	
➤ Rule 767.....	5
<i>Petition for Restoration to Active Status Filed:</i>	
➤ Rule 759.....	1
<i>Remanded by Supreme Court upon denial of 762(b) consent petition</i> .....	1
<i>Reassigned to new Hearing panel upon denial by Hearing Board of motion for leave to file a Rule 762(b) consent petition</i> .....	3
<b>Total New Cases Filed or Reassigned</b> .....	134
<b>Cases Concluded During 2008</b> .....	137
<b>Cases Pending December 31, 2008</b> .....	170
* 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 the Hearing Board.	

Chart 15 shows the years in practice of the 124 lawyers who were the subject of a formal complaint in 2008.

**Chart 15: Disciplinary Complaints Filed in 2008**

Number of Complaints Filed in 2008..... 124			
Respondents' Years in Practice	% of Lawyer Population	# of Complaints	% of Complaints Filed
Fewer than 5 years .....	15% .....	3 .....	2%
Between 5 and 10 years.....	14% .....	15 .....	12%
Between 10 and 20 years.....	27% .....	35 .....	28%
Between 20 and 30 years.....	24% .....	38 .....	31%
30 or more years .....	20% .....	33 .....	27%

Chart 16 shows the types of misconduct alleged in the 124 disciplinary complaints filed during 2008, and Chart 17 indicates the areas of practice in which the alleged misconduct arose. The allegations of failure to communicate and neglect of a client's case, most frequently seen in initial charges as reported in Charts 9 and 10, are also among the most frequently charged in formal complaints. The categories of a lawyer's criminal conduct/conviction and assertions of conflicts of interest, which are alleged in nearly a quarter of the formal complaints, are more frequently seen in formal complaints than in the initial grievance, due to the evidence adduced during the investigations.

**Chart 16: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 2008**

Type of Misconduct	Number of Cases*	% of Cases Filed*	Type of Misconduct	Number of Cases*	% of Cases Filed*
Failure to communicate with client .....	43.....	35%	Improper withdrawal from employment without court approval or avoiding prejudice to client .....	13.....	10%
Fraudulent or deceptive activity .....	43.....	35%	Not abiding by client's decision or taking unauthorized action on client's behalf....	13.....	10%
Neglect/lack of diligence .....	41.....	33%	Failure to provide competent representation.	13.....	10%
In many cases where neglect was charged, the neglect was accompanied by one or both of the following:			Falsifying evidence or making false statements to tribunal .....	11.....	9%
Misrepresentation to client.....	26.....		Assisting client in criminal/fraudulent conduct.....	5.....	8%
Failure to return unearned fees.....	7.....		Unauthorized practice after failure to register	5.....	4%
Criminal conduct/conviction of lawyer.....	29.....	23%	Misrepresentation to third persons.....	3.....	4%
Conflict of interest.....	27.....	22%	Failure to supervise employees.....	3.....	2%
Rule 1.7: concurrent conflicts .....	14.....		Breach of client confidences .....	3.....	2%
Rule 1.8(a): improper business transaction with client.....	5.....		Inducing/assisting another to violate rules.....	3.....	2%
Rule 1.8(c): improper instrument benefiting the lawyer .....	2.....		False statement about judge .....	3.....	2%
Rule 1.8(d): improper financial assistance to client.....	2.....		Unauthorized practice after suspension.....	2.....	2%
Rule 1.9: successive conflicts.....	3.....		Aiding in the unauthorized practice of law....	2.....	2%
Rule 1.10: imputed disqualification.....	1.....		Failure to maintain records under Rule 769....	2.....	2%
Improper handling of trust funds .....	24.....	19%	Improper commercial speech, including improper direct solicitation.....	1.....	1%
Pursuing/filing frivolous or non-meritorious claims or pleadings.....	21.....	17%	Practicing in a jurisdiction without authority..	1.....	1%
False statement or failure to respond in bar admission or disciplinary matter .....	16.....	13%	Improper communication with a represented person.....	1.....	1%
Excessive or unauthorized fees .....	16.....	13%			

\*Totals exceed 124 disciplinary cases and 100% because most complaints allege more than one type of misconduct.

**Chart 17: Subject Area Involved in Complaints Filed Before Hearing Board in 2008**

<i>Subject Area</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>	<i>Subject Area</i>	<i>Number of Cases*</i>	<i>% of Cases Filed*</i>
Real Estate.....	29	23%	Bankruptcy.....	7	6%
Criminal Conduct/Conviction.....	28	23%	WorkersøComp/Labor Relations.....	7	6%
Tort.....	19	15%	Tax.....	3	2%
Domestic Relations.....	17	14%	Corporate Matters.....	2	2%
Probate.....	14	11%	Local Government.....	1	1%
Contract.....	14	11%	Civil Rights.....	1	1%
Personal Misconduct.....	13	10%	Immigration.....	1	1%
Criminal.....	7	6%	Patent/Trademark.....	1	1%

\*Totals exceed 124 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 137 cases during 2008.

**Chart 18: Actions Taken by Hearing Board in Matters Terminated in 2008**

<b>A. Disciplinary Cases: Rules 753 &amp; 761(d)</b>	
Case closed by filing of petition for discipline on consent other than disbarment.....	49
Recommendation of discipline after hearing ..	55
Case closed by filing of motion for disbarment on consent.....	14
Case closed by administration of a reprimand to respondent.....	6
Recommendation of dismissal after hearing.....	3
Complaint dismissed without prejudice .....	1
Case closed, motion for summary judgment granted.....	1
Case closed by Courtø prior transfer of respondent to disability inactive status.....	<u>1</u>
<b>Total Disciplinary Cases.....</b>	<b>130</b>
<b>B. Reinstatement Petitions: Rule 767</b>	
Recommendation of Petition denied.....	2
Recommendation of Petition allowed with conditions.....	2
Petition withdrawn.....	3
<b>Total Matters Terminated.....</b>	<b>137</b>

**C. Matters Filed Before the Review Board in 2008**

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 2008.

**Chart 19: Actions Taken by the Review Board in 2008**

<b>Cases pending on January 1, 2008.....</b>	<b>24</b>
<b>Cases filed during 2008:</b>	
Exceptions filed by Administrator.....	18
Exceptions filed by Respondent .....	12
Exceptions filed by both .....	<u>1</u>
<b>Total.....</b>	<b>31</b>
<b>Cases decided in 2008:</b>	
Hearing Board affirmed.....	7
Hearing Board reversed on findings and/or sanction .....	13
Notice of exceptions withdrawn .....	1
Notice of exceptions stricken .....	<u>5</u>
<b>Total.....</b>	<b>26</b>
<b>Cases pending December 31, 2008.....</b>	<b>29</b>

**D. Supreme Court – Disciplinary Cases**

The Supreme Court has sole authority to sanction attorneys for misconduct, except for a reprimand, which can be imposed in a disciplinary case without order of the Court by either the Hearing or Review Board. In 2008, the Hearing Board administered six reprimands. See Chart 18. Other than Board reprimands, the Hearing and Review Board issue reports that include recommendations to the Supreme Court for discipline. During 2008, the Court entered 135 sanctions against 131 lawyers (four lawyers were disciplined twice in 2008). Chart 20 reflects the nature of the orders entered.

**Chart 20: Disciplinary Sanctions Ordered by the Supreme Court in 2008**

Disbarment.....	39
Suspension.....	56*
Probation.....	21
Censure.....	17
Reprimand.....	<u>2</u>
Total	135

\*In addition to the 56 suspensions, the Court also ordered 15 interim suspensions, as reported in Chart 22 at (F) and (J).

Charts 21A and 21B provide demographic information on the 137 lawyers disciplined in 2008 (the 131 lawyers sanctioned by the Court and the six lawyers reprimanded by the Hearing Board).

**Chart 21A: County of Practice of Lawyers Disciplined in 2008**

County	Number Disciplined	County	Number Disciplined
Cook.....	74	Kendall.....	1
Out-of-State.....	19	Madison.....	1
DuPage.....	18	McHenry.....	1
Lake.....	7	McLean.....	1
Will.....	3	Peoria.....	1
Union.....	2	Randolph.....	1
Champaign.....	1	Rock Island.....	1
Coles.....	1	Saint Clair.....	1
Jackson.....	1	Sangamon.....	1
Kane.....	1	Winnebago.....	1

**Chart 21B: Profile of Lawyers Disciplined in 2008**

Years in Practice	# of Lawyers Discipline	% of Lawyers Disciplined	% of Lawyer Population
Fewer than 5.....	1.....	1%.....	15%
Between 5 and 10.....	21.....	15%.....	14%
Between 10 and 20.....	40.....	29%.....	27%
Between 20 and 30.....	42.....	31%.....	24%
30 or more.....	33.....	24%.....	20%
<b>Age:</b>			
21-29 years old.....	0.....	0%.....	7%
30-49 years old.....	61.....	45%.....	51%
50-74 years old.....	69.....	50%.....	39%
75 or more years old.....	7.....	5%.....	3%
<b>Gender:</b>			
Female.....	25.....	18%.....	34%
Male.....	112.....	82%.....	66%

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

**Chart 22: Orders Entered by Supreme Court in Disciplinary Cases in 2008**

<p><b>A. <u>Motions for disbarment on consent: Rule 762(a)</u></b>  Allowed..... 23  Denied..... <u>1</u>  Total ..... 24</p>	<p><b>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u></b>  Allowed..... 32  Denied, and more discipline imposed..... <u>1</u>  Total..... 33</p>
<p><b>B. <u>Petitions for discipline on consent: Rule 762(b)</u></b>  Allowed:  Suspension..... 21  Suspension stayed in part,  probation ordered ..... 8  Suspension stayed in its entirety,  probation ordered ..... 5  Censure ..... <u>14</u>  Total..... 48  Denied..... <u>1</u>  Total ..... 49</p>	<p><b>F. <u>Petitions for interim suspension due to conviction of a crime: Rule 761(b)</u></b>  Rule enforced and lawyer suspended ..... 8  Rule discharged ..... <u>1</u>  Total ..... 9</p>
<p><b>C. <u>Petitions for leave to file exceptions to report and recommendation of Review Board: Rules 753(e)(1) and 761</u></b>  Allowed and more discipline imposed  than recommended by Review Board..... 5  Allowed and same discipline imposed  as recommended by Review Board ..... 1  Denied and same discipline imposed  as recommended by Review Board .... <u>15</u>  Total..... 21</p>	<p><b>G. <u>Petitions for reciprocal discipline: Rule 763</u></b>  Allowed..... 12  Denied..... <u>0</u>  Total ..... 12</p>
<p><b>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u></b>  Allowed..... 0  Denied, and briefing ordered ..... <u>1</u>  Total ..... 1</p>	<p><b>H. <u>Petitions for reinstatement: Rule 767</u></b>  Allowed with conditions ..... 1  Petition withdrawn..... 2  Denied..... 2  Referred to Review Board ..... <u>1</u>  Total ..... 6</p>
	<p><b>I. <u>Motions to revoke probation: Rule 772</u></b>  Allowed, probation revoked  and respondent suspended ..... 1  Denied ..... <u>0</u>  Total ..... 1</p>
	<p><b>J. <u>Petitions for interim suspension: Rule 774</u></b>  Rule enforced and lawyer suspended ..... 7  Rule discharged ..... <u>0</u>  Total ..... 7</p>

Chart 23 tracks the type of misconduct that led to the sanctions entered by the Court (135) and Hearing Board reprimands administered (6) in 2008.

**Chart 23: Misconduct Committed in the 141 Disciplinary Cases Decided in 2008<sup>1</sup>**

Types of Misconduct	Number of Cases in Which Sanctions Were Imposed				
	Disbarment	Suspension <sup>2</sup>	Probation <sup>3</sup>	Censure	Reprimand <sup>4</sup>
<b>Total Number of Cases:</b>	<b>39</b>	<b>68</b>	<b>9</b>	<b>17</b>	<b>8</b>
Improper management of client or third party funds, including commingling and conversion.....	17	14	1	1	1
Neglect or lack of diligence.....	11	29	2	5	0
Fraudulent or deceptive activity.....	27	29	1	11	3
Criminal conduct by the lawyer.....	19	19	4	2	0
Failure to communicate with client, including failure to communicate basis of a fee.....	11	34	2	7	2
Failure to provide competent representation.....	3	8	1	1	0
Fee violations, including failure to refund unearned fees.....	7	16	1	4	2
Failure to cooperate with or false statement to disciplinary authority.....	11	12	0	2	1
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf.....	4	6	0	1	0
Improper withdrawal, including failure to return file.....	1	8	0	2	0
Conflict of interest (between current clients).....	0	5	0	3	0
Conflict of interest (lawyer's own interests).....	0	5	2	0	0
Conflict of interest (advancing/guaranteeing improper financial assistance to client).....	1	1	0	0	1
Conflict of interest (improper proprietary interest in subject of representation).....	2	3	0	0	0
Conflict of interest (former client).....	0	3	0	1	0
Inducing/assisting another lawyer's misconduct.....	0	3	0	1	1
Failure to report another lawyer's misconduct.....	0	0	0	0	1
Filing false, frivolous or non-meritorious claims or pleadings or presenting false evidence.....	2	5	1	2	0
Threatening to present criminal/disciplinary charges.....	1	1	0	0	0
Counseling/assisting a client in criminal or fraudulent conduct.....	0	6	0	0	0
Misrepresentation to a tribunal.....	2	8	1	3	0
Misrepresentation to clients to cover up neglect.....	7	11	0	3	0
Misrepresentation to third persons.....	1	1	0	1	0
Improper employment where lawyer may be witness.....	0	1	0	0	0
Breach of client confidences.....	0	2	1	0	0
Unauthorized practice in another jurisdiction.....	0	2	0	0	0
Practice after failure to register.....	0	2	0	1	0
Practice during suspension.....	2	0	0	0	0
Improper solicitation or advertising.....	0	1	0	0	0
Failure to supervise lawyer's employees.....	0	1	0	0	0
Failure to comply with Rule 764.....	1	0	0	0	0
Failure to comply with Rule 769.....	0	1	0	0	0
Failure to report criminal conviction per Rule 761(a).....	1	1	0	0	0

1 Totals exceed 141 cases because in most cases more than one type of misconduct was found.  
2 Includes 56 suspensions and 12 suspensions stayed in part by probation.  
3 Suspensions stayed entirely by probation.  
4 Includes six 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 2008.

***Chart 24: Non-Disciplinary Actions by the Supreme Court for 2008***

<b>B. Rule 758</b>	
Motion for transfer to disability inactive status on consent:	
Allowed.....	1
Denied.....	<u>0</u>
Total.....	1
<b>A. Rule 759</b>	
Petitions for restoration to active status:	
Allowed.....	12
Petition withdrawn.....	1
Referred to Hearing Board for hearing on petition.....	<u>1</u>
Total.....	14

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

**Chart 25A: Registration Growth and Disciplinary Investigations (1994-2008)**

	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*
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
2008	83,908	1.9%	5,897	1,441	4,305	104	228

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

**Chart 25B: Disciplinary Proceedings (1994-2008)**

	Matters Filed With Hearing Board	Matters Concluded at Hearing Board	Matters Filed With Review Board	Matters Concluded at Review Board	Sanctions Ordered By Court
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
2008	134	137	31	26	135

### ***F. Duty to Report Lawyer Misconduct: Lawyer Reports 2003-2008***

Rule 8.3 of the Rules of Professional Conduct requires Illinois lawyers to report certain instances of lawyer or judicial misconduct. The Illinois Supreme Court's opinion in *In re Himmel*, 125 Ill.2d 531, 533 N.E.2d 790 (1988), 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 was prosecuted under Rule 1-103 of the Illinois Code of Professional Responsibility, superseded in 1990 by Rule 8.3, a substantively identical ethics standard. Since the *Himmel* decision, the Illinois ARDC has received more than 10,000 reports filed by lawyers and judges against members of the Illinois bar. (See *2007 Annual Report of the ARDC*, pages 25-27, for a twenty-year history of *Himmel* reporting statistics.) 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, an average of 18.5% of the formal disciplinary caseload between 2003 and 2008 included a charge generated as a result of a lawyer or judge filing an attorney report. In 2007 and 2008, about 30% of formal complaints included at least one investigation initiated from a report made by an attorney.

Chart 26 tracks attorney report filings from 2003 through 2008.

***Chart 26: Attorney Reports: 2003-2008***

<b>Year</b>	<b>Number of Grievances</b>	<b>Numbers of Attorney Reports</b>	<b>Percent of Attorney Reports to Grievances</b>	<b>Number of Complaints Voted</b>	<b>Number of Complaints Voted Involving Attorney Reports</b>	<b>Percent of Attorney Reports to Formal Complaints</b>
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%
2008	5,897	542	9.1%	228	69	30.2%
<b>Totals for 2003-2008</b>	36,162	3,020	8.4%	1,719	319	—
<b>Average For 2003-2008</b>	6,027	503	8.3%	287	53	18.5%

Finally, questions about the reporting rule continue to be answered by the Commission's Ethics Inquiry Program, and the greatest area of inquiry each year is about the reporting obligation. Of the more than 4,000 lawyers who contacted the Program in 2008, 373 calls were about the duty to report (*see* Page 24).

### ***III. 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 who has been disciplined or is deceased. The Program does not cover losses resulting from professional negligence or malpractice and does not consider claims involving fee or contract disputes. Commission Rules 501 through 512 govern the administration of the Program.

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, since 2007, the Program has been funded by an annual assessment paid by each lawyer and remitted to the Client Protection Program Trust Fund. Rule 756 sets the assessment amount at \$25 per lawyer.

In seeking the per-lawyer assessment for the Client Protection Program, the Commission suggested to the Court that this funding would enhance the effectiveness of the Program in addressing large claims by allowing the Program to increase the maximum dollar limits on awards. Since the assessment was first collected in 2007, the Commission has raised those limits twice. Effective January 31, 2007, the Commission amended its Rule 510 to increase the individual award limit from \$25,000 to \$50,000, and the limit on awards involving any one lawyer from \$250,000 to \$500,000; effective March 31, 2009, the per-award limit was increased to \$75,000 and the per-lawyer limit to \$750,000.

In light of the separate, stable funding provided to the Program by the per-lawyer assessment, and in order to provide a true picture of the cost of the Program, the Commission determined that it was appropriate for the Program to bear its own administrative costs. In 2008, the Client Protection Program Trust Fund reimbursed the Disciplinary Fund in the amount of \$238,970 for the administrative costs of the Program, including salaries, office overhead, and investigative expenses necessary to the adjudication of claims in the Client Protection Program.

In 2008, the Program collected \$1,674,160 (\$1,553,862 from assessments, \$51,706 from reimbursement, and \$68,592 from interest). The Program approved 102 claims against 56 lawyers and paid a record \$1,029,220 to claimants as shown in Chart 27. Six approvals were for the \$50,000 maximum, and 52 were for \$2,500 or less. The "Claims Denied" figure for 2008 includes 59 claims that were closed as ineligible under the Rules (involved lawyer neither disciplined nor deceased) and six claims that were closed after the involved lawyer reimbursed the claimant's loss. The six claims reimbursed by the involved lawyers amounted to approximately \$37,000. The claims concluded in a given year, as shown in Chart 27, may include claims filed in prior years and carried over.

**Chart 27: Client Protection Program Claims: 2002-2008**

Year	Claims filed	# Claims Approved	# Claims Denied	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
2008	224	102	122	56	\$1,029,220

Chart 28 provides a summary of the claims approved in 2008, by type of misconduct and area of law.

**Chart 28: Classification of Approved Client Protection Claims in 2008**

<b>Type of Misconduct:</b>	
Failure to refund unearned fees .....	60
Conversion .....	42
<b>Area of Law</b>	
Personal Injury/WorkersøComp .....	26
Labor Employment .....	13
Family Law.....	12
Real Estate.....	11
Criminal/Quasi-Criminal .....	10
Immigration .....	6
Bankruptcy .....	6
Probate/Trusts.....	6
Contract.....	5
Civil Rights.....	3
Property Damage .....	2
Debt Collection.....	1
Tax.....	1

#### **IV. Commission Outreach Programs**

##### **A. Commission Web Site**

The ARDC web site ([www.iardc.org](http://www.iardc.org)) is a valuable source of information regarding all aspects of the regulation of the legal profession in Illinois and recent developments affecting Illinois lawyers. The site attracts up to 156,000 visitors each month, and in 2008 visitors totaled 1.8 million. In addition, more than 36,000 lawyers took advantage of the online registration program for the 2009 registration year. The most visited feature, the Lawyer Search function, had over 700,000 visitors last year, enabling visitors to search the Master Roll for certain basic public registration information, including business address and public disciplinary information about Illinois lawyers. 37% of lawyers utilized the web site's online registration function during the 2009 registration, an increase from 29% in the previous year. 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 Illinois attorneys each year who are seeking help in resolving hypothetical, ethical dilemmas. The program handled about 4,000 inquiries in 2008, approximately 600 more than in 2007. The top 10 subjects of inquiry during 2008 included:

<b>Subject of Inquiry</b>	<b># of calls</b>
Duty to report misconduct.....	373
Maintaining client confidences.....	212
Multi-jurisdictional practice of law.....	161
Conflicts (Former client).....	161
Handling client trust accounts.....	160
Retention/ownership of client files.....	148
Conflicts (Multiple representation).....	131
Communication with represented persons.....	103
Conflicts (Present client).....	93
Termination of representation.....	92

The goal of the Program is to help lawyers understand their professional obligations and assist them in resolving important issues in their practice. The Program provides lawyers with information about professional responsibility law, legal precedent, bar association ethics opinions, law review articles and practical guidelines; the Program does not provide legal advice or a binding advisory opinion. Questions should be presented in the hypothetical form, and callers may remain anonymous if they so choose, although no record is made of the identity of the caller or the substance of the specific inquiry or response. 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](http://www.iardc.org/ethics.html).

##### **C. Education**

###### **1. ARDC CLE Accredited Programs**

In 2008, the ARDC, as a CLE Accredited Provider in Illinois, presented 16 CLE accredited courses, including in-house lawyer/staff training sessions, updates on disciplinary trends for Board members, the *Professionalism Seminar* for disciplined lawyers and two large programs presented in June in the Third Judicial District. Through these efforts, approximately 5,000 lawyers received over 10,000 hours in CLE credit without charge. In addition, the ARDC participated in 165 CLE programs sponsored by bar associations, law firms, government offices and corporations thereby reaching an estimated 13,000 Illinois lawyers in 2008. That number of programs is an increase of 20 over the 2007 total of 145.

The biggest impact of the Commission's educational efforts to date has been the Third Judicial District seminars presented in Rock Island on June 5, and Joliet on June 19. Both programs were accredited for two hours of professional responsibility CLE credit and drew capacity crowds. In addition, the Joliet program was broadcast live on the Internet to over 2,000 lawyers who viewed the program. An additional 2,300 lawyers have since viewed the recorded

webcast, which continues to be available on the ARDC website for CLE credit without charge.

The Commission looks to build on these efforts in 2009. Substantive revisions to the Rules of Professional Conduct have been the subject of public hearings before the Supreme Court's Rules Committee, and the Commission is prepared to provide in-person and on-line seminars helping lawyers to become familiar with any new rules as they are adopted.

## ***V. Recent Developments***

### ***A. Status of Retainers After Dowling***

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, in addition to classic and security interest retainers, and setting forth the elements of what must be disclosed to a client in taking advance fees. *Dowling v. Chicago Options Associates*, 226 Ill.2d. 277, 875 N.E.2d 1012 (2007). Current Rule 1.15 does not address specifically where advances on fees are to be deposited. There is currently a proposal (Proposal 04-18) pending before the Illinois Supreme Court to amend Rule 1.15, as well as many of the Illinois Rules of Professional Conduct, that includes a provision on advances. The proposal pending before the Court can be viewed from the Court's website at <http://www.state.il.us/court>.

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 ARDC recognizes that the Dowling decision may require practitioners to make substantive changes in the way they handle retainers. As a result, the Commission's primary efforts have been to educate the legal profession regarding Dowling requirements, as opposed to enforcement efforts in cases that would not have been warranted before Dowling. The opinion, as well as Frequently Asked Questions ([FAQs](#))

developed by the ARDC to help educate lawyers about the *Dowling* decision, is available on the ARDC web site at:

<http://www.iardc.org/DowlingFAQs.html>.

## ***VI. 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, 2008, including comparative data from the 2007 audited statements, are attached. In addition, a five-year summary of revenues and expenditures as reported in audited statements appears after the text in this section.

The Commission continues to recognize its responsibility to prudently administer the Disciplinary Fund. At the time that the Commission sought the present registration fee structure, which became effective for the 2007 registration year, it was projected that the requested fee structure would support Commission operations through at least 2010. Current projections suggest that the present fee structure may support Commission operations beyond 2010, depending on the impact of the current recession.

While current economic conditions are very challenging, 2008 revenues increased modestly by slightly more than 2% over 2007 figures, and the increase was consistent with the 1.9% increase in the lawyer population during that same time frame. In addition, to date, registration compliance for the year 2009 compares favorably to the 2008 experience.

On February 11, 2008, the ARDC removed from the Master Roll of attorneys 5,895 attorneys who had not registered. Lawyers whose names are not on the Master Roll may not practice law pursuant to their Illinois licenses and may not hold themselves out to be so authorized (*Supreme Court Rule 756(b)*). By the end of the 2008 registration cycle on October 31, 2008, the number of lawyers who still had not registered was 2,280, up from 1,984 for the previous year (*See Chart 2B*). For the 2009 registration year, in light of economic

considerations, the ARDC devoted more resources to encourage compliance and afforded lawyers until February 23, 2009, prior to removal. As a result, the ARDC removed 4,829 from the rolls, over 1,000 fewer attorneys than in the previous year. As one can see from the 2008 registration experience described above, many lawyers whose names are removed later register and pay their fees and also penalties and are therefore restored to the Master Roll. In this economy, it is unclear whether lawyers removed from the rolls will return in the numbers comparable to years past, though it is encouraging that many removed in 2009 have now registered, with the number unregistered reduced to 2,188, less than half of the initial removal amount.

On January 8, 2009, the ARDC removed 680 active status lawyers who did not report compliance with MCLE requirements. One hundred five of those attorneys have now reported compliance and they have been returned to the roll. (*See* page 4.) The remaining 592 attorneys represent more than \$100,000 in unpaid fees, on an annual basis.

The Administrator's staff has contacted all attorneys removed due to registration and/or MCLE compliance issues to notify them that they are no longer authorized to practice law and advise them of the steps they would need to take to be reinstated to the roll. The staff will next conduct compliance checks to determine if removed lawyers are continuing to practice law and take appropriate enforcement action, if necessary. The Commission will monitor these trends and its revenues carefully.

The Commission continues to hold the line on expenses. Staff size has been reduced modestly over the last two years, to its lowest total since 2001. Experience suggests, however, that the ARDC caseload will increase in the years following the onset of the current economic downturn, much as it did in the years following the recessionary periods of 2001-2003. In the years following that recession, staff size was increased modestly to meet record caseload demands. The Commission will continue to manage its expenditures carefully.

Since the adoption of the current fee structure effective in 2007, funding for the Client Protection Program (CPP) comes from a dedicated \$25 portion of the annual registration fee paid by active status attorneys. During 2008, the Commission determined that the CPP expenses should be paid from that separate Client Protection fund, instead of the ARDC Disciplinary Fund. (*See* page 22.) For 2008, those expenses amounted to \$238,970, and that decision serves to reduce Disciplinary Fund expenditures by that amount. In addition, the Commission determined that the dedicated CPP funding made it advisable to increase the caps on awards from \$50,000 to \$75,000 per claim (*see* page 22), an amount that is consistent with caps in jurisdictions of similar size.

Finally, on November 30, 2008, the Commission's longtime Director of Administrative Services, Marilyn Crossman, retired after twenty-three years of exemplary work. Ms. Crossman is an Illinois Certified Public Accountant who was responsible for the fiscal management of the agency. Her relationship with the ARDC predated her employment by almost a decade, as she was previously employed with the accounting firm of Alexander X. Kuhn and Company, the agency's former auditor. Ms. Crossman was active in the hiring of her successor, the newly titled ARDC Director of Finance, Vick Paul. Mr. Paul is an Illinois Certified Public Accountant with a Masters Degree in Economics from the University of Toronto. For many years, he was the Director of Finance of Claims Processing Facility, Inc., an entity that was empowered to process asbestos injury claims in the United States.

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

**FIVE YEAR SUMMARY OF OPERATIONS**

	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
<b>REVENUE</b>					
Investment income					
Interest	\$ 802,501	\$ 817,805	\$ 694,296	\$ 463,744	\$ 281,816
Net unrealized appreciation (depreciation) in fair value of investments	(23,251)	197,389	(9,666)	(10,906)	(86,014)
Registration and program fees and delinquent charges	16,290,057	15,926,372	12,367,335	12,158,815	11,897,576
Costs reimbursements collected	103,721	94,244	80,237	128,036	106,223
Administrative expense reimbursement from Client Protection Program	238,970	-	-	-	-
Client Protection Program reimbursements	51,706	25,058	43,543	34,785	30,041
Total revenue	<u>17,463,704</u>	<u>17,060,868</u>	<u>13,175,745</u>	<u>12,774,474</u>	<u>12,229,642</u>
<b>EXPENSES</b>					
Salaries and related expenses	9,583,868	8,877,241	8,671,001	8,688,348	8,522,136
Travel expenses	119,617	128,499	93,443	105,353	96,862
Library and continuing education	258,008	230,042	174,870	152,474	179,152
General expenses and office support	1,988,682	1,840,648	1,931,622	1,953,714	1,953,849
Computer expenses	225,154	304,775	236,231	212,009	137,304
Other professional and case-related expenses	899,202	939,268	944,733	983,152	967,780
Client Protection Program direct expenses	1,033,592	698,829	843,305	951,173	617,772
Administrative expense reimbursement to Registration and Discipline	238,970	-	-	-	-
Depreciation and amortization expense	170,149	157,942	154,605	171,091	198,430
Total expenses	<u>14,517,242</u>	<u>13,177,244</u>	<u>13,049,810</u>	<u>13,217,314</u>	<u>12,673,285</u>
CHANGE IN NET ASSETS BEFORE EFFECT OF ADOPTION OF FASB STATEMENT No. 158	2,946,462	3,883,624	125,935	(442,840)	(443,643)
Effect of adoption of recognition provisions of FASB Statement No. 158	-	(394,306)	-	-	-
CHANGE IN NET ASSETS	2,946,462	3,489,318	125,935	(442,840)	(443,643)
UNRESTRICTED NET ASSETS					
Beginning of year	8,641,143	5,151,825	5,025,890	5,468,730	5,912,373
End of year	<u>\$ 11,587,605</u>	<u>\$ 8,641,143</u>	<u>\$ 5,151,825</u>	<u>\$ 5,025,890</u>	<u>\$ 5,468,730</u>
<b>OTHER INFORMATION AT YEAR END</b>					
Number of active and registered attorneys	83,881	82,380	81,146	80,041	78,101
Registration fees					
More than one year and less than three years	\$ 105	\$ 105	\$ 90	\$ 90	\$ 90
More than three years	\$ 205	\$ 205	\$ 180	\$ 180	\$ 180
Inactive/out of state	\$ 105	\$ 105	\$ 90	\$ 90	\$ 90

**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, 2008 and 2007 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, 2008 and 2007 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 10, 2009

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

**STATEMENTS OF FINANCIAL POSITION**

DECEMBER 31, 2008 AND 2007

ASSETS	<u>2008</u>	<u>2007</u>
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 1,160,835	\$ 1,341,838
Short-term investments	24,500,856	19,386,788
Accrued interest receivable	115,829	145,879
Accounts receivable	7,735	31,871
Prepaid expenses	<u>72,278</u>	<u>79,323</u>
Total current assets	25,857,533	20,985,699
PROPERTY AND EQUIPMENT - NET	1,245,034	770,228
LONG-TERM INVESTMENTS	<u>2,034,460</u>	<u>3,904,822</u>
Total assets	<u>\$ 29,137,027</u>	<u>\$ 25,660,749</u>
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Cash overdraft	\$ 1,427	\$ 836
Accounts payable and other accruals	322,058	324,611
Amounts held for others	1,497,546	1,396,538
Accrued vacation	345,150	317,968
Deferred registration and program fees	12,693,071	12,325,359
Current portion of net postretirement benefit obligation	9,018	8,198
Deposits	<u>11,665</u>	<u>11,651</u>
Total current liabilities	<u>14,879,935</u>	<u>14,385,161</u>
<b>LONG-TERM LIABILITIES</b>		
Net postretirement benefit obligation	614,959	553,131
Deferred rent expense	<u>2,054,528</u>	<u>2,081,314</u>
Total long-term liabilities	<u>2,669,487</u>	<u>2,634,445</u>
Total liabilities	17,549,422	17,019,606
UNRESTRICTED NET ASSETS	<u>11,587,605</u>	<u>8,641,143</u>
Total liabilities and net assets	<u>\$ 29,137,027</u>	<u>\$ 25,660,749</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, 2008 AND 2007

	2008			2007
	<u>Registration and Discipline</u>	<u>Client Protection Program</u>	<u>Total</u>	<u>Total</u>
<b>REVENUE</b>				
Investment income				
Interest	\$ 733,909	\$ 68,592	\$ 802,501	\$ 817,805
Net appreciation (depreciation) in fair value of investments	(23,251)	-	(23,251)	197,389
Total investment income	710,658	68,592	779,250	1,015,194
Registration and program fees and delinquent charges	14,736,195	1,553,862	16,290,057	15,926,372
Cost reimbursements collected	103,721	-	103,721	94,244
Administrative expense reimbursement from Client Protection Program	238,970	-	238,970	-
Client Protection Program reimbursements	-	51,706	51,706	25,058
Total revenue	<u>15,789,544</u>	<u>1,674,160</u>	<u>17,463,704</u>	<u>17,060,868</u>
<b>EXPENSES</b>				
Salaries and related expenses	9,583,868	-	9,583,868	8,877,241
Travel expenses	119,617	-	119,617	128,499
Library and continuing education	258,008	-	258,008	230,042
General expenses and office support	1,988,682	-	1,988,682	1,840,648
Computer expenses	225,154	-	225,154	304,775
Other professional and case-related expenses	899,202	-	899,202	939,268
Client Protection Program direct expenses:				
Awards	-	1,029,220	1,029,220	697,358
Bank fees	-	4,372	4,372	1,471
Administrative expense reimbursement to Registration and Discipline	-	238,970	238,970	-
Depreciation and amortization expense	170,149	-	170,149	157,942
Total expenses	<u>13,244,680</u>	<u>1,272,562</u>	<u>14,517,242</u>	<u>13,177,244</u>
CHANGE IN NET ASSETS BEFORE EFFECT OF ADOPTION OF FASB STATEMENT NO. 158	2,544,864	401,598	2,946,462	3,883,624
EFFECT OF ADOPTION OF RECOGNITION PROVISIONS OF FASB STATEMENT NO. 158	-	-	-	(394,306)
CHANGE IN NET ASSETS	2,544,864	401,598	2,946,462	3,489,318
<b>UNRESTRICTED NET ASSETS</b>				
Beginning of year	<u>7,709,369</u>	<u>931,774</u>	<u>8,641,143</u>	<u>5,151,825</u>
End of year	<u>\$ 10,254,233</u>	<u>\$ 1,333,372</u>	<u>\$ 11,587,605</u>	<u>\$ 8,641,143</u>

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, 2008 AND 2007

	<u>2008</u>	<u>2007</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ 2,946,462	\$ 3,489,318
Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities		
Net unrealized (gain) loss on investments	41,722	(157,949)
Loss on disposal of property and equipment	-	69
Depreciation and amortization expense	170,149	157,942
Decrease in assets		
Accounts receivable and accrued interest receivable	54,186	73,769
Prepaid expenses	7,045	12,571
Increase (decrease) in liabilities		
Accounts payable and other accruals	(2,553)	(561,081)
Amounts held for others	101,008	85,686
Accrued vacation	27,182	23,093
Deferred registration and program fees	367,712	364,039
Deposits	14	3,538
Net postretirement benefit obligation	62,648	442,913
Deferred rent expense	<u>(26,786)</u>	<u>(72,275)</u>
Net cash provided by operating activities	<u>3,748,789</u>	<u>3,861,633</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of investment securities	(17,089,977)	(20,136,200)
Maturities of investment securities	13,804,549	17,179,208
Purchases of property and equipment	<u>(644,955)</u>	<u>(424,867)</u>
Net cash (used in) investing activities	<u>(3,930,383)</u>	<u>(3,381,859)</u>
<b>CHANGE IN CASH AND CASH EQUIVALENTS</b>	(181,594)	479,774
<b>CASH AND CASH EQUIVALENTS - NET OF CASH OVERDRAFTS</b>		
Beginning of year	<u>1,341,002</u>	<u>861,228</u>
End of year	<u>\$ 1,159,408</u>	<u>\$ 1,341,002</u>

See accompanying notes to financial statements.

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

**NOTES TO FINANCIAL STATEMENTS**

DECEMBER 31, 2008 AND 2007

**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 ("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. Effective 2008, the Program has begun reimbursing the Commission for the cost of administering the Program.

## 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.

A breakdown by program in the statement of activities is provided for 2008 only and is for additional analysis purposes only. The net assets of the Commission's programs, both individually and in total, are considered to be unrestricted.

**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 its Cost Reimbursement Program and the 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, based 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 - 10
Office furniture and equipment	5 - 13
Library	7
Leasehold improvements	7 - 15

**Investments** - The investments of the Commission are reported at fair value. The fair value of a financial instrument is the amount that would be received to sell that asset (or paid to transfer a liability) in an orderly transaction between market participants at the measurement date (the exit price).

U.S. Government obligations are traded in active markets on national securities exchanges and are valued at closing prices on the last business day of each period presented.

U.S. bank certificates and money market accounts are valued at cost which approximates fair value due to their liquid or short-term nature.

**New Accounting Pronouncement** - The Financial Accounting Standards Board (FASB) has issued SFAS No. 157, *Fair Value Measurements*, which defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. SFAS 157 applies to reporting periods beginning after November 15, 2007. As of January 1, 2008, the Commission has adopted SFAS 157. (See Note 6, Fair Value Measurements.) There was no material impact to the financial statements of the Commission upon adoption of SFAS 157.

**Amounts Held for Others** - Amounts held for others at December 31, 2008 and 2007 consist of funds collected for the Lawyers Assistance Program Fund of \$177,646 and \$165,647, the Lawyers Trust Fund of \$1,066,100 and \$994,180, and the Supreme Court Commission on Professionalism of \$253,800 and \$236,711 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.

## NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

**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, 2008 and 2007 were \$8,500 and \$8,500 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, 2008 and 2007, the amounts held were \$3,165 and \$3,151 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.

**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 methodologies (See Note 4). Administrative expenses allocated to the Client Protection Program are paid out of the unrestricted net assets of the Commission. Effective 2008, the Client Protection Program has begun reimbursing the Commission for these allocated expenses.

## 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, 2008 and 2007, the Commission regularly sought entry of judgments by the Court. Interest accrues upon the unsatisfied portions of those judgments at a rate of 9% per annum, from the date of judgment until satisfied, as provided by 735 ILCS 5/2-1303. 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, 2008 and 2007:

	2008			Total
	Program		Administration and Support	
	Registration and Discipline	Client Protection		
Salaries and related expenses	\$ 7,942,534	\$ 197,805	\$ 1,443,529	\$ 9,583,868
Travel expenses	94,497	410	24,710	119,617
Library and continuing education	205,211	4,180	48,617	258,008
General expenses and office support	1,606,530	28,020	354,132	1,988,682
Computer expenses	179,081	3,647	42,426	225,154
Other professional and case-related expenses	809,034	2,152	88,016	899,202
Client Protection Program direct expenses:				
Awards	-	1,029,220	-	1,029,220
Bank fees	-	4,372	-	4,372
Administrative expense reimbursement to Registration and Discipline	-	-	238,970	238,970
Depreciation and amortization expense	135,332	2,756	32,061	170,149
Total expenses	<u>\$ 10,972,219</u>	<u>\$ 1,272,562</u>	<u>\$ 2,272,461</u>	<u>\$ 14,517,242</u>

NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION (CONTINUED)

	2007			
	Program			Total
	Registration and Discipline	Client Protection	Administration and Support	
Salaries and related expenses	\$ 7,251,564	\$ 185,762	\$ 1,439,915	
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 expenses	<u>\$ 10,331,631</u>	<u>\$ 934,122</u>	<u>\$ 1,911,491</u>	<u>\$ 13,177,244</u>

NOTE 5. INVESTMENTS

The following summary presents fair value for each of the investment categories.

	<u>2008</u>	<u>2007</u>
U.S. Treasury notes and bills	\$ 10,589,501	\$ 14,980,982
U.S. bank certificates	9,148,000	2,769,000
Money market account	6,797,815	5,541,628
Total	<u>\$ 26,535,316</u>	<u>\$ 23,291,610</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.

**NOTE 5. INVESTMENTS (CONTINUED)**

The following table lists the maturities of securities held for the years ended December 31, 2008 and 2007:

	<u>2008</u>	<u>2007</u>
Short-term investments	\$ 24,500,856	\$ 19,386,788
Long-term investments	<u>2,034,460</u>	<u>3,904,822</u>
Total	<u>\$ 26,535,316</u>	<u>\$ 23,291,610</u>

**NOTE 6. FAIR VALUE MEASUREMENTS**

As of January 1, 2008 the Commission adopted SFAS No. 157, *Fair Value Measurements*. SFAS 157 establishes a fair value hierarchy that prioritizes the inputs used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy under SFAS 157 are described below:

**Basis of Fair Value Measurement**

- |         |   |
|---------|---|
| Level 1 | Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities                              |
| Level 2 | Quoted prices in markets that are not considered to be active or financial instruments for which all significant inputs are observable, either directly or indirectly |
| Level 3 | Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable   |

As required by SFAS 157, assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. At December 31, 2008, assets measured at fair value under Level 1 total \$17,387,316 which include all U.S. Treasury notes and bills of \$10,589,501 and money market funds of \$6,797,815. Assets measured at fair value under Level 2 include all U.S. bank certificates of \$9,148,000. The Commission has not measured any of its assets at fair value using Level 3 inputs as of December 31, 2008.

**NOTE 7. PROPERTY AND EQUIPMENT**

Property and equipment at December 31, 2008 and 2007 consist of the following:

	<u>2008</u>	<u>2007</u>
Office furniture and equipment	\$ 1,292,982	\$ 1,297,926
Computer and related equipment	1,441,205	1,020,222
Library	88,888	79,673
Leasehold improvements	<u>427,075</u>	<u>380,207</u>
	3,250,150	2,778,028
Less accumulated depreciation and amortization	<u>(2,005,116)</u>	<u>(2,007,800)</u>
Property and equipment - net	<u>\$ 1,245,034</u>	<u>\$ 770,228</u>

**NOTE 8. 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 provided certain rent concessions, a portion of which were applied in early 2009, with the remaining portion available for use in 2010.

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 was leased, with increased payments for the remaining life of the original lease.

Rent expense under all lease agreements was \$1,272,871 in 2008 and \$1,134,545 in 2007.

**NOTE 8. LEASE COMMITMENTS (CONTINUED)**

Future minimum lease payments, including the 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,			
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
2013	-	1,508,889	1,508,889
Remaining	-	2,221,637	2,221,637
	<u>\$ 355,894</u>	<u>\$ 9,189,370</u>	<u>\$ 9,545,264</u>

**NOTE 9. 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.

The following sets forth information with respect to this benefit obligation as of and for the years ended December 31, 2008 and 2007. The benefit obligation for the year ended December 31, 2007 was actuarially determined by Watson Wyatt Worldwide. Because there were no significant changes in the underlying data, coverage provisions or assumptions, the benefit obligation at December 31, 2008 was estimated by the Commission based on the 2007 actuarial valuation.

	<u>2008</u>	<u>2007</u>
Accumulated benefit obligation at end of year	\$ 2,345,259	\$ 2,142,923
Fair value of Trust assets	<u>1,721,282</u>	<u>1,581,594</u>
Total net postretirement benefit obligation	<u>\$ (623,977)</u>	<u>\$ (561,329)</u>

**NOTE 9. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)**

Net periodic benefit costs for 2008 and 2007 are comprised of the following:

	<u>2008</u>	<u>2007</u>
Service cost	\$ 73,132	\$ 73,132
Interest cost	121,994	121,994
Actual return on plan assets	(62,231)	(80,061)
Amortization	<u>12,689</u>	<u>12,689</u>
Net periodic benefit cost	<u>\$ 145,584</u>	<u>\$ 127,754</u>
Employer contribution	<u>\$ 9,900</u>	<u>\$ 8,198</u>
Benefits paid	<u>\$ 9,900</u>	<u>\$ 8,198</u>

The latest key assumptions utilized by the consulting actuary are as follows:

Measurement date	December 31, 2007
Actuarial cost method	Projected unit credit method
Actuarial assumptions	Mortality - 1994 GAR Discount rate - 6.25% 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 (Medical trend ultimate) 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.

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.

**NOTE 9. POSTRETIREMENT BENEFIT OBLIGATION (CONTINUED)**

The Commission maintains investments in a separate account for the Medicare replacement reserve. The assets at fair value for the years ended December 31, 2008 and 2007 are as follows:

	<u>2008</u>	<u>2007</u>
U.S. Treasury notes	\$ 854,107	\$ 926,202
U.S. bank certificates	846,000	95,000
Money market account	9,621	550,679
Accrued interest receivable	11,554	9,713
	<u>\$ 1,721,282</u>	<u>\$ 1,581,594</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 \$111,192 to the Medicare replacement reserve in 2009.

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

2009	\$ 29,110
2010	30,349
2011	33,323
2012	34,618
2013	49,941
2014 - 2018	<u>372,548</u>
	<u>\$ 549,889</u>

**NOTE 10. ADOPTION OF FASB STATEMENT NO. 158**

In 2007, 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		After
	Application of	Statement 158	Application of
	<u>Statement 158</u>	<u>Adjustment</u>	<u>Statement 158</u>
Accumulated benefit obligation	\$ 1,748,617	\$ 394,306	\$ 2,142,923
Unrestricted net assets	\$ 8,103,675	\$ (394,306)	\$ 7,709,369

**NOTE 11. EMPLOYEE BENEFIT PLANS**

The Commission maintains a defined contribution retirement plan and trust for the benefit of all eligible employees. The Commission provides enhanced retirement plan contributions due to the Social Security Administration ruling that Commission employees are not eligible for benefits. Employee contributions are not permitted under the plan's provisions. The Commission contributes 18% of compensation for eligible employees, which totaled \$1,249,876 in 2008 and \$1,171,232 in 2007. The Commission also pays the plan's administrative expenses, which totaled \$95,200 in 2008 and \$101,921 in 2007.

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 \$3,766 in 2008 and \$3,326 in 2007.

**NOTE 12. LITIGATION**

Various complaints and actions have been filed against the Commission. At December 31, 2008, the Commission believes that pending matters do not present any serious prospect for negative financial consequences.

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