

# ARDC



ATTORNEY  
REGISTRATION  
& DISCIPLINARY  
COMMISSION

## Annual Report of 2013

Attorney Registration & Disciplinary Commission

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## ARDC Mission Statement

As an administrative agency of the Supreme Court of Illinois, the ARDC assists the Court in regulating the legal profession through attorney registration, education, investigation, prosecution and remedial action.

Through our annual registration process, we compile a list of lawyers authorized to practice law. We provide ready access to that list so that the public, the profession and courts may access lawyers' credentials and contact information.

We educate lawyers through seminars and publications to help them serve their clients effectively and professionally within the bounds of the rules of conduct adopted by the Court. We provide guidance to lawyers and to the public on ethics issues through our confidential Ethics Inquiry telephone service.

The ARDC handles discipline matters fairly and promptly, balancing the rights of the lawyers involved and the protection of the public, the courts and the legal profession. Grievances are investigated confidentially. Disciplinary prosecutions are adjudicated publicly and result in recommendations to the Court for disposition. Our boards consist of independent, diverse groups of volunteer lawyers and non-lawyers who make recommendations in disciplinary matters.

We advocate for restitution and other remedial action in disciplinary matters. We seek to provide reimbursements through our Client Protection Program to those whose funds have been taken dishonestly by Illinois lawyers who have been disciplined.



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

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Chicago  
April 29, 2014

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 2013 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 2013 and an accounting and audit of the monies received and expended during the twelve-month period that ended December 31, 2013.

Respectfully submitted,

Joan Myers Eagle, Chairperson  
James R. Mendillo, Vice-Chairperson  
Derrick K. Baker  
Karen Hasara  
Bernard M. Judge  
Stuart R. Lefstein  
David F. Rolewick, Commissioners

Jerome Larkin, Administrator  
James J. Grogan, Deputy Administrator &  
Chief Counsel

# A Report of the Activities of the ARDC in 2013

## I. Educational and Outreach Programs

The mission of the ARDC is to promote and protect the integrity of the legal profession, at the direction of the Supreme Court, through attorney registration, education, investigation, prosecution and remedial action. A significant part of the ARDC's activities is the education of Illinois lawyers and the public through seminars, publications and outreach on the ethical duties of lawyers. Education and outreach efforts are vital tools in the ARDC's efforts to help lawyers serve their clients effectively and professionally, avoid potential harm to clients and minimize possible grievances later. Those efforts include the following:

### A. MCLE Accredited Seminars Sponsored by the Commission

ARDC, as an accredited MCLE provider in Illinois, produces recorded MCLE accredited webcasts, free of charge and available on the ARDC website, to provide professional responsibility training and ethics education to the profession. There are currently six recorded webcasts on the ARDC website where lawyers can earn up to seven hours of ethics and professionalism MCLE credit without charge. In 2013, approximately 77,000 hours of CLE credit was earned. ARDC webcasts can be accessed at: <https://www.iardc.org/CLEseminars.html>.

### B. Speaking Engagements

An important part of the ARDC's outreach efforts has been to offer experienced presenters to speak to lawyer and citizen groups. In 2013, ARDC Commissioners and staff members made over 270 presentations, a 23% increase over the prior year, to bar associations, government agencies, law firms, and other organizations. Presentations were made to more than 30 different county and regional bar associations in every area of the state on a variety of issues related to lawyer regulation and issues faced by practitioners. As a result of these efforts, many lawyers had the opportunity to meet with members of the ARDC to pose questions and earn MCLE professional responsibility/ethics credit.

### C. 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 ethical dilemmas. The goal of the Program is to help lawyers understand their professional obligations and assist them in resolving important issues in their practice.

In 2013, staff lawyers responded to 4,613 inquiries. Questions about a lawyer's mandatory duty to report lawyer or judicial misconduct under Rule 8.3 of the Illinois Rules of Professional Conduct continues to be the greatest area of inquiry posed to the Commission's Ethics Inquiry Program.

The top ten subjects of inquiry during 2013 included:

<u>Subject of Inquiry</u>	<u># of calls</u>
Duty to report misconduct .....	352
Confidentiality (present & former clients) .....	255
Handling client trust accounts .....	234
Multistate practice .....	172
Conflicts (multiple representation).....	157
Unauthorized practice of law by an attorney .....	135
Conflicts (former client).....	147
Conflicts (lawyer's own interest) .....	108
Communication with represented persons.....	106
Retention of client files & records.....	104

Lawyers with inquiries are requested to present their questions in the hypothetical form, and callers may remain anonymous if they so choose. 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 (217-546-3523). Additional information about the Program can be obtained at: [www.iardc.org/ethics.html](http://www.iardc.org/ethics.html).

## D. Publications

Each year the Commission publishes on its website for lawyers and the public the rules governing Illinois lawyers as well as other publications on the ethical duties of Illinois lawyers including *The Client Trust Account Handbook*, which details a lawyer's duties under Rule 1.15. These publications as well as two articles published in 2012 - *The Basic Steps to Ethically Closing a Law Practice* (October, 2012) and *Leaving a Law Firm: A Guide to the Ethical Obligations in Law Firm Departure* (October, 2012) - are available on the ARDC website at <https://www.iardc.org/pubs.html>.

## E. Commission Website

The ARDC website ([www.iardc.org](http://www.iardc.org)), first launched in October 2001, continues to be a source of information regarding all aspects of the regulation of the legal profession in Illinois and recent developments affecting Illinois lawyers. The site attracts an average of 111,000 visits each month, and in 2013 the number of visits totaled more than 1.3 million.

In addition, the number of lawyers who registered on-line continues to increase each year. For the 2013 registration year, approximately 81% of lawyers utilized on-line registration, a significant increase over the 37% who used on-line registration in 2009, the first year it became available. The most visited feature is the Lawyer Search function. With over 2 million page views last year, this feature enables visitors to search the Master Roll for certain basic public registration information about lawyers, including principal address and public disciplinary information. The site also includes information about the ARDC investigative process and how to request an investigation, a schedule of public hearings and arguments on public disciplinary matters pending before the Hearing and Review Boards, and a searchable database of disciplinary decisions issued by the Supreme Court and reports filed by the disciplinary boards. Also available on the site is information about the Client Protection Program and claim forms as well as information about the Ethics Inquiry Program, and links to other legal ethics research sites.

The ARDC regularly posts on the ARDC website and sends e-mails to members of the Illinois bar with information on important ethics and professionalism news and topics that impact a lawyer's ethical duties. Recent alerts include an e-blast on the proper handling of retainers in order to avoid trust account problems such as an overdraft as well as information about an IRS regulation that impacts lawyers who accept debit and credit card payments that are deposited in the client trust account. All ARDC E-News Alerts can be found at: <https://www.iardc.org/E-NewsAlerts.html>.

## F. Assistance to Public

In 2013, ARDC staff paralegals provided assistance to nearly 15,000 people seeking information about specific lawyers, ARDC investigations or procedures or were requesting help in preparing a request for an investigation or in making a claim to the Client Protection Program. The ARDC staff assisted 14,240 callers and 510 visitors to the ARDC Chicago and Springfield offices in 2013.

## II. Five Years in Review

Since 1973, the ARDC has had the administrative responsibility for the registration and discipline of Illinois lawyers. The legal profession has seen many significant changes over the intervening years as chronicled in the *2007 ARDC Annual Report* (see <https://www.iardc.org/AnnualReports.html>). The number of Illinois lawyers has grown significantly over forty years from approximately 26,500 lawyers in 1973 to over 91,000 at the end of 2013. In the last five years, some of the more significant changes that the ARDC has seen are:

- ***Overdraft Notification*** - one of the key changes in 2011 to Rule 1.15 of the Rules of Professional Conduct, which regulates the handling of client trust funds, was the adoption of the overdraft notification provision which requires banks to automatically notify the ARDC of an overdraft of the client trust account. Forty two other jurisdictions have an overdraft notification requirement.
- ***Extension of ARDC's Authority to Investigate and Prosecute Unauthorized Practice of Law by Unlicensed Persons and Disbarred Lawyers*** - Supreme Court Rule 779 was adopted in 2011 to give the ARDC the power to investigate and bring civil or contempt actions in the circuit court against disbarred lawyers and non-lawyers for the unauthorized practice of law under the Supreme Court's inherent authority over the practice of law or under other laws of the state related to the unauthorized practice of law.
- ***Appointment of Special Counsel*** - the Commission adopted a policy in 2012 to appoint former Board members pursuant to Supreme Court Rule 751(e)(5) to serve as special counsel in matters involving allegations against attorneys associated with the ARDC, including counsel for the Administrator, Adjudication counsel, Commissioners and members of ARDC boards. The Commission Policy on the Appointment of Special Counsel can be found on the ARDC website at <https://www.iardc.org/policiesandorders.html>.
- ***Discovery in Disciplinary Cases*** – in 2012 the Commission formed the ARDC Practices and Procedures Committee to review and make recommendations for changes to Commission rules, policies and practices as they relate to contested matters before the Hearing Board in order to ensure fair, thorough and speedy dispositions of formal disciplinary matters. One of the changes adopted was the handling of discovery requests for work product. Under amended Commission Rule 251, the Administrator and the respondent are entitled to a work-product privilege for materials prepared by their respective counsel or counsel's agents but the privilege would not extend to those portions of

memoranda of investigators and paralegals that provide the investigator's or paralegal's summary of the statements of those interviewed and other factual information.

- ***Amendments to Pro Hac Vice Rule*** – Supreme Court Rule 707 was amended in 2013 to admit an attorney licensed in another jurisdiction to appear in an Illinois proceeding with an Illinois licensed attorney upon filing of a verified statement with the tribunal which is served upon the ARDC and payment of a \$105 annual registration fee as well as a \$250 per case fee. Part of these fees will be used, at the Supreme Court's discretion, to ensure funding for the Access to Justice Commission and related Court programs that improve access to justice for low-income and disadvantaged Illinois residents. Information on the *pro hac vice* rule and requirements can be found on the ARDC website at <http://166.78.95.9/attyreg/Registration/regdept/rule707notice.aspx>.
- ***Terms Limits for the Appointment of Board Members*** - in 2013 the Commission adopted new Commission Rule 4 which limits the appointment of members by the Commission to the Inquiry Board, Hearing Board, Oversight Committee and Client Protection Review Panel to nine consecutive annual terms. The change is intended to foster greater member participation while retaining experienced members in the process.
- ***Adoption of ARDC Mission Statement*** – in 2010 the Commission adopted the ARDC Mission Statement as a written declaration of the Commission's core registration and disciplinary functions and to emphasize the educational and remedial tasks of the Commission in serving the public and the legal profession.

### III. Registration Report

#### A. Master Roll Demographics

The 2013 Master Roll of Attorneys for the state of Illinois increased by 2.0% to 91,083 attorneys as of October 31, 2013. After that date, the Commission began the 2014 registration process, so that the total reported as of October 31, 2013 does not include the 2,164 attorneys who first took their oath of office in November or December 2013. See Chart 25A, at Page 32. Chart 1 shows the demographics for the lawyer population in 2013.

**Chart 1: Age, Gender and Years in Practice for Attorneys Registered in 2013\***

*\*numbers based on the 2013 registration year which ended on 10/31/13*

<b>Gender</b>	
Female .....	37%
Male .....	63%
<b>Years in Practice</b>	
Fewer than 5 years .....	14%
Between 5 and 10 years .....	16%
Between 10 and 20 years .....	25%
Between 20 and 30 years .....	22%
30 years or more.....	23%
<b>Age</b>	
21-29 years old .....	6%
30-49 years old .....	50%
50-74 years old .....	41%
75 years old or older .....	3%

Chart 2 provides the breakdown by the registration categories set forth in Supreme Court Rule 756.

**Chart 2: Registration Categories for 2013\***

\*numbers based on the 2013 registration year which ended on 10/31/13

Category	Number of Attorneys
Admitted between January 1, 2012, and October 31, 2013 .....	3,026
Admitted between January 1, 2010, and December 31, 2011.....	5,019
Admitted before January 1, 2010.....	67,234
Serving active military duty.....	350
Serving as judge or judicial clerk .....	1,725
Birthday before December 31, 1937.....	1,581
In-House Counsel under Rule 716.....	466
Foreign Legal Consultant under Rule 713 .....	15
Legal Service Program Counsel under Rule 717 .....	4
Pro Bono Authorization under Rule 756(j).....	17
Inactive status .....	11,542
Pro Hac Vice.....	104
<b>Total attorneys currently registered</b>	<b>91,083</b>

Charts 3 and 4 show the distribution by Judicial District, Circuit and County of the 64,710 registered active and inactive attorneys who reported a principal address in Illinois. The number of lawyers with a principal address in Illinois decreased by 0.8% in 2013. Of the 102 counties, 50 experienced a slight decrease in the number of attorneys from 2012, 26 remained the same and 26 experienced a slight increase. All of the Judicial Districts showed a slight decrease except for the Fifth Judicial District which increased by 0.5%.

**Chart 3: Registration by Judicial Districts: 2009-2013\***

\*numbers based on the 2013 registration year which ended on 10/31/13

	2009	2010	2011	2012	2013		2009	2010	2011	2012	2013
<b>First District</b>											
Cook County.....	43,653	44,668	45,035	45,690	45,306						
<b>Second District</b>						<b>Fourth District</b>					
15 <sup>th</sup> Circuit.....	200	195	201	198	196	5 <sup>th</sup> Circuit.....	252	250	257	260	253
16 <sup>th</sup> Circuit.....	1,423	1,426	1,489	1,494	1,460	6 <sup>th</sup> Circuit.....	857	854	865	877	864
17 <sup>th</sup> Circuit.....	807	806	796	808	786	7 <sup>th</sup> Circuit.....	1,256	1,253	1,266	1,273	1,275
18 <sup>th</sup> Circuit.....	4,142	4,185	4,246	4,373	4,402	8 <sup>th</sup> Circuit.....	188	192	189	191	189
19 <sup>th</sup> Circuit.....	3,014	3,087	3,143	3,200	3,179	11 <sup>th</sup> Circuit.....	649	659	655	669	659
22 <sup>nd</sup> Circuit	561	578	583	589	572	<b>Total</b>	<b>3,202</b>	<b>3,208</b>	<b>3,232</b>	<b>3,270</b>	<b>3,240</b>
<b>Total</b>	<b>10,147</b>	<b>10,277</b>	<b>10,458</b>	<b>10,662</b>	<b>10,595</b>						
<b>Third District</b>						<b>Fifth District</b>					
9 <sup>th</sup> Circuit.....	187	189	192	192	184	1 <sup>st</sup> Circuit.....	453	449	451	455	447
10 <sup>th</sup> Circuit.....	930	911	919	931	928	2 <sup>nd</sup> Circuit.....	288	296	308	306	301
12 <sup>th</sup> Circuit.....	926	949	952	977	943	3 <sup>rd</sup> Circuit.....	689	696	711	718	729
13 <sup>th</sup> Circuit.....	323	324	325	324	317	4 <sup>th</sup> Circuit.....	241	245	251	251	257
14 <sup>th</sup> Circuit.....	506	495	495	499	502	20 <sup>th</sup> Circuit.....	780	779	793	801	812
21 <sup>st</sup> Circuit.....	149	152	154	159	149	<b>Total</b>	<b>2,451</b>	<b>2,465</b>	<b>2,514</b>	<b>2,531</b>	<b>2,546</b>
<b>Total</b>	<b>3,021</b>	<b>3,020</b>	<b>3,037</b>	<b>3,082</b>	<b>3,023</b>						
						<b>Grand Total</b>	<b>62,474</b>	<b>63,638</b>	<b>64,276</b>	<b>65,235</b>	<b>64,710</b>

The number of attorney who reported an address outside Illinois (26,373) increased by 9.5% over 2012. The top five jurisdictions where these lawyers are located are: Missouri, District of Columbia, California, New York and Wisconsin. Those attorneys registered as either active (67%) and able to practice under the auspices of their Illinois license or inactive (33%) and account for 29% of all lawyers

with an Illinois license. Those 26,373 attorneys with an out-of-state principal address are not included in Charts 3 and 4.

**Chart 4: Registered Active and Inactive Attorneys by County for 2012-2013\***

*\*numbers based on the 2013 registration year which ended on 10/31/13*

<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>2012</u>	<u>2013</u>		<u>2012</u>	<u>2013</u>		<u>2012</u>	<u>2013</u>
Adams.....	119	117	Hardin .....	6	5	Morgan .....	39	40
Alexander .....	7	7	Henderson .....	6	6	Moultrie .....	12	11
Bond .....	12	12	Henry .....	55	54	Ogle .....	51	54
Boone .....	52	50	Iroquois .....	22	21	Peoria .....	797	790
Brown .....	9	10	Jackson .....	201	197	Perry .....	23	21
Bureau .....	41	36	Jasper .....	8	8	Piatt .....	26	24
Calhoun .....	5	6	Jefferson .....	114	114	Pike .....	13	13
Carroll .....	15	16	Jersey .....	17	16	Pope .....	6	6
Cass .....	12	11	Jo Daviess .....	34	35	Pulaski .....	6	7
Champaign.....	554	551	Johnson .....	10	14	Putnam.....	8	8
Christian .....	41	44	Kane.....	1,205	1,184	Randolph .....	31	30
Clark .....	12	13	Kankakee .....	137	128	Richland.....	22	25
Clay .....	15	16	Kendall .....	104	99	Rock Island.....	351	356
Clinton.....	22	23	Knox .....	60	59	Saline .....	44	43
Coles.....	110	104	Lake .....	3,200	3,179	Sangamon .....	1,159	1,161
Cook .....	45,690	45,306	LaSalle .....	216	213	Schuyler.....	8	8
Crawford.....	25	24	Lawrence.....	14	16	Scott.....	4	4
Cumberland .....	11	9	Lee .....	37	36	Shelby .....	18	18
DeKalb .....	185	176	Livingston .....	47	45	St. Clair.....	689	703
DeWitt .....	19	18	Logan .....	29	26	Stark .....	6	7
Douglas.....	23	21	Macon .....	243	239	Stephenson.....	61	55
DuPage .....	4,373	4,401	Macoupin .....	40	40	Tazewell .....	109	112
Edgar .....	18	16	Madison .....	706	714	Union .....	28	28
Edwards.....	5	5	Marion .....	46	46	Vermilion.....	109	112
Effingham.....	48	52	Marshall .....	11	10	Wabash .....	16	13
Fayette.....	24	25	Mason.....	11	11	Warren .....	20	20
Ford .....	14	12	Massac .....	17	17	Washington.....	23	24
Franklin .....	59	57	McDonough .....	47	44	Wayne.....	13	13
Fulton .....	42	42	McHenry .....	589	572	White .....	12	12
Gallatin .....	7	5	McLean .....	554	554	Whiteside.....	84	82
Greene .....	14	14	Menard .....	14	14	Will .....	977	943
Grundy.....	67	68	Mercer.....	9	9	Williamson .....	136	128
Hamilton.....	13	12	Monroe.....	35	33	Winnebago.....	756	736
Hancock.....	17	14	Montgomery.....	29	29	Woodford.....	25	23

## B. Mandatory Disclosures in Annual Registration

Since 2007, lawyers must report *pro bono*, trust account and malpractice insurance information during the annual registration process 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 individual listing under “Lawyer Search” on the ARDC website ([www.iardc.org](http://www.iardc.org)). However, malpractice insurance information is shown in the Lawyer Search section of the ARDC website along with each lawyer’s public registration information. The aggregate reports received for the 2013 registration year regarding *pro bono* activities, trust accounts and malpractice insurance are presented below.

### 1. Report on Pro Bono Activities in 2013 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. See IRPC (2010), Preamble, Comment [6A]. 30,751 attorneys reported that they had provided *pro bono* legal services, as defined by Rule 756, or 34% of Illinois lawyers, the same as in 2012. Those lawyers reported a total of 2,098,472 *pro bono* legal service hours, a 2.1% decrease from 2012. 60,332 attorneys reported that they had not provided *pro bono* legal services, 9,239 of whom indicated that they were prohibited from providing *pro bono* legal services because of their employment.

Chart 5A provides a five-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. Total *pro bono* hours decreased by approximately 2.1% from 2012 to 2013. Total *pro bono* hours have decreased by approximately 9.9% from 2010 to 2013.

**Chart 5A: Report on Pro Bono Hours (2009-2013)\***

*\*numbers based on the 2013 registration year which ended on 10/31/13*

	2009	2010	2011	2012	2013
Type of Pro Bono Services	Service Hours				
Legal services to persons of limited means	1,113,778	1,238,967	1,207,199	1,130,480	1,119,465
Legal services to enumerated organizations designed to address needs of persons of limited means	375,260	365,371	365,197	355,062	334,824
Legal services to enumerated organizations in furtherance of their purposes	660,022	673,051	634,164	605,505	592,095
Training intended to benefit legal service organizations or lawyers providing <i>pro bono</i> services	47,981	51,381	48,464	54,480	52,088
<b>TOTAL:</b>	<b>2,197,041</b>	<b>2,328,770</b>	<b>2,255,024</b>	<b>2,145,527</b>	<b>2,098,472</b>

Chart 5B provides a breakdown of monetary contributions for the same five-year period as Chart 5A. The percentage of lawyers making monetary contributions in 2013 remained at 18% of all Illinois lawyers when compared to 2012, and the total amount contributed in 2013 decreased by about 11.9% from 2012. In 2013, 16,266 lawyers reported that they made contributions to organizations that provide legal services to persons of limited means. Not reflected in this chart is the fact that all Illinois lawyers contribute to the funding of legal aid through the \$95 portion of the annual registration fee that is remitted the Lawyers Trust Fund of Illinois as well as the contributions lawyers have made to other charitable and not-for-profit organizations.

**Chart 5B: Monetary Contributions to Pro Bono Service Organizations (2009-2013)\***

*\*numbers based on the 2013 registration year which ended on 10/31/13*

	2009	2010	2011	2012	2013
<b>Amount Contributed</b>	\$14,901,582	\$15,266,660	\$15,419,130	\$15,919,963	\$14,017,816
<b>Number of lawyers who made contributions</b>	14,156	14,985	15,318	16,120	16,266

For the 2013 registration year, \$6,487,130 was remitted to the Lawyers Trust Fund, representing a 129% increase over 2012. This increase is attributable to the Lawyers Trust Fund fee increase from \$42 per full fee paying attorney to \$95 effective with the 2013 registration season. See Section IX, Financial Report, for more information. A total of \$32,641,776 has been remitted to the Lawyers Trust Fund since the 2003 registration year, the first year the ARDC began collection and remittance of this fee as provided in Supreme Court Rules 751(e)(6) and 756(a)(1).

## 2. Report on Trust Accounts in 2013 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(f) of the Rules of Professional Conduct. If a lawyer did not maintain a trust account, the lawyer is required to disclose why no trust account was maintained.

Chart 6A sets forth the responses received from the 91,083 lawyers who were registered for 2013. Approximately 50% of all registered lawyers reported that they or their law firm maintained a trust account sometime during the preceding 12 months. The majority of those lawyers are in private practice and about 80% of lawyers in private practice reported that they or their law firm maintained a trust account in 2013. Of those who reported that they or their law firm did not maintain a trust account, nearly half explained that they were prohibited from an outside practice, because of their full-time employment in a corporation or governmental agency.

### Chart 6A: Trust Account Disclosure Reports in 2013 Registration\*

\*numbers based on the 2013 registration year which ended on 10/31/13

<b>A. Lawyers with Trust Accounts:</b> .....	45,836
80.8% with IOLTA trust accounts	
19.2% with non-IOLTA trust accounts	
<b>B. Lawyers without Trust Accounts:</b> .....	45,247
Full-time employee of corporation or governmental agency (including courts) with no outside practice .....	21,863
Not engaged in the practice of law .....	11,525
Engaged in private practice of law (to any extent), but firm handles no client or third party funds .....	9,454
Other explanation .....	2,405

## 3. Report on Malpractice Insurance

Supreme Court Rule 756(e) requires Illinois lawyers to report whether they carry malpractice insurance coverage and, if so, the dates of coverage. Only sitting judges or magistrates who do not pay a registration fee are exempt from this reporting requirement. The Rule does not require Illinois lawyers to carry malpractice insurance in order to practice law based upon their Illinois license. Chart 6B shows the aggregate number and percentage of lawyers who carry malpractice insurance as reported during the registration process. In 2013, 52% of all lawyers reported that they have malpractice insurance, representing a 0.4% decrease from 2012.

**Chart 6B: Malpractice Disclosure Reports: 2009-2013\***

\*numbers based on the 2013 registration year which ended on 10/31/13

Lawyer Malpractice Insurance	2009	2010	2011	2012	2013
Yes	45,498 (53.7%)	45,757 (52.8%)	46,107 (52.4%)	46,699 (52.3%)	47,289 (51.9%)
No	39,279 (46.3%)	40,900 (47.2%)	41,836 (47.6%)	42,631 (47.7%)	43,794 (48.1%)

**4. Report on Removals**

Chart 7 shows the trend of removals from the Master Roll between 2008 and 2013.

**Chart 7: Attorney Removals from the Master Roll: 2008 – 2013 Registration Years**

Reason for Removal	2008	2009	2010	2011	2012	2013
Unregistered	961	1,132	1,034	1,186	1,019	833
Deceased	373	322	307	304	318	277
Retired	901	996	970	822	853	815
Disciplined	45	44	77	75	81	74
MCLE General Non-Compliance		327*	154	133	75	76
MCLE Basic Skills Non-Compliance	8**	52	26	20	18	15
<b>Total</b>	<b>2,288</b>	<b>2,873</b>	<b>2,568</b>	<b>2,540</b>	<b>2,364</b>	<b>2,090</b>

\* 2008 was the first year for reporting MCLE General Compliance hours

\*\*2007 was the first year for reporting MCLE Basic Skills hours

**5. Pro Hac Vice Admission**

Under the amendment to Supreme Court Rule 707, which took effect on July 1, 2013, out-of-state attorneys practicing *pro hac vice* now must register and pay a \$105 annual registration fee as well as a \$250 per case fee to the ARDC. \$175 of this per case fee goes to the newly formed Access to Justice Commission (AJC), created by the Illinois Supreme Court, and \$75 is retained by the ARDC. The chart below shows *pro hac vice* activity for the last six months of 2013, including the total AJC and ARDC per-proceeding fees collected. The per-proceeding fee was waived in four cases involving *pro bono* matters.

**Pro Hac Vice Activity: July 1 – December 2013**

Number of Lawyer Submissions	Number of Lawyers Registered	Number of Proceedings Filed with ARDC	Aggregate AJC Per-Proceeding Fees	Aggregate ARDC Per-Proceeding Fees
806	487	1,769	\$172,960	\$72,450

## IV. Report on Disciplinary and Non-Disciplinary Matters

### A. Investigations Initiated in 2013

During 2013, the Commission docketed 6,073<sup>1</sup> investigations, a 5% decrease over the prior year. The types of investigations docketed in 2013 are shown in Chart 8A below.

*Chart 8A: Types of Investigations Docketed in 2013*

Type of Investigation in 2013	
Disciplinary charge against IL lawyer	5,410
Overdraft of client trust account notification	336
Unauthorized Practice of Law	104
Disciplinary charge against out-of- state lawyer	67
Conditional Admission	1
Reciprocal	12
Receivership	13
Reopened investigations	130
<b>TOTAL:</b>	<b>6,073</b>

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<sup>1</sup> This number also includes 130 investigations reopened in 2013 for further investigation.

Those 6,073 investigations involved charges against 4,041 different attorneys, representing about 4% of all registered attorneys. About 21% of these 4,041 attorneys were the subject of more than one investigation docketed in 2013, as shown in Chart 8B. Chart 8B also shows the percentage of lawyers that were the subject of a grievance by years in practice. Lawyers admitted between 20 and 30 years in practice constituted 26.7% of investigations and lawyers admitted 30 or more years in practice accounted for 34.5% of investigations, both greater than the percentages of what they make up in the overall legal population (22% and 23% respectively).

**Chart 8B: Investigations Docketed in 2013**

<i>Investigations per Attorney</i>	<i>Number of Attorneys</i>
1 .....	3,186
2 .....	548
3 .....	157
4 .....	63
5 or more.....	<u>87</u>
	Total: 4,041
<i>Gender</i>	<i>Years in Practice</i>
Female..... 23.8%	Fewer than 5 .....4.4%
Male ..... 76.2%	Between 5 and 10 .....11.1%
	Between 10 and 20 ...23.3%
	Between 20 and 30 ...26.7%
	30 or more .....34.5%

Charts 9 and 10 report the classification of investigations docketed in 2013, based on an initial assessment of the nature of the misconduct alleged, if any, and the type of legal context in which the facts arose. Chart 9 reflects that more than half of all grievances related to client-attorney relations: neglect of the client's cause (40%) and failure to communicate with the client (18%).

**Chart 9: Classification of Charges Docketed in 2013 by Violation Alleged**

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect.....	2,408	Failing to preserve client confidences or secrets .....	46
Failing to communicate with client, including failing to communicate the basis of a fee.....	1,076	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter .....	32
Excessive or improper fees, including failing to refund unearned fees .....	695	Failing to supervise subordinates .....	31
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client .....	693	Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal .....	27
Filing frivolous or non-meritorious claims or pleadings .....	542	<i>Ex parte</i> or improper communication with judge or juror.....	16
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks .....	526	Improper division of legal fees/partnership with nonlawyer.....	12
Failing to properly withdraw from representation, including failing to return client files or documents .....	264	Incapacity due to chemical addiction or mental condition.....	8
Conflict of Interest:.....	215	Improper practice after failure to register under Rule 756 .....	8
Rule 1.7: Concurrent conflicts .....	131	Abuse of public office to obtain advantage for client.....	6
Rule 1.8(a): Improper business transaction with client .....	17	Non-Illinois lawyer's establishment of office/practice.....	5
Rule 1.8(b): Improper use of information .....	5	Improper extrajudicial statement.....	5
Rule 1.8(c): Improper instrument or gift from client.....	4	Failing to maintain an appropriate attorney-client relationship with disabled client.....	5
Rule 1.8(e): Improper financial assistance to client .....	1	Aiding a nonlawyer in the unauthorized practice of law .....	4
Rule 1.8(h)(1): Improper agreement limiting lawyer's liability .....	3	False statements about a judge, judicial candidate or public official.....	4
Rule 1.8(i): Improper propriety interest in client matter.....	1	Violation of anti-discrimination statute or ordinance .....	2
Rule 1.8(j): Improper sexual relations with client .....	6	Failing to report misconduct of another lawyer or judge.....	2
Rule 1.9: Successive conflicts .....	36	Failing to notify sender of inadvertently received document.....	2
Rule 1.10: Imputed conflict .....	9	Failing to pay child support .....	2
Rule 1.11: Former public lawyer .....	1	Judicial candidate's violation of Judicial Code .....	2
Rule 1.18(c): Representation adverse to prospective client .....	1	Improper employment where lawyer may become a witness .....	1
Criminal activity, including criminal convictions, counseling illegal conduct or public corruption.....	212	Failing to cease practice in area after sale of practice .....	1
Conduct prejudicial to the administration of justice, including conduct that is the subject of a contempt finding or court sanction .....	202	Bad faith avoidance of student loan .....	1
Failing to provide competent representation .....	134	No misconduct alleged.....	149
Prosecutorial misconduct.....	117		
Practicing in a jurisdiction where not authorized .....	91		
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf.....	72		
Improper communications with a party known to be represented by counsel or with an unrepresented person.....	61		
Improper commercial speech, including inappropriate written or oral solicitation .....	51		

\*Totals exceed the number of requests for investigations docketed in 2013 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, real estate and tort, as shown in Chart 10.

**Chart 10: Classification of Charges Docketed in 2013 by Area of Law\***

<i>Area of Law</i>	<i>Number</i>
Criminal/Quasi-Criminal .....	1,427
Domestic Relations .....	740
Real Estate/Landlord-Tenant .....	612
Tort (Personal Injury/Property Damage) .....	539
Probate .....	332
Labor Relations/Workers' Comp .....	247
Bankruptcy.....	216
Debt Collection .....	174
Contract.....	155
Immigration .....	125
Civil Rights .....	121
Corporate Matters .....	100
Local Government Problems .....	55
Tax .....	20
Patent and Trademark .....	17
Social Security .....	10
Adoption .....	2

\*does not include charges classified as undeterminable or misconduct not arising out of a legal representation.

## B. Investigations Concluded in 2013

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 3% of investigations concluded in 2013 resulted in the filing of formal charges. Charts 11 and 12 show the number of investigations docketed and concluded from 2009 to 2013, and the type of actions that terminated the investigations in 2013.

**Chart 11: Investigations Docketed: 2009-2013**

<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>
2009	1,584	5,834	5,551	1,867
2010	1,867	5,617	5,626	1,858
2011	1,858	6,155	5,977	2,036
2012	2,036	6,397	6,611	1,822
2013	1,822	6,073	5,732	2,163

\* includes reopened investigations

**Chart 12: Investigations Concluded in 2013**

### Concluded by the Administrator:

Closed after initial review..... 1,544  
(No misconduct alleged)

Closed after investigation ..... 3,974

Filed at Supreme Court pursuant to  
Supreme Court Rules 757, 758(b), 761,  
762(a), 763 and 774 ..... 13

### Concluded by the Inquiry Board:

Closed after panel review ..... 50

Complaint or impairment petition voted... 142

Closed upon completion of conditions  
of Rule 108 supervision ..... 9

**Total..... 5,732**

### ***1. Timeliness of Investigations Concluded in 2013***

Of the 5,732 investigations concluded in 2013, 5,531 were concluded by the Administrator. Charts 13A through C show the average number of days that the 5,531 investigations concluded in 2013 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 1,544, or 26.9%, of the 5,731 investigations concluded in 2013 were closed after an initial review of the complainant’s concerns. More than 97% of these 1,544 investigations were concluded within 60 days of the docketing of the grievance. The six 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. 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>1,544 Investigations Closed After Initial Review in 2013</b>			
<b><i>Average Number of Days Pending Prior to Closure:</i></b>			
<b>Fewer than 10 days</b>	<b>10 - 20 days</b>	<b>21 - 60 days</b>	<b>More than 60 days</b>
<b>1,219 (79%)</b>	<b>74 (5%)</b>	<b>204 (13%)</b>	<b>47 (3%)</b>

In the remaining 3,987 investigations closed in 2013 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 further investigation was warranted, the file was reassigned to Litigation counsel who primarily handles investigations that require more extensive investigation or are likely to lead to formal proceedings.

Chart 13B shows that for the 3,987 investigations closed after a determination to conduct an investigation was made, 2,752, or 69%, were closed by Intake counsel, with 83% of those investigations closed within 90 days of receipt. Chart 13C indicates that 1,235, or 31%, were closed by Litigation counsel and nearly 45% of the files referred to Litigation counsel were closed within six months. Investigations referred to Litigation counsel are more extensive and time consuming, in order to determine if the filing of formal action is warranted.

**Chart 13B**

<b>2,752 Investigations Concluded in 2013 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
2,282 (83%)	364 (13%)	65 (2%)	41 (2%)

**Chart 13C**

<b>1,235 Investigations Concluded in 2013 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
277 (23%)	276 (22%)	359 (29%)	323 (26%)

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 ARDC counsel must review. The Commission implemented in 2012 a number of measures to ensure the timely resolution of investigations assigned to staff counsel. Litigation Chiefs meet regularly with litigation counsel and group managers in order to promote more thorough and timely investigations and conduct consultations with respect to investigations that exceed the one-year benchmark. Consultations also are required in advance of any referral of an investigation to the Inquiry Board and after the answer is filed before the Hearing Board and discovery is complete.

## ***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 106 Inquiry and Hearing Board members as well as three former Board members (*see* back page). The Oversight Committee typically reviews about 5% of the investigations closed by the Administrator’s staff each year. The representative sample are of closed investigations selected by computer from two types of investigative closures: those closure 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. In 2013, the Oversight Committee was assigned 381 closed investigations. Oversight reviewed 306 closed investigations in 2013, disagreeing with the decision to close in eight investigations with one investigation reopened for further investigation.

## C. Certain Subtypes of Investigations

### 1. *Overdraft Trust Account Notification Investigations*

Chart 14 shows the activity for investigations resulting from client trust account overdraft notifications. 485 investigations were opened in 2013, a 8.5% decrease in the number of overdraft investigations docketed in 2012, the first full year after the rule took effect in September 2011. In 2013, 363 investigations were closed and 88 were pending on January 1, 2014. Five formal complaints were filed in 2013 as a result of overdraft notification. On average 40 files are docketed each month and most are closed after the ARDC is satisfied that the lawyer understands what is required under Rule 1.15 and that the lawyer has implemented the recordkeeping requirements of Rule 1.15. The ARDC directs lawyers to review the ARDC publication, *Client Trust Account Handbook*, as well as view a recorded, one-hour webcast on the requirements of Rule 1.15. Lawyers are also referred to sample recordkeeping forms on the ARDC website.

**Chart 14: Overdraft Notification Investigations**

<b>Overdraft Notification Investigations</b>	<b>2011*</b>	<b>2012</b>	<b>2013</b>	<b>Total</b>
Opened	232	530**	485***	1,247
Closed	157	311	363	831
Formal Complaints Filed	1	2	5	8

\* investigations docketed after September 1, 2011, when Rule 1.15(h) took effect.

\*\* includes 109 investigations reopened for further investigation

\*\*\* includes 148 investigations reopened for further investigation

The top ten causes for an overdraft in the client trust account are:

1. Trust account check issued against uncollected funds;
2. Deposited item is returned;
3. Failure to timely make deposits;
4. Failure to account for bank fees;
5. On-line computer banking errors;
6. Telephone banking errors;
7. Using the trust account for personal, not client trust, purposes;
8. Lawyer math errors;
9. Using the wrong check book; and
10. Bank error.

### 2. *Unauthorized Practice of Law Investigations*

As of December 2011, the ARDC has the authority under Supreme Court Rule 779 to investigate and bring complaints against disbarred lawyers and unlicensed persons for the unauthorized practice of law (UPL). Supreme Court Rule 779(a) provides that the ARDC shall commence UPL proceedings against a suspended Illinois lawyer or a lawyer from another U.S. jurisdiction by filing a disciplinary complaint before the Hearing Board and proceeding as Supreme Court Rule 753 directs. Supreme Court Rule 779(b) provides that proceedings against disbarred Illinois lawyers and unlicensed persons shall take place in the circuit court in which venue is proper under the Code of Civil Procedure or other applicable statute. It empowers the ARDC to begin those proceedings as civil or contempt actions pursuant to the

Supreme Court's rules, its inherent authority over the practice of law, or other laws of the state related to the unauthorized practice of law.

In 2013, there were 129 investigations opened involving UPL charges against 85 unlicensed individuals or entities, 35 against out-of-state lawyers and nine involving disbarred or suspended Illinois lawyers as shown in Chart 15A. Seven complaints were filed in the circuit court in 2013, six against unlicensed persons and one against a disbarred Illinois lawyer. Chart 15B shows the areas of law involved from which the investigations arose.

**Chart 15A: Unauthorized Practice of Law Investigations (2012-2013)**

<i>Type</i>	<b>2012</b>	<b>2013</b>
UPL by suspended lawyer	4	4
UPL by out-of-state lawyer	8	35
UPL by disbarred lawyer	2	5
UPL by unlicensed person	61	71
UPL by unlicensed entity	15	14
<b>Total</b>	<b>90</b>	<b>129</b>

**Chart 15B: Area of Law Involved in UPL Investigations in 2013**

<i>Subject Area</i>	<i>Number of Investigations*</i>	<i>Subject Area</i>	<i>Number of Investigations*</i>
Real Estate.....	31..... 24%	Tort .....	6 ..... 5%
Corporate.....	16..... 12%	Workers' Comp .....	4 ..... 3%
Immigration.....	15..... 12%	Bankruptcy .....	3 ..... 2%
Criminal.....	14..... 11%	Civil Rights.....	3 ..... 2%
Domestic Relations.....	10..... 8%	Probate .....	2 ..... 3%
Debt Collection .....	8..... 6%	Local Government .....	1 ..... 1%
Contract .....	7..... 5%	Tax.....	1 ..... 1%

\* Total less than 129 investigations because no area of law was indicated in eight investigations.

### **3. Investigations Assigned to Special Counsel**

The ARDC Commission appointed seven former Hearing Board members in 2013, pursuant to Supreme Court Rule 751(e)(5), to serve as special counsel in matters involving allegations against attorneys associated with the ARDC, including counsel for the Administrator, Adjudication counsel, Commissioners and members of ARDC boards. Special counsel conduct investigations as assigned and have the same authority and responsibilities as the Administrator's counsel under Supreme Court and Commission rules, except that special counsel does not take direction from the Administrator or his or her legal staff. Special counsel exercise independent authority to investigate and to refer an investigation to the Inquiry Board and report directly to the Commission regarding the status and disposition of investigations assigned.

In 2013, 37 investigations were assigned to special counsel, 32 involving ARDC Board members, four involving ARDC staff members and two involving a relative of ARDC staff members. 21 investigations were closed in 2013 and 16 investigations remain pending at the end of 2013. The Commission Policy on the Appointment of Special Counsel can be found on the ARDC website at <https://www.iardc.org/policiesandorders.html>.

#### D. Disciplinary Prosecutions: Hearing Board 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 16A shows the activity before the Hearing Board in 2013. There were 95 cases added to the Hearing Board's docket in 2013. Of those, 83 were initiated by the filing of a new disciplinary complaint. Chart 16B shows the demographics of the 83 lawyers who were the subject of a formal disciplinary complaint in 2013. In addition, there was an increased number of reinstatement petitions (9) filed before the Hearing Board, the highest number since at least 2008.

The Hearing Board was able to conclude more cases in 2013 because of recently adopted recommendations of the ARDC Practices and Procedures Committee that have significantly reduced the period of time for the issuance of Hearing and Review Board reports.

**Chart 16A: Matters Before the Hearing Board in 2013**

Cases Pending on January 1, 2013.....	145
<b>Cases Filed or Reassigned in 2013:</b>	
<i>Disciplinary Complaints Filed:*</i>	
➤ Rules 753, 761(d) .....	83
<i>Reinstatement Petition Filed:</i>	
➤ Rule 767 .....	9
<i>Restoration Petition Filed:</i>	
➤ Rule 759 .....	1
<i>Disability Petition Filed:</i>	
➤ Rule 758 .....	1
<i>Remanded by Supreme Court after dismissal of discipline on consent .....</i>	1
<b>Total New Cases Filed or Reassigned .....</b>	<b>95</b>
<b>Cases Concluded During 2013.....</b>	<b>120</b>
<b>Cases Pending December 31, 2013.....</b>	<b>120</b>

\* 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 16B: Profile of Lawyers Charged in Disciplinary Complaints Filed in 2013**

	# of Complaints Filed	% of Complaints Filed	% of Lawyer Population
<b>Years in Practice</b>			
Fewer than 5 .....	3	4%	14%
Between 5 and 10 .....	6	7%	16%
Between 10 and 20 .....	14	17%	25%
Between 20 and 30 .....	28	34%	23%
30 or more .....	32	38%	22%
<b>Age:</b>			
21-29 years old .....	1	1%	6%
30-49 years old .....	23	28%	50%
50-74 years old .....	53	64%	41%
75 or more years old .....	6	7%	3%
<b>Gender:</b>			
Female .....	13	16%	37%
Male .....	70	84%	63%

Chart 17A shows the types of misconduct alleged in the 83 disciplinary complaints filed during 2013, and Chart 17B indicates the areas of practice in which the alleged misconduct arose. The allegations of fraudulent or deceptive activity, 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.

**Chart 17A: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 2013**

<i>Type of Misconduct</i>	<i>Number of Cases*</i>	<i>% of Cases Filed**</i>	<i>Type of Misconduct</i>	<i>Number of Cases*</i>	<i>% of Cases Filed**</i>
Fraudulent or deceptive activity.....	64	77%	Unauthorized practice after suspension.....	3	4%
Neglect.....	24	29%	Unauthorized practice after removal		
Failure to communicate with client.....	22	27%	from Master Roll.....	3	4%
Improper handling of trust funds.....	21	25%	Improper partnership or division of fees		
Criminal conduct/conviction of lawyer.....	16	19%	with non-lawyer.....	3	4%
False statement or failure to respond			Assisting client in criminal or fraudulent		
in bar admission or disciplinary matter.....	15	18%	conduct.....	2	2%
Conflict of interest.....	15	18%	Improper withdrawal from employment.....	2	2%
Rule 1.7: concurrent conflicts.....	7		Improper commercial speech, including		
Rule 1.8(a): improper business			improper direct solicitation.....	2	2%
transaction with client.....	2		False statements about judge's integrity.....	2	2%
Rule 1.8(c): improper instrument benefiting			Breach of client confidences.....	1	%
lawyer.....	3		Breach of client confidences.....	1	1%
Rule 1.8(e): improper financial assistance			Assisting non-lawyers in the		
to client.....	1		unauthorized practice of law.....	1	1%
Rule 1.8(f) & (g): improper agreement limiting			Assisting a suspended lawyer in the		
or settling lawyer's liability.....	1		unauthorized practice of law.....	1	1%
Rule 1.8(j); improper sexual			Failure to supervise employees.....	1	1%
relationship with client.....	1		Prosecutorial misconduct.....	1	1%
Offering false evidence or			Breach of duties following discipline		
making false statements to tribunal.....	11	13%	under Rule 764.....	1	1%
Pursuing/filing frivolous or			Bar applicant's failure to		
non-meritorious claims or pleadings.....	10	12%	supplement application.....	1	1%
Excessive or unauthorized legal fees.....	10	12%	Improper communication with		
Failure to refund unearned fees.....	10	12%	represented person.....	1	1%
Misrepresentation to third persons or			Threatening criminal or disciplinary charges		
using means to embarrass or delay.....	10	12%	to gain advantage in civil matter.....	1	1%
Not abiding by client's decision or taking			Judicial candidate's violation of		
unauthorized action on client's behalf.....	5	6%	Judicial Code.....	1	1%
Failure to provide competent representation... 5.....	5	6%	Aiding judicial misconduct.....	1	1%
Failure to report criminal conviction.....	4	5%			
Failure to record criminal conviction as					
required by Rule 761(a).....	4	5%			
Unauthorized practice after suspension.....	3	4%			
Unauthorized practice after removal					
from Master Roll.....	3	4%			
Improper partnership or division of fees					
with non-lawyer.....	3	4%			

\* Totals exceed 83 disciplinary cases and 100% because most complaints allege more than one type of misconduct.

\*\* Based on complaint initially filed and not on amended charges.

**Chart 17B: Subject Area Involved in Complaints Filed Before Hearing Board in 2013**

<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 .....	14 .....	17%	Domestic Relation.....	5 .....	6%
Tort .....	14 .....	17%	Bankruptcy.....	3 .....	4%
Probate .....	12 .....	14%	Debt Collection .....	2 .....	4%
Contract .....	9 .....	11%	Civil Rights .....	2 .....	2%
Deceptive, threatening or offensive conduct not arising out of a legal representation .....	9 .....	11%	Local Government .....	2 .....	2%
Criminal Conduct/Conviction .....	9 .....	11%	Corporate Matters .....	1 .....	1%
Criminal .....	6 .....	7%	Social Security .....	1 .....	1%
Workers' Comp/Labor Relations .....	6 .....	7%	Immigration .....	1 .....	1%
			Failure to Comply with Rule 764.....	1 .....	1%

\*Totals exceed 83 disciplinary complaints and 100% because many complaints allege several counts of misconduct arising in different areas of practice.

For matters that were concluded by the Hearing Board in 2013, 44 cases or 37% were closed by the filing in the Supreme Court of a pleading as an agreed matter for discipline on consent. Another 46 cases or 38% proceeded as contested hearings and 17 cases or 14% were conducted as default hearings because the lawyer-respondent did not appear and was not represented by counsel. Of the 17 defaults, 14 were resolved by a short form default report, which issues within a week or two after the hearing.

Chart 18 shows the type of action by which the Hearing Board concluded 120 matters, including 112 disciplinary cases during 2013.

**Chart 18: Actions Taken by Hearing Board in Matters Terminated in 2013**

<b>A. Disciplinary Cases: Rules 753 &amp; 761(d)</b>	
Recommendation of discipline after contested hearing .....	46
Case closed by filing of petition for discipline on consent other than disbarment.....	38
Recommendation of discipline after default hearing .....	17
Case closed by filing of motion for disbarment on consent .....	2
Case closed by administration of a reprimand to respondent by consent .....	4
Case closed by administration of a reprimand to respondent after contested hearing.....	1
Complaint dismissed without prejudice because other proceedings pending.....	3
Case closed by death of respondent .....	1
<b>Total Disciplinary Cases.....</b>	<b>112</b>
<b>B. Disability Inactive Status Petition: Rule 758</b>	
Petition allowed and respondent placed on disability inactive status.....	1
<b>C. Restoration Petition: Rule 759</b>	
Petition dismissed .....	1
<b>D. Reinstatement Petitions: Rule 767</b>	
Recommendation of petition allowed .....	4
Recommendation of petition denied .....	0
Petition withdrawn.....	2
<b>Total Matters Terminated.....</b>	<b>120</b>

## E. Review Board Matters

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. The Review Board is assisted by a legal staff hired by the Commission that is separate from the Administrator's office and the Hearing Board's adjudication staff. Chart 19 shows activity at the Review Board during 2013. The Review Board concluded a record number of cases in 2013 due to certain policies changes that were adopted that resulted in shortened briefing schedules and faster turnaround times for the filing of Board reports.

**Chart 19: Actions Taken by Review Board in 2013**

<b>Cases pending on January 1, 2013 .....</b>	<b>32</b>
<b>Cases filed during 2013:</b>	
Exceptions filed by Respondent .....	15
Exceptions filed by Administrator.....	12
Exceptions filed by both.....	2
<b>Total.....</b>	<b>29</b>
<b>Cases concluded in 2013:</b>	
Hearing Board affirmed.....	27
Hearing Board reversed on findings and/or sanction .....	17
Notice of exceptions stricken .....	2
Notice of exceptions withdrawn .....	1
Case closed by administration of a reprimand to respondent .....	1
<b>Total.....</b>	<b>48</b>
<b>Cases pending December 31, 2013 .....</b>	<b>13</b>

## F. Supreme Court Matters

### 1. 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 2013, the Court entered 149 sanctions against 148 lawyers (one lawyer was disciplined twice in 2013) as shown in Chart 20.

**Chart 20: Disciplinary Sanctions Ordered by the Supreme Court in 2013**

Disbarment.....	35
Suspension until further order of Court.....	19
Suspension for a specified period.....	40
Suspension for a specified period & conditions .....	18
Probation with partially stayed suspension .....	10
Probation with fully stayed suspension .....	8
Censure .....	11
Reprimand.....	8
Total	149*

\*In addition to the 77 suspensions, the Court also ordered 13 interim suspensions, as reported in Chart 22 at (F) and (I).

Charts 21A and 21B provide demographic information on the 148 lawyers disciplined by the Court and five lawyers reprimanded by the Hearing Board and one lawyer by the Review Board in 2013. See Chart 18 on Page 25. Other than Board reprimands, the Hearing and Review Board issue reports that include recommendations to the Supreme Court for disposition.

**Chart 21A: County of Practice of Lawyers Disciplined in 2013**

County	Number Disciplined	County	Number Disciplined
Cook.....	68	Kane.....	1
Out-of-State.....	40	Madison.....	1
DuPage.....	12	McDonough.....	1
Lake.....	11	McHenry.....	1
Peoria.....	3	McLean.....	1
Will.....	3	Mercer.....	1
Rock Island.....	2	Morgan.....	1
St. Clair.....	2	Union.....	1
Adams.....	1	Wabash.....	1
Bond.....	1	Winnebago.....	1
Carroll.....	1		

**Chart 21B: Years in Practice, Age and Gender of Lawyers Disciplined in 2013**

<b>Years in Practice</b>	<b># of Lawyers Disciplined</b>	<b>% of Lawyers Disciplined</b>	<b>% of Lawyer Population</b>
Fewer than 5 .....	1 .....	1% .....	14%
Between 5 and 10.....	12 .....	8% .....	16%
Between 10 and 20.....	36 .....	23% .....	25%
Between 20 and 30 .....	45 .....	29% .....	22%
30 or more .....	60 .....	39% .....	23%
<b>Age:</b>			
21-29 years old.....	0 .....	0% .....	6%
30-49 years old.....	49 .....	32% .....	50%
50-74 years old.....	95 .....	62% .....	41%
75 or more years old.....	10 .....	6% .....	3%
<b>Gender:</b>			
Female.....	22 .....	14% .....	37%
Male .....	132 .....	86% .....	63%

Chart 21C shows the practice setting around the time of the misconduct. 82% of the 154 lawyers disciplined in 2013 were sole practitioners or practiced in a firm of 2-10 lawyers at the time of the misconduct.

**Chart 21C: Practice Setting of Lawyers Disciplined in 2013**

<b>Practice Setting</b>	<b>Solo</b>	<b>Firm 2-10</b>	<b>Firm 11-25</b>	<b>Firm 26+</b>	<b>Gov't/ Judicial</b>	<b>In-House</b>	<b>No Practice</b>
<b>154 Lawyers Sanctioned</b>	101	26	2	10	9	4	2

It is frequently seen in discipline cases that an attorney-respondent is impaired by addiction to alcohol or other substance or suffers some mental illness or disorder. Chart 21D reflects only those cases in which one or more impairments were raised either by the lawyer or otherwise known by staff counsel. 39 out of the 154 lawyers disciplined in 2013, or 25% had at least one substance abuse or mental impairment issue. In addition, 69% of impaired lawyers were sole practitioners or practiced in a small firm at the time of the misconduct. It is likely that many cases involving impaired lawyers are never so identified.

**Chart 21D: Impairments Identified for Lawyers Disciplined in 2013, By Practice Setting**

<i>Practice Setting</i>	<i>Solo</i>	<i>Firm 2-10</i>	<i>Firm 11-25</i>	<i>Firm 26+</i>	<i>Gov't/ Judicial</i>	<i>In-House</i>	<i>No Practice</i>
<b>39 Lawyers* w/Impairments</b>	<b>27</b>	<b>4</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>3</b>
<b><i>Impairment</i></b>							
<b>Substances:</b>							
Alcohol	9	0	0	1	0	0	2
Cocaine	2	0	0	0	0	0	2
Cannabis	4	0	0	0	0	0	0
Heroin	2	0	0	0	0	0	0
<b>Mental Illness:</b>							
Depression	13	1	0	1	1	0	2
Bipolar	3	0	0	0	0	0	0
Schizophrenia	0	0	0	0	0	0	0
Other	3	3	0	1	1	0	0
Gambling	1	0	1	0	0	0	0
Sexual Disorder	0	0	0	1	0	0	0
Cognitive Decline	2	0	0	0	0	0	0
<b>Total % per Group *Some lawyers have more than one impairment identified.</b>	<b>69%</b>	<b>10%</b>	<b>3%</b>	<b>5%</b>	<b>5%</b>	<b>0%</b>	<b>8%</b>

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. There were a total of 27 lawyers disciplined on a reciprocal basis in 2013, as provided in Supreme Court Rule 763, because they had been disciplined in another jurisdiction where they also held a license in addition to their Illinois license. In those cases, the lawyer is subject to the same or comparable discipline in Illinois. These matters are presented directly to the Court upon petition, typically without Hearing Board involvement. In addition, the Court allowed eight consent disbarments on motions, seven of which were filed directly in the Court. The remainder of final disciplinary orders (141) arose from matters initiated by the filing of an action before the Hearing Board. In addition to activity in disciplinary cases, the Supreme Court entertains pleadings in non-disciplinary matters that affect an attorney's status. In 2013, the Court allowed two motions for transfer to disability inactive status and three petitions for permanent retirement status pursuant to Supreme Court Rule 756(a)(9).

**Chart 22: Orders Entered by Supreme Court in Disciplinary Cases in 2013**

<p><b>A. <u>Motions for disbarment on consent: Rule 762(a)</u></b>  Allowed..... 8  Denied..... <u>0</u>  Total ..... 8</p>	<p><b>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u></b>  Allowed ..... 9  Denied ..... <u>0</u>  Total ..... 9</p>
<p><b>B. <u>Petitions for discipline on consent: Rule 762(b)</u></b>  Allowed:  Suspension ..... 29  Suspension stayed in part,  probation ordered ..... 8  Suspension stayed in its entirety,  probation ordered ..... 4  Censure ..... <u>8</u>  Total ..... 49  Petition Dismissed ..... 1  Denied..... <u>0</u>  Total ..... 50</p>	<p><b>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u></b>  Allowed ..... 36  Denied ..... <u>0</u>  Total..... 36</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 ..... 2  Denied; dismissal as recommended  by Review Board ..... 1  Denied and same discipline imposed  as recommended by Review Board ..... 12  Allowed and same discipline imposed  as recommended by Review Board ..... 0  Allowed and less discipline imposed  as recommended by Review Board ..... <u>5</u>  Total..... 20</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..... 2  Rule discharged ..... <u>2</u>  Total..... 4</p>
	<p><b>G. <u>Petitions for reciprocal discipline: Rule 763</u></b>  Allowed ..... 27  Denied ..... <u>0</u>  Total..... 27</p>
	<p><b>H. <u>Petitions for reinstatement: Rule 767</u></b>  Allowed with conditions..... 4  Allowed ..... 2  Petition withdrawn or stricken..... 2  Denied ..... <u>1</u>  Total..... 9</p>
	<p><b>I. <u>Petitions for interim suspension: Rule 774</u></b>  Rule enforced and lawyer suspended..... 11  Rule discharged ..... <u>2</u>  Total..... 13</p>

Chart 23 tracks the type of misconduct that led to the 155 sanctions entered in 2013, 149 by the Court and six Board reprimands administered in 2013.

**Chart 23: Misconduct Committed in the 155 Disciplinary Cases Decided in 2013<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>35</b>	<b>77</b>	<b>18</b>	<b>11</b>	<b>14</b>
Fraudulent or deceptive activity .....	24	52	8	3	6
Neglect/lack of diligence .....	7	24	7	3	3
Criminal conduct/conviction of the lawyer .....	17	12	5	1	3
Failure to communicate with client, including					
failure to communicate basis of a fee .....	10	29	6	5	1
Improper management of client or third party					
funds, including commingling and conversion .....	11	15	9	1	4
Misrepresentation to clients to cover up neglect .....	3	11	3	2	0
Excessive or unauthorized legal fees,					
including failure to refund unearned fees .....	3	9	0	2	1
False statement or failure to respond in					
bar admission or disciplinary matter .....	10	16	5	1	1
Failure to provide competent representation .....	1	12	3	2	3
Offering false evidence, making false					
statements to a tribunal or improper trial conduct .....	5	13	1	3	2
Pursuing/filing frivolous or					
non-meritorious claims or pleadings .....	1	3	1	2	0
Not abiding by a client's decision concerning					
the representation or taking unauthorized					
action on the client's behalf .....	3	8	3	2	0
Improper withdrawal, including					
failure to return file .....	5	8	3	0	0
Conflict of interest (1.7: concurrent clients) .....	7	8	2	2	0
Conflict of interest (1.8(a): improper business					
transaction with client) .....	0	5	1	1	0
Conflict of interest (1.8(b): improper acquisition of					
publication or media rights from client .....	1	0	0	0	0
Conflict of interest (1.8(h)-(g) & 8.4(h):					
improperly limiting lawyer's liability .....	0	1	1	2	0
Conflict of interest (1.11(a): improper representation					
after leaving government service .....	0	0	0	1	0
Counseling/assisting a client in criminal or					
fraudulent conduct .....	2	1	0	1	0
Failure to supervise subordinates .....	0	2	0	0	2
Failure to report criminal conviction .....	2	2	0	0	1
Failure to report discipline in another jurisdiction .....	1	1	0	0	1
Misrepresentation to third persons .....	2	6	0	0	0
Improper commercial speech, including inappropriate					
written or oral solicitation .....	1	3	0	0	1
Breach of client confidences .....	1	1	0	0	0
Unauthorized practice in jurisdiction not admitted .....	1	1	0	0	0
<i>Ex parte</i> communication with judge .....	0	2	0	0	0
Assisting nonlawyer in the unauthorized practice					
of law or improper division of fees/partnership .....	0	4	0	1	0
Practice after failure to register .....	1	2	0	0	2
Breach of duties following discipline under Rule 764 .....	3	0	0	0	0
Failure to maintain records under Rule 769 .....	1	0	0	0	1
Prosecutorial misconduct .....	1	0	0	0	0
Failure to report misconduct of another lawyer .....	0	1	0	0	0

1 Totals exceed 155 cases because in most cases more than one type of misconduct was found.  
2 Includes 59 suspensions for a specified period or until further order of the Court and 18 suspensions with conditions.  
3 Includes 8 suspensions stayed entirely by probation and 10 suspensions stayed in part by probation.  
4 Includes five Hearing Board reprimands and one Review Board reprimand.

## 2. *Non-Disciplinary Actions*

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 2013.

**Chart 24: *Non-Disciplinary Actions by the Supreme Court for 2013***

<b>Rule 756(a)(9) Permanent Retirement Status</b>	
Motion to transfer to permanent retirement status	
Allowed .....	3
<b>Rule 758 Transfer to Disability Inactive Status</b>	
Motion for transfer to disability inactive status on consent:	
Allowed .....	1
Motion to approve and confirm report of Hearing Board's recommendation of transfer to disability inactive status:	
Allowed .....	1
<b>Rule 759 Restoration to Active Status</b>	
Petition for restoration to active status:	
Allowed .....	4
Petition referred to the Hearing Board for hearing .....	1

### **a. *Permanent Retirement Status***

Supreme Court Rule 756(a)(9) Permanent Retirement Status, adopted by the Supreme Court on June 5, 2012, allows lawyers facing minor misconduct charges to petition the Court for permanent retirement status — with no possibility of reinstatement. The rule change was in response to the challenges presented by an increasing population of aging lawyers and provides a reasonable and dignified option for senior lawyers who should retire from the practice of law while preserving their dignity and hard-earned reputations.

An attorney is not permitted to assume permanent retirement status if there is a pending investigation or formal disciplinary proceeding against the lawyer involving certain issues outlined in Rule 756(9)(B)(1) or if the lawyer retains an active license in another jurisdiction. The ARDC Administrator must agree to the petition. If permanent retirement status is granted, any pending investigation or proceeding shall be closed; however, the Administrator may resume or initiate additional investigations and proceedings of the attorney as circumstances warrant. In 2013, there were three petitions filed and allowed by the Illinois Supreme Court. The lawyers involved were admitted to practice in Illinois between 1952 and 1969.

### 3. Registration and Caseload Trends (1999-2013)

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

**Chart 25A: Registration Growth and Disciplinary Investigations (1999-2013)**

	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*
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
2009	84,777	1.0%	5,834	1,322	3,891	79	226
2010	86,777	2.2%	5,617	1,354	3,914	50	271
2011	87,943	1.3%	6,155	1,405	4,293	83	156
2012	89,330	1.6%	6,397	1,649	4,598	75	273
2013	91,083	2.0%	6,073	1,544	3,974	50	142

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

**Chart 25B: Disciplinary Proceedings (1999-2013)**

	Matters Filed With Hearing Board	Matters Concluded at Hearing Board	Matters Filed With Review Board	Matters Concluded at Review Board	Sanctions Ordered By Court
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
2009	137	135	30	31	130
2010	122	115	27	32	148
2011	106	147	35	31	156
2012	120	113	36	32	103
2013	95	120	29	48	149

#### 4. Duty to Report Lawyer Misconduct: Lawyer Reports: 2003-2013

ILRPC 8.3 requires a lawyer who knows that another lawyer has committed a violation of Rule 8.4(b) or Rule 8.4(c) or that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority. 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.

Since the *Himmel* decision, the Illinois ARDC has received more than 12,000 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.) In 2013, there were 485 reports made, a 25% drop over last year's high of 651 reports but closer to the average of 516 reports each year. Although investigations opened as a result of attorney reporting are usually concluded without the filing of formal disciplinary charges, an average of 23.2% of the formal disciplinary caseload between 2003 and 2013 included charges generated as a result of a lawyer or judge filing an attorney report. Since 2007, the number of attorney reports resulting in formal complaints has increased significantly and in 2013, 33.3% of all formal complaints voted in 2013, the most ever, were the result of attorney reports.

Chart 26 tracks attorney report filings for the years 2003 through 2013.

**Chart 26: Attorney Reports: 2003-2013**

Year	Number of Grievances	Numbers of Attorney Reports	Percent of Attorney Reports to Grievances	Number of Complaints Voted	Number of Complaints Voted Involving Attorney Reports	Percent of Attorney Reports to Formal Complaints
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%
2009	5,837	489	7.7%	226	60	26.5%
2010	5,617	497	8.8%	271	73	26.9%
2011	6,155	536	8.7%	156	33	21.2%
2012	6,397	651	10.2%	273	86	31.5%
2013	6,073	485	9.2%	144	48	33.3%
<b>Totals for 2003-2013</b>	66,241	5,678	8.6%	2,789	619	*
<b>Average For 2003-2013</b>	6,021	516	8.6%	254	56	23.2%

## V. New or Amended Rules for the Legal Profession in 2013

### A. Illinois Supreme Court Rules

In 2013, the Supreme Court amended or adopted the following new rules focused toward improving access to legal services in Illinois:

1. ***Amended Supreme Court Rule 707. Pro Hac Vice Permission for an Out-of-State Attorney to Provide Legal Services in Proceedings in Illinois***

Supreme Court Rule 707 was amended June 8, 2013, effective July 1, 2013, to allow permission for an attorney licensed in another state to appear in an Illinois proceeding with an Illinois licensed attorney (*pro hac vice*) upon filing of a verified statement with the tribunal, served upon the ARDC, and payment of an annual registration fee and \$250 fee for each proceeding. Part of these fees will be used, at the Supreme Court's discretion, to ensure funding for the Access to Justice Commission and related Court programs that improve access to justice for low-income and disadvantaged Illinois residents, as well as to provide funding to the Lawyers Trust Fund of Illinois for distribution to legal aid organizations serving the state.

2. ***New Supreme Court Rule 719. Admission of Military Spouse Attorneys From Other Jurisdictions***

On June 18, 2013, the Illinois Supreme Court adopted new Supreme Court Rule 719 *Admission of Military Spouse Attorneys From Other Jurisdictions*, effective July 1, 2013, to allow the issuance of a temporary Illinois law license to an out-of-state attorney who is the spouse of a member of the military stationed in Illinois. It also applies to an out-of-state attorney who is a party to a civil union with a service member stationed in Illinois. Illinois is only the fifth state to adopt such a rule.

3. ***Limited Scope of Representation Rules: Supreme Court Rules 13, 11 and 137 and ILRPC 4.2, Comment [2]***

On June 14, 2013, the Illinois Supreme Court amended Supreme Court Rules 11, 13 and 137, effective July 1, 2013, to clarify and encourage the practice of limited scope representation permitted in Rule 1.2(c) of the Illinois Rules of Professional Conduct, which became effective for Illinois attorneys in 2010. The amendments to Supreme Court Rules 11, 13, and 137 require an attorney to enter into a written agreement with the party disclosing the limited nature of the representation, and then filing a Notice of Limited Scope Appearance with the court. When the legal work required by the limited scope appearance has been completed, the attorney may withdraw on oral motion at a hearing attended by the client. In situations outside of a hearing, an attorney may withdraw by filing a Notice of Withdrawal of Limited Scope Appearance. If no objection is filed to the notice of withdrawal within 21 days, the withdrawal automatically becomes effective. Modifications to Supreme Court Rule 13 cover the bulk of the changes. A modification to Supreme Court Rule 11 requires the service of all documents be made on both the party and the attorney while the limited representation is in effect.

Supreme Court Rule 137 was changed to make it clear that an attorney may assist a *pro se* litigant in drafting or reviewing a pleading or other paper without making a general or limited scope appearance and without the attorney signing the pleading or other paper, as otherwise would be required. In such an instance, the attorney may rely on the representation of facts as provided by the self-represented person. For example, commentary with the amended rule makes it clear that Rule 137 applies to an attorney who

would advise a caller to a legal aid telephone hotline regarding the completion of a form pleading, motion or other paper or an attorney providing information at a *pro bono* clinic.

Comment [2] to Rule of Professional Conduct 4.2 *Communication with Person Represented by Counsel* was also amended to add language that the prohibition on communications with persons represented by counsel included counsel in a limited scope representation pursuant to Rule 1.2(c).

#### **4. *Pro Bono Services by In-House Corporate, Retired and Inactive Lawyers: Amended Supreme Court Rules 716 and 756***

On April 8, 2013, the Illinois Supreme Court amended Supreme Court Rules 716 and 756 to allow and encourage in-house corporate lawyers and retired and inactive attorneys to provide *pro bono* services. Also, on November 26, 2013, the Court, on the recommendation of the Board of Admissions to the Bar (IBAB) and the Commission, approved a Rule 716 amnesty program under which any house counsel in violation of the licensing requirements of Rule 716 is eligible for amnesty from investigation and prosecution for unauthorized practice of law if such house counsel makes application under Rule 716 and meets all the requirements for obtaining a license under that rule before January 1, 2015. See ARDC website at [https://www.iardc.org/Limited\\_Law\\_License\\_Links.html](https://www.iardc.org/Limited_Law_License_Links.html).

### **B. Illinois Supreme Court Opinion**

On November 15, 2013, the Illinois Supreme issued a published opinion in *In re Theodore George Karavidas*, 2013 IL 115767 addressing the issue of whether an attorney can be subject to professional discipline for misconduct that is not specifically set forth in the Rules of Professional Conduct. The Administrator filed a one-count complaint against Respondent alleging that as executor for his father's estate he converted funds from the estate, breached his fiduciary duty to the beneficiaries of the estate, which included himself, his sister and mother, and engaged in dishonest conduct. The complaint alleged that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that was prejudicial to the administration of justice in violation of Rule 8.4(a)(4) and (5) of the Rules of Professional Conduct, as well as conduct that tends to defeat the administration of justice or bring the legal professional into disrepute in violation of Supreme Court Rule 770.

The Hearing Board found that Respondent breached his fiduciary duty to the beneficiaries of his father's estate when he converted funds from the estate in the form of undocumented loans for personal use, which he later repaid, when he had no authority to do so under his father's will or the Illinois Probate Act. Based on these findings, the Hearing Board held that his conduct was prejudicial to the administration of justice in violation of Rule 8.4(a)(5) of the Rules of Professional Conduct, as well as conduct that tends to defeat the administration of justice or bring the legal professional into disrepute in violation of Supreme Court Rule 770. The Hearing Board found that while Respondent committed conversion, the Administrator did not prove that he acted dishonestly in violation of Rule 8.4(a)(4). The panel recommended that Respondent be suspended from the practice of law for a period of four months.

Both the Administrator and Respondent appealed to the Review Board. The Administrator argued that the Hearing Board erred in finding that Respondent did not violate Rule 8.4(a)(4) and by recommending a suspension of four months rather than for one year. Respondent argued that the Hearing Board erred by finding that he breached his fiduciary duty to the estate and its beneficiaries and by finding that his conduct amounted to conversion. He argued that the appropriate sanction would be a reprimand or censure.

The Review Board reversed and recommended that the charges be dismissed. The Review Board took issue with the use of the "breach of fiduciary duty" charge when the conduct at issue could otherwise be charged under the Rules of Professional Conduct. The Review Board further disagreed with the Hearing Board's analysis of the conversion charge and concluded that the application of a strict liability standard is improper in the absence of an attorney-client relationship and, further, if committing the tort of conversion constitutes chargeable misconduct, the Administrator should be required to prove the commission of the tort by clear and convincing evidence. Because the conduct at issue did not arise from an attorney-client relationship and did not involve any dishonest conduct, the Review Board concluded that the charges of breach of fiduciary duty and conversion were neither appropriate as a matter of law nor sufficiently proven. Consequently, the Review Board recommended that all of the charges against Respondent be dismissed.

The Supreme Court, in a 5-2 decision, agreed with the Review Board's recommendation to dismiss the charges against Respondent. In an opinion authored by Chief Justice Rita Garman, the Court held that "professional discipline may be imposed only upon a showing by clear and convincing evidence that the respondent attorney has violated one or more of the Rules of Professional Conduct" and that "[m]ere bad behavior that does not violate one of the Rules is insufficient." ¶79. While the Court upheld the Hearing Board's finding that Respondent breached his fiduciary duty as executor of his father's estate, the Court determined that that misconduct and even the charge of conversion (which the Court declined to review) were civil offenses that absent "tethering" it to a specific Rule could not serve as the basis for professional discipline. The majority concluded:

In sum, before professional discipline may be imposed under Supreme Court Rule 770, the Administrator must demonstrate that the attorney violated the Rules of Professional Conduct. To the extent that any of our prior cases suggest that an attorney may be subjected to professional discipline for conduct that is not prohibited by the Rules of Professional Conduct or defined as misconduct therein, we hereby reject such a suggestion. As a matter of due process, an attorney who is charged with misconduct and faces potential discipline must be given adequate notice of the charges, including the rule or rules he is accused of violating. Personal misconduct that falls outside the scope of the Rules of Professional Conduct may be the basis for civil liability or other adverse consequences, but will not result in professional discipline. We, therefore, accept the recommendations of the Review Board and dismiss the charges against respondent.

¶103.

## VI. Client Protection Program Report

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. Currently, the per-award limit is \$75,000 and the per-lawyer limit is \$750,000.

In 2013 the Program collected \$1,819,765 (\$1,713,265 in assessments, \$95,000 in reimbursement, and \$11,500 in interest). The Program approved 247 claims against 38 lawyers and paid a record \$2,016,669 to claimants as shown in Chart 27A below. Thirteen approvals were for the \$75,000 maximum. The Program paid out the per-lawyer maximum of \$750,000 on 172 claims involving disbarred lawyer Roy Kessel, who acted as “escrow attorney” for a fraudulent investment scheme. The Program also paid out \$437,622 on claims involving disbarred lawyer Avalon Betts-Gaston, who participated in fraudulent mortgage-rescue schemes. The “Claims Denied” figure for 2013 includes claims that were closed as ineligible under the Rules (involved lawyer neither disciplined nor deceased) or withdrawn, and claims that were closed after the involved lawyer reimbursed the claimant’s loss.

**Chart 27A: Client Protection Program Claims: 2009-2013**

Year	Claims filed	# Claims Approved	# Claims Denied	For Claims Approved, # Respondent Attys	Total Amounts Paid
2009	188	81	125	35	\$1,091,473
2010	207	89	108	30	\$705,168
2011	184	89	96	38	\$1,006,013
2012	350	70	124	34	\$986,771
2013	256	247	91	38	\$2,016,669

A claimant who was reimbursed by the Program in 2013 wrote, “It would not be possible to describe our appreciation for all you have done on our behalf. My husband and I are so grateful.” Another wrote, “I received the check today and have looked at it over and over and over –I still can’t believe it and have found myself in tears....I am ever so grateful to...the ARDC for believing me and helping me.”

The Client Protection Program Trust Fund reimbursed the Disciplinary Fund in the amount of \$283,541 for the administrative costs of the Program in 2013, including salaries, office overhead and investigative expenses necessary to the adjudication of Client Protection Program claims.

Chart 27B below provides a summary of the 247 claims approved in 2013, by type of misconduct and area of law. For the types of misconduct, unearned fee claims were 20% of approvals and 5% of payouts, conversion claims were 7% of approvals and 35% of payouts, and fraud claims accounted for 72% of claims and 59% of payouts.

**Chart 27B: Classification of Approved Client Protection Claims in 2013**

<b>Type of Misconduct:</b>	
Fraud.....	179
Failure to refund unearned fees.....	50
Conversion.....	17
Unauthorized practice.....	1
<b>Area of Law</b>	
Investment .....	173
Real Estate.....	25
Domestic Relations.....	11
Tort.....	9
Criminal/Quasi-Criminal .....	8
Bankruptcy/Debt Negotiation .....	7
Debt Collection.....	7
Immigration .....	2
Patent .....	2
Contract .....	1
Probate/Trusts.....	1
Corporate .....	1

## VII. Court Appointments

### A. Review Board

#### *Gordan B. Nash, Jr. Appointed Chair*

Gordan B. Nash, Jr. was appointed by the Supreme Court as Chair of the Review Board, effective January 1, 2014, replacing Keith E. (“Chuck”) Roberts, Jr., who remains as a Review Board member. Mr. Nash was appointed to the Review Board in January 2008. He is a partner at the law firm of *Drinker Biddle & Reath LLP* in Chicago.

The Review Board considers appeals from the reports of the Hearing Board and is composed of nine lawyer members appointed by the Supreme Court to three-year terms. The Supreme Court designates one member of the Board as Chair. The Chair is responsible for the overall administration of the Board, including oversight of the ARDC Clerk’s Office in managing proceedings before the Review Board.

#### *Keith E. (“Chuck”) Roberts, Jr. Completes Term as Chair*

Keith E. (“Chuck”) Roberts, Jr. completed his term as Chair on December 31, 2013. Under his chairmanship, Mr. Roberts streamlined the motion call practice before the Review Board by reducing the amount of time granted for extensions of time to file briefs. The Review Board also reduced the time it took for a report and recommendation to issue from three months to about 30 days after a case is taken under advisement. With a shortened briefing schedule and an expeditious turnaround time for the filing of the reports, the Review Board’s pending caseload was cut to more than half of what it was at the beginning of 2013. Appointed to the Review Board in March 2010, Mr. Roberts is a name partner in the Wheaton law firm of *Roberts and Associates, P.C.* His term on the Review Board expires December 31, 2016.

## VIII. ARDC Offices

### *Relocation of Chicago and Springfield Offices*

To better serve the public and the legal profession, the Commission moved its Adjudication, Registration and MIS Departments from the 11<sup>th</sup> to the 8<sup>th</sup> floor of the Prudential Plaza in late March 2013, which allowed the Commission to add courtroom space and to update its audiovisual and wifi capabilities. The Commission had earlier relocated its Springfield office in late October 2012, to a location more accessible to the public and lawyers.

### *Technology Enhancements*

The Commission continues to update its technology in keeping with the Court’s pilot e-filing program. By leveraging technology, the Commission aims to reduce expenses and increase efficiency.

## IX. Financial Report

The Commission engaged the services of Legacy Professionals LLP to conduct an independent financial audit as required by Supreme Court Rule 751(e)(6). The audited financial statements for the year ended December 31, 2013, including comparative data from the 2012 audited statements, are attached. In addition, a five-year summary of revenues and expenditures as reported in the 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.

The Commission has successfully maintained its operations well beyond the 2010 time frame through careful expense management. This has been accomplished notwithstanding an extended period of very low interest rates and 2012's reallocation of \$5 from the ARDC to the Illinois Supreme Court Commission on Professionalism. These two factors have reduced ARDC's annual revenues by approximately \$1.1 million per year. In light of these factors, the Commission recognizes that there may be a need for a registration fee increase in the future.

While recent economic conditions have been very challenging, the number of fee-paying attorneys increased by approximately 2.6% from 2012 to 2013.

Since the adoption of the current fee structure effective in 2007, funding for the Client Protection Program (CPP) comes from the dedicated \$25 portion of the annual registration fee paid by active status attorneys who have been admitted for greater than 3 years. During 2009, the Commission determined that CPP expenses should be paid directly from that

separate Client Protection Fund instead of the ARDC Disciplinary Fund. (*See* Page 36.) For 2013 and 2012, the Client Protection Fund reimbursed the Disciplinary Fund \$283,541 and \$275,656 respectively for the administrative costs of the Program.

Effective with the 2013 registration year, the full registration fee was increased by \$53, from \$289 to \$342. This \$53 fee increase was allocated to the Lawyers Trust Fund of Illinois. The amount collected by the Commission was not affected by this increase.



*of the Supreme Court of Illinois*

**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
OF THE SUPREME COURT OF ILLINOIS  
FIVE YEAR SUMMARY OF OPERATIONS**

	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>
<b>REVENUE</b>					
Investment income					
Interest	\$ 150,964	\$ 192,312	\$ 237,324	\$ 317,367	\$ 404,491
Net appreciation (depreciation) in fair value of investments	45,672	(39,294)	8,090	(24,373)	(88,650)
Registration and program fees and delinquent charges	17,476,037	17,150,269	17,121,917	16,937,490	16,595,386
Costs reimbursements collected	84,500	65,825	95,436	97,548	81,735
Administrative expense reimbursement from Client Protection Program	283,541	275,656	265,968	263,364	249,996
Client Protection Program reimbursements	97,160	276,367	8,145	56,623	142,350
Total revenue	<u>18,137,874</u>	<u>17,921,135</u>	<u>17,736,880</u>	<u>17,648,019</u>	<u>17,385,308</u>
<b>EXPENSES</b>					
Salaries and related expenses	11,393,488	11,278,544	10,985,943	10,693,313	10,092,645
Travel expenses	151,290	156,608	125,743	135,371	112,305
Library and continuing education	144,083	148,002	242,598	256,472	238,515
General expenses and office support	2,096,892	1,782,941	2,359,722	1,975,721	1,741,152
Computer expenses	476,557	452,254	226,560	325,091	237,875
Other professional and case-related expenses	699,562	778,186	640,378	735,188	789,303
Client Protection Program direct expenses	2,024,420	993,212	1,010,605	710,496	1,106,343
Administrative expense reimbursement to Registration and Discipline	283,541	275,656	265,968	263,364	249,996
Depreciation and amortization expense	625,317	475,650	466,075	405,025	186,105
Total expenses	<u>17,895,150</u>	<u>16,341,053</u>	<u>16,323,592</u>	<u>15,501,041</u>	<u>14,754,239</u>
CHANGE IN NET ASSETS BEFORE EFFECT OF PRIOR PERIOD ADJUSTMENT	242,724	1,580,082	1,413,288	2,146,978	2,631,069
EFFECT OF PRIOR PERIOD ADJUSTMENT	-	-	545,707	-	1,718,100
CHANGE IN NET ASSETS	242,724	1,580,082	1,958,995	2,146,978	4,349,169
<b>UNRESTRICTED NET ASSETS</b>					
Beginning of year	<u>21,622,829</u>	<u>20,042,747</u>	<u>18,083,752</u>	<u>15,936,774</u>	<u>11,587,605</u>
End of year	<u>\$ 21,865,553</u>	<u>\$ 21,622,829</u>	<u>\$ 20,042,747</u>	<u>\$ 18,083,752</u>	<u>\$ 15,936,774</u>
<b>OTHER INFORMATION AT YEAR END</b>					
Number of active and registered attorneys	90,774	89,927	88,517	87,216	84,771
Registration fees					
More than one year and less than three years	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105
More than three years	\$ 200	\$ 200	\$ 205	\$ 205	\$ 205
Inactive/out of state	\$ 105	\$ 105	\$ 105	\$ 105	\$ 105

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

FINANCIAL STATEMENTS

DECEMBER 31, 2013

**REPORT OF INDEPENDENT AUDITORS**

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

***Report on the Financial Statements***

We have audited the accompanying financial statements of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission), which comprise the statements of financial position as of December 31, 2013 and 2012 and the related statements of activities and of cash flows for the years then ended, and the related notes to the financial statements.

***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

***Auditors' Responsibility***

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 the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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***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, 2013 and 2012, and the changes in its net assets and its cash flows for the years then ended, in accordance with accounting principles generally accepted in the United States of America.

*Legacy Professionals LLP*

Chicago, Illinois

April 11, 2014

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

**STATEMENTS OF FINANCIAL POSITION**

DECEMBER 31, 2013 AND 2012

ASSETS	<u>2013</u>	<u>2012</u>
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 2,654,930	\$ 2,625,042
Short-term investments	28,481,797	25,526,894
Accrued interest receivable	22,374	33,661
Accounts receivable	24,649	3,086
Prepaid expenses and deposits	<u>95,432</u>	<u>84,127</u>
Total current assets	31,279,182	28,272,810
PROPERTY AND EQUIPMENT - net	3,268,192	2,257,175
LONG-TERM INVESTMENTS	<u>9,190,837</u>	<u>11,167,431</u>
Total assets	<u>\$ 43,738,211</u>	<u>\$ 41,697,416</u>
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable and other accruals	\$ 1,122,955	\$ 674,349
Amounts held for others	3,583,386	3,832,592
Accrued vacation	436,978	419,494
Deferred registration and program fees	13,458,211	12,485,068
Postretirement benefit obligation - current portion	10,041	9,445
Deposits	<u>9,832</u>	<u>7,830</u>
Total current liabilities	<u>18,621,403</u>	<u>17,428,778</u>
<b>LONG-TERM LIABILITIES</b>		
Postretirement benefit obligation	1,386,777	1,044,763
Deferred rent expense	<u>1,864,478</u>	<u>1,601,046</u>
Total long-term liabilities	<u>3,251,255</u>	<u>2,645,809</u>
Total liabilities	21,872,658	20,074,587
UNRESTRICTED NET ASSETS	<u>21,865,553</u>	<u>21,622,829</u>
Total liabilities and net assets	<u>\$ 43,738,211</u>	<u>\$ 41,697,416</u>

See accompanying notes to financial statements.

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

**STATEMENTS OF ACTIVITIES**

YEAR ENDED DECEMBER 31, 2013  
WITH COMPARATIVE TOTALS FOR THE YEAR ENDED DECEMBER 31, 2012

	2013			2012
	Registration and Discipline	Client Protection Program	Total	Total
<b>REVENUE</b>				
Investment income				
Interest	\$ 132,500	\$ 18,464	\$ 150,964	\$ 192,312
Net appreciation (depreciation) in fair value of investments	<u>51,183</u>	<u>(5,511)</u>	<u>45,672</u>	<u>(39,294)</u>
Total investment income	183,683	12,953	196,636	153,018
Registration and program fees and delinquent charges	15,762,772	1,713,265	17,476,037	17,150,269
Cost reimbursements collected	84,500	-	84,500	65,825
Administrative expense reimbursement from Client Protection Program	283,541	-	283,541	275,656
Client Protection Program reimbursements	<u>-</u>	<u>97,160</u>	<u>97,160</u>	<u>276,367</u>
Total revenue	<u>16,314,496</u>	<u>1,823,378</u>	<u>18,137,874</u>	<u>17,921,135</u>
<b>EXPENSES</b>				
Salaries and related expenses	11,393,488	-	11,393,488	11,278,544
Travel expenses	151,290	-	151,290	156,608
Library and continuing education	144,083	-	144,083	148,002
General expenses and office support	2,096,892	-	2,096,892	1,782,941
Computer expenses	476,557	-	476,557	452,254
Other professional and case-related expenses	699,562	-	699,562	778,186
Client Protection Program direct expenses				
Awards	-	2,016,669	2,016,669	986,771
Administrative	-	7,751	7,751	6,441
Administrative expense reimbursement to Registration and Discipline	<u>-</u>	<u>283,541</u>	<u>283,541</u>	<u>275,656</u>
Depreciation and amortization expense	<u>625,317</u>	<u>-</u>	<u>625,317</u>	<u>475,650</u>
Total expenses	<u>15,587,189</u>	<u>2,307,961</u>	<u>17,895,150</u>	<u>16,341,053</u>
CHANGE IN NET ASSETS	727,307	(484,583)	242,724	1,580,082
<b>UNRESTRICTED NET ASSETS</b>				
Beginning of year - as restated	<u>18,049,930</u>	<u>3,572,899</u>	<u>21,622,829</u>	<u>20,042,747</u>
End of year	<u>\$18,777,237</u>	<u>\$ 3,088,316</u>	<u>\$21,865,553</u>	<u>\$21,622,829</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, 2013 AND 2012

	<u>2013</u>	<u>2012</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ 242,724	\$ 1,580,082
Adjustments to reconcile change in net assets to net cash provided by operating activities		
Net (appreciation) depreciation in fair value of investments	(45,672)	39,294
Loss on sale of property and equipment	1,007	1,857
Depreciation and amortization expense	625,317	475,650
(Increase) decrease in assets		
Accounts receivable and accrued interest receivable	(10,276)	104,269
Prepaid expenses and deposits	(11,305)	7,734
Increase (decrease) in liabilities		
Accounts payable and other accruals	448,606	338,641
Amounts held for others	(249,206)	2,086,953
Accrued vacation	17,484	38,739
Deferred registration and program fees	973,143	(830,678)
Deposits	2,002	1,502
Postretirement benefit obligation	342,610	81,433
Deferred rent expense	263,432	397,674
Net cash provided by operating activities	<u>2,599,866</u>	<u>4,323,150</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of investment securities	(26,015,226)	(55,725,190)
Maturities of investment securities	25,082,589	54,279,454
Purchases of property and equipment	<u>(1,637,341)</u>	<u>(1,392,746)</u>
Net cash (used in) investing activities	<u>(2,569,978)</u>	<u>(2,838,482)</u>
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	29,888	1,484,668
<b>CASH AND CASH EQUIVALENTS</b>		
Beginning of year	<u>2,625,042</u>	<u>1,140,374</u>
End of year	<u>\$ 2,654,930</u>	<u>\$ 2,625,042</u>

See accompanying notes to financial statements.

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

**NOTES TO FINANCIAL STATEMENTS**

DECEMBER 31, 2013 AND 2012

**NOTE 1. GENERAL PURPOSE DESCRIPTION**

The Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the 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, has set the annual registration and program fees for active lawyers licensed to practice law for three years or more at \$342, and the annual registration fees for active lawyers licensed to practice between one and three years and inactive lawyers at \$105. The charge for late payment of annual registration fees is \$25 per month for every month that fees are delinquent. The Rule requires that the Commission, as part of the annual \$342 fee, collect and remit the following amounts to the following other Supreme Court entities that are not administered by the Commission: \$95 to the Lawyers Trust Fund, \$15 to the Supreme Court Commission on Professionalism and \$7 to the Lawyers Assistance Program Fund.
- Rule 780(b) provides 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 \$25 of the \$342 registration 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 includes in its general budget allocations for administrative expenses of the Program to be paid from the Disciplinary Fund. The Program reimburses the Commission for the cost of administering the Program.

**NOTE 1. GENERAL PURPOSE DESCRIPTION (CONTINUED)**

- Rule 756(f) 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, 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** - In compliance with provisions of generally accepted accounting principles, the Commission is required to report information regarding its financial position and activities in 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 2013 and is for additional analytical 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.

**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)**

**Property and Equipment (continued)** - The estimated useful lives of the property and equipment are as follows:

	<u>Years</u>
Computer and related equipment	3 - 5
Office furniture and equipment	3 - 10
Library	7
Leasehold improvements	5 - 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).

Purchases and sales of the investments are reflected on a trade-date basis.

Interest income is recorded on the accrual basis. Dividend income is recorded on the ex dividend date.

**Amounts Held for Others** - Amounts held for others at December 31, 2013 and 2012 consist of funds collected for the Lawyers Assistance Program Fund in the amount of \$211,585 and \$229,505 respectively; the Lawyers Trust Fund in the amount of \$2,871,506 and \$3,111,305 respectively; the Supreme Court Commission on Professionalism in the amount of \$453,425 and \$491,782 respectively; and the Access to Justice Fund in the amount of \$46,870 and \$0 respectively. All amounts were remitted subsequent to year end.

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

**Deposits** - A portion of deposits is the reinstatement deposit that accompanies the petition of any attorney who is filing for reinstatement under Rule 767. The amount the attorney actually owes is assessed at the conclusion of the proceedings. Reinstatement deposits held at December 31, 2013 and 2012 were \$8,000 and \$6,000 respectively. The remaining deposits consist of funds owed by any attorney who has been the subject of a disciplinary proceeding or who is in receivership to the attorney's former clients who have not been located. At December 31, 2013 and 2012, the amounts held were \$1,832 and \$1,830 respectively.

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

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

**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.

**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). Certain prior year amounts have been reclassified to conform to the current year presentation.

**Subsequent Events** - Subsequent events have been evaluated through April 11, 2014, which is the date the financial statements were available to be issued.

**NOTE 3. COST REIMBURSEMENTS**

The Commission receives cost reimbursements for investigative and disciplinary costs from disciplined attorneys. Cost reimbursements are billed at the time that discipline is imposed by the Court. Such billings may not reflect the total costs or match the period in which the investigative disciplinary costs were incurred. The Commission is limited to \$1,000 in cost reimbursements for each discipline case, absent exceptional circumstances. During the years ended December 31, 2013 and 2012, 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**

The following tables represent an analysis of the Commission's functional expenses, by natural classification, for the years ended December 31, 2013 and 2012. Certain reclassifications have been made to prior year amounts to conform to the presentation for the current year.

	2013			
	Program			Total
	Registration and Discipline	Client Protection	Administration and Support	
Salaries and related expenses	\$ 9,110,366	\$ 227,959	\$ 2,055,163	\$ 11,393,488
Travel expenses	119,028	1,161	31,101	151,290
Library and continuing education	115,740	2,301	26,042	144,083
General expenses and office support	1,700,902	32,399	363,591	2,096,892
Computer expenses	382,813	7,611	86,133	476,557
Other professional and case-related expenses	673,402	2,124	24,036	699,562
Client Protection Program direct expenses:				
Awards	-	2,016,669	-	2,016,669
Administrative	-	7,751	-	7,751
Administrative expense reimbursement to Registration and Discipline	-	-	283,541	283,541
Depreciation and amortization expense	502,311	9,986	113,020	625,317
Total expenses	<u>\$ 12,604,562</u>	<u>\$ 2,307,961</u>	<u>\$ 2,982,627</u>	<u>\$ 17,895,150</u>

**NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION (CONTINUED)**

	2012			
	Program			Total
	Registration and Discipline	Client Protection	Administration and Support	
Salaries and related expenses	\$ 8,961,507	\$ 219,123	\$ 2,097,914	\$ 11,278,544
Travel expenses	110,498	1,231	44,879	156,608
Library and continuing education	107,256	3,309	37,437	148,002
General expenses and office support	1,414,536	34,786	333,619	1,782,941
Computer expenses	360,044	7,489	84,721	452,254
Other professional and case-related expenses	755,516	1,841	20,829	778,186
Client Protection Program direct expenses:				
Awards	-	986,771	-	986,771
Administrative	-	6,441	-	6,441
Administrative expense reimbursement to Registration and Discipline	-	-	275,656	275,656
Depreciation and amortization expense	378,670	7,877	89,103	475,650
Total expenses	<u>\$ 12,088,027</u>	<u>\$ 1,268,868</u>	<u>\$ 2,984,158</u>	<u>\$ 16,341,053</u>

**NOTE 5. INVESTMENTS**

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

	<u>2013</u>	<u>2012</u>
U.S. Treasury notes and bills	\$ 14,863,255	\$ 19,084,498
U.S. bank certificates	15,132,000	13,683,000
Money market funds	6,882,332	3,370,164
Mutual funds and exchange traded funds	795,047	556,663
Total	<u>\$ 37,672,634</u>	<u>\$ 36,694,325</u>

**NOTE 6. FAIR VALUE MEASUREMENTS**

The *Fair Value Measurements and Disclosures* Topic of the FASB Accounting Standards Codification established a fair value hierarchy that prioritizes the inputs to valuation techniques 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 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

The following tables set forth, by level within the fair value hierarchy, the Commission's investment assets at fair value as of December 31, 2013 and 2012. As required, assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Commission did not own any assets that required measurement using Level 3 inputs as of December 31, 2013 and 2012.

**NOTE 6. FAIR VALUE MEASUREMENTS (CONTINUED)**

	Total	Fair Value Measurements at 12/31/13 Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
U.S. Treasury notes and bills	\$ 14,863,255	\$ 14,863,255	\$ -	\$ -
U.S. bank certificates	15,132,000	-	15,132,000	-
Money market funds	6,882,332	6,882,332	-	-
Mutual funds and exchange traded funds				
Fixed income	401,733	401,733	-	-
Equity:				
Small cap	52,586	52,586	-	-
Mid cap	52,691	52,691	-	-
Large cap	212,847	212,847	-	-
International	75,190	75,190	-	-
Total	<u>\$ 37,672,634</u>	<u>\$ 22,540,634</u>	<u>\$ 15,132,000</u>	<u>\$ -</u>

	Total	Fair Value Measurements at 12/31/12 Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
U.S. Treasury notes and bills	\$ 19,084,498	\$ 19,084,498	\$ -	\$ -
U.S. bank certificates	13,683,000	-	13,683,000	-
Money market funds	3,370,164	3,370,164	-	-
Mutual funds and exchange traded funds				
Fixed income	248,534	248,534	-	-
Equity:				
Small cap	41,207	41,207	-	-
Mid cap	41,225	41,225	-	-
Large cap	161,848	161,848	-	-
International	63,849	63,849	-	-
Total	<u>\$ 36,694,325</u>	<u>\$ 23,011,325</u>	<u>\$ 13,683,000</u>	<u>\$ -</u>

**NOTE 6. FAIR VALUE MEASUREMENTS (CONTINUED)**

Level 1 Measurements

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

The fair values of the mutual funds are determined by reference to the funds' underlying assets, which are principally marketable equity and fixed income securities. Shares held in the mutual funds are traded on national securities exchanges and are valued at the net asset value on the last business day of each period presented.

Money market funds represent shares in mutual funds.

Most common stocks are traded in active markets on national and international securities exchanges and are valued at closing prices on the last business day of each period presented.

Level 2 Measurements

U.S. bank certificates are valued at cost which approximates fair value due to their liquid or short-term nature. At December 31, 2013, the U.S. bank certificates had interest rates ranging from 0.20% to 1.50% with maturity dates between January 2014 and November 2016. At December 31, 2012, the U.S. bank certificates had interest rates ranging from 0.25% to 1.5% with maturity dates between January 2013 and January 2015.

**NOTE 7. PROPERTY AND EQUIPMENT**

Property and equipment at December 31, 2013 and 2012 consist of the following:

	<u>2013</u>	<u>2012</u>
Office furniture and equipment	\$ 1,246,169	\$ 1,365,598
Computer and related equipment	2,761,821	2,828,753
Library	84,827	96,861
Leasehold improvements	<u>2,461,586</u>	<u>1,158,440</u>
	6,554,403	5,449,652
Less accumulated depreciation and amortization	<u>(3,286,211)</u>	<u>(3,192,477)</u>
Property and equipment - net	<u>\$ 3,268,192</u>	<u>\$ 2,257,175</u>

**NOTE 8. LEASE COMMITMENTS**

The Commission leases its Chicago and Springfield offices under operating lease agreements.

The Chicago office lease was to expire in May 2015. However, in February 2011 the Chicago office lease was extended through May 2027. This lease calls for monthly payments for pro-rata operating expenses and real estate taxes in addition to the scheduled rent payments. In addition, the original 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 which were fully applied as of December 31, 2012. The Commission is also receiving an allowance for leasehold improvements and other rent concessions between January 2012 and December 2017.

Effective November 1, 2012, the Commission entered into a fifteen year agreement for office space in Springfield, Illinois. The agreement, which provides for an allowance of \$20,000 for leasehold improvements, requires escalating rental payments of 2% per annum over the life of the lease. The Commission's scheduled rent payments for this lease include operating expenses and real estate taxes.

Rent expense under all lease agreements was \$962,426 in 2013 and \$954,392 in 2012.

Future minimum rental payments under the terms of these leases, net of scheduled rent abatements, are as follows:

	<u>Springfield</u>	<u>Chicago</u>	<u>Total</u>
Year ending December 31,			
2014	\$ 99,427	\$ 333,357	\$ 432,784
2015	101,416	336,672	438,088
2016	103,444	694,596	798,040
2017	105,513	103,423	208,936
2018	107,623	729,558	837,181
Thereafter	<u>1,049,031</u>	<u>6,908,125</u>	<u>7,957,156</u>
	<u>\$ 1,566,454</u>	<u>\$ 9,105,731</u>	<u>\$ 10,672,185</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.

The Commission committed to pay the future cost of Medicare premiums for former employees who met certain criteria and were employed by the Commission before March 31, 1986. Furthermore, the Commission agreed to pay reimbursement credits to eligible former employees 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, 2013 and 2012. The benefit obligation at December 31, 2013 was actuarially determined by Towers Watson, and was estimated by Commission management for 2012.

	<u>2013</u>	<u>2012</u>
Change in accumulated benefit obligation		
Benefit obligation at beginning of year	\$ 1,054,208	\$ 972,775
Service cost	52,297	40,633
Interest cost	52,067	48,639
Benefits paid	(10,041)	(9,445)
Actuarial loss	<u>248,287</u>	<u>1,606</u>
Benefit obligation at end year	<u>\$ 1,396,818</u>	<u>\$ 1,054,208</u>

Net periodic benefit costs for 2013 and 2012 are comprised of the following:

	<u>2013</u>	<u>2012</u>
Service cost	\$ 52,297	\$ 40,633
Interest cost	52,067	48,639
Amortization of loss	<u>248,287</u>	<u>1,606</u>
Net periodic benefit cost	<u>\$ 352,651</u>	<u>\$ 90,878</u>

The key assumptions are as follows:

	<u>2013</u>	<u>2012</u>
Actuarial cost method	Projected unit credit method	Projected unit credit method
Mortality table	2013 PPA Static Mortality	2011 PPA Static Mortality
Discount rate	4%	5%
Retirement age	Between ages 55 and 65	Between ages 55 and 65
Medical trend rate ultimate	5%	5%

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

Assumed health care cost trend rates can have a significant effect on the amounts reported for health care benefits. The actuary noted in its 2013 valuation that the effect of a 1% increase in health care cost trend rates (medical trend ultimate) would be an increase of \$3,605 on total service cost and interest cost components and an increase of \$79,549 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.

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

2014	\$ 19,079
2015	22,759
2016	24,524
2017	26,024
2018	30,187
2019 - 2023	<u>254,668</u>
	\$ 377,541

The Commission maintains investments in a separate trust account for the Medicare replacement reserve. The assets are invested using prudent asset allocation parameters, with the goal of minimizing risk and achieving asset returns that will help the plan meet its future obligations. The plan's returns should be competitive with like institutions employing similar investment strategies. Because these investments are not considered to be plan assets, they are included in the total investment balances on the statements of financial position. The fair value of these investments totaled \$1,356,082 and \$2,041,810 at December 31, 2013 and 2012, respectively.

A transfer of assets of \$850,000 was made during the year ended December 31, 2013 from the Commission's Medicare replacement reserve trust account to its general assets in order to better align the assets in the trust account with the corresponding benefit obligation. The postretirement benefit obligation was restated as of January 1, 2010 pursuant to a review of the underlying data, coverage provisions, and assumptions used to develop this estimate.

**NOTE 10. 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 \$1,414,603 in 2013 and \$1,405,539 in 2012. The Commission also pays the plan's administrative expenses, which totaled \$152,624 in 2013 and \$131,133 in 2012.

**NOTE 10. EMPLOYEE BENEFIT PLANS (CONTINUED)**

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 \$3,900 in 2013 and \$3,730 in 2012.

**NOTE 11. LITIGATION**

Various complaints and actions are periodically filed against the Commission. At December 31, 2013, the Commission believes that pending matters do not present any serious prospect for negative financial consequences.

**NOTE 12. RISKS AND UNCERTAINTIES**

The Commission invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risks. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect the amounts reported in the statements of financial position.

The actuarial present value of postretirement benefit obligations is reported based on certain assumptions pertaining to interest rates, health care inflation rates and employee demographics, all of which are subject to change. Due to uncertainties inherent in the estimations and assumptions process, it is at least reasonably possible that changes in these estimates and assumptions in the near term would be material to the financial statements.

**NOTE 13. PRIOR PERIOD ADJUSTMENT**

A prior period adjustment was made as of January 1, 2012, to correct the balance of deferred rent. As a result of this adjustment, beginning of year net assets increased by \$545,707.

	Deferred Rent	Net Assets
As previously reported at January 1, 2012	\$ 1,749,079	\$ 19,497,040
Adjustment	<u>(545,707)</u>	<u>545,707</u>
As restated at January 1, 2012	<u>\$ 1,203,372</u>	<u>\$ 20,042,747</u>

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