

Chicago  
April 28, 2006

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 2005 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 2005 and an accounting and audit of the monies received and expended during the twelve-month period, which ended December 31, 2005.

Respectfully submitted,

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Donn F. Bailey, Ph.D.  
Patricia Campbell Bobb  
John R. Carroll  
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***I. Registration Report***

The Master Roll of attorneys registered to practice law in Illinois for the year 2005 contained the names of 80,041 attorneys as of October 31, 2005. After that date, the Commission began the 2006 registration process, so that the total reported as of October 31, 2005, does not include a record 2,187 attorneys who first took their oath of office in November or December 2005. The 2005 registration total shows a 2.5% increase over 2004, returning to a rate of growth not seen since 1998 (see Chart 17 at p. 16).

Chart A shows the demographics for the lawyer population in 2005 and Chart B shows the breakdown by the registration categories set forth in Rule 756.

***Chart A: Age, Gender and Years in Practice for Attorneys Registered in 2005***

<b><i>Gender</i></b>	
Female .....	33%
Male .....	67%
<b><i>Years in Practice</i></b>	
Less than 10 years.....	29%
10 years or more .....	71%
<b><i>Age</i></b>	
21-29 years old .....	6%
30-49 years old .....	57%
50-74 years old .....	34%
75 or older.....	3%

***Chart B: Registration Categories for 2005***

<b><u>Category</u></b>	<b><u>Number of Attorneys</u></b>
Admitted between January 1, 2004 and October 31, 2005 .....	2,973
Admitted between January 1, 2002 and December 31, 2003 .....	4,910
Admitted before January 1, 2002 .....	59,610
Serving active military duty .....	219
Serving as judge or judicial clerk .....	1,947
Birthday before December 31, 1929.....	2,011
Foreign legal consultant .....	7
Inactive status.....	8,364
Total attorneys currently registered.....	80,041
Removed from the Master Roll (Arrears, Deceased, Retired and Disciplined Attorneys) .....	(1,198)

Charts C and D show the distribution by judicial circuit and by county of the 61,130 registered attorneys who report a principal business address in Illinois. Another 18,911 attorneys report a business address outside Illinois, but register as either active and able to practice in Illinois or inactive. Those 18,911 attorneys are not included in Charts C and D. Cook County, with over 70% of the lawyers with an Illinois business address, increased a modest 1.7%, as compared to counties such as McLean with a 12% increase, Champaign which grew by 6.9%, Will and DuPage counties with a 6.4% increase, and Kane and McHenry counties each experiencing 5.6% growth.

**Chart C: Registration by Judicial Districts: 2001-2005**

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>		<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
<b><u>First District</u></b>											
Cook County .....	40,124	40,623	41,229	41,796	42,510	<b><u>Fourth District</u></b>					
<b><u>Second District</u></b>											
15 <sup>th</sup> Circuit .....	208	206	206	207	212	5 <sup>th</sup> Circuit .....	269	273	267	263	262
16 <sup>th</sup> Circuit .....	1,167	1,207	1,228	1,268	1,334	6 <sup>th</sup> Circuit .....	847	851	833	854	866
17 <sup>th</sup> Circuit .....	717	726	737	750	768	7 <sup>th</sup> Circuit .....	1,229	1,222	1,218	1,214	1,252
18 <sup>th</sup> Circuit .....	3,645	3,793	3,859	3,983	4,086	8 <sup>th</sup> Circuit .....	203	202	197	198	200
19 <sup>th</sup> Circuit .....	<u>3,160</u>	<u>3,198</u>	<u>3,272</u>	<u>3,365</u>	<u>3,520</u>	11 <sup>th</sup> Circuit .....	<u>570</u>	<u>581</u>	<u>593</u>	<u>591</u>	<u>643</u>
<b>Total</b>	<b>8,897</b>	<b>9,130</b>	<b>9,302</b>	<b>9,573</b>	<b>9,920</b>	<b>Total</b>	<b>3,118</b>	<b>3,129</b>	<b>3,108</b>	<b>3,120</b>	<b>3,223</b>
<b><u>Third District</u></b>						<b><u>Fifth District</u></b>					
9 <sup>th</sup> Circuit .....	205	206	210	210	205	1 <sup>st</sup> Circuit .....	419	422	433	449	453
10 <sup>th</sup> Circuit .....	840	850	861	880	916	2 <sup>nd</sup> Circuit .....	295	295	297	295	305
12 <sup>th</sup> Circuit .....	679	709	740	808	860	3 <sup>rd</sup> Circuit .....	569	586	636	684	714
13 <sup>th</sup> Circuit .....	327	327	324	323	323	4 <sup>th</sup> Circuit .....	265	258	258	254	253
14 <sup>th</sup> Circuit .....	503	509	495	511	512	20 <sup>th</sup> Circuit .....	<u>740</u>	<u>745</u>	<u>756</u>	<u>763</u>	<u>776</u>
21 <sup>st</sup> Circuit .....	<u>155</u>	<u>162</u>	<u>162</u>	<u>161</u>	<u>160</u>	<b>Total</b>	<b>2,288</b>	<b>2,306</b>	<b>2,380</b>	<b>2,445</b>	<b>2,501</b>
<b>Total</b>	<b>2,709</b>	<b>2,763</b>	<b>2,792</b>	<b>2,893</b>	<b>2,976</b>	<b>Grand Total</b>	<b>57,136</b>	<b>57,951</b>	<b>58,811</b>	<b>59,827</b>	<b>61,130</b>

**Chart D: Registered Attorneys by County for 2004-2005**

<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>2004</u>	<u>2005</u>		<u>2004</u>	<u>2005</u>		<u>2004</u>	<u>2005</u>
Adams	128	127	Hardin	5	5	Morgan	44	42
Alexander	10	12	Henderson	4	4	Moultrie	13	14
Bond	14	13	Henry	54	50	Ogle	53	54
Boone	39	37	Iroquois	29	29	Peoria	739	763
Brown	10	10	Jackson	216	213	Perry	22	23
Bureau	39	40	Jasper	5	5	Piatt	26	28
Calhoun	5	5	Jefferson	109	110	Pike	13	11
Carroll	16	17	Jersey	17	18	Pope	3	4
Cass	10	12	Jo Daviess	33	36	Pulaski	7	7
Champaign	533	540	Johnson	10	9	Putnam	7	8
Christian	41	39	Kane	1,035	1,093	Randolph	29	29
Clark	15	14	Kankakee	132	131	Richland	24	25
Clay	13	16	Kendall	66	68	Rock Island	378	381
Clinton	27	27	Knox	72	69	Saline	39	37
Coles	96	96	Lake	2,845	2,976	Sangamon	1,096	1,134
Cook	41,796	42,510	LaSalle	218	211	Schuyler	10	11
Crawford	20	21	Lawrence	15	15	Scott	6	6
Cumberland	12	10	Lee	48	49	Shelby	18	20
DeKalb	167	173	Livingston	49	48	St. Clair	653	662
DeWitt	21	21	Logan	34	33	Stark	8	8
Douglas	23	24	Macon	238	239	Stephenson	57	56
Du Page	3,983	4,086	Macoupin	37	37	Tazewell	112	122
Edgar	24	23	Madison	670	701	Union	26	25
Edwards	6	6	Marion	51	49	Vermilion	116	119
Effingham	47	46	Marshall	14	15	Wabash	17	19
Fayette	17	17	Mason	10	11	Warren	22	21
Ford	16	14	Massac	15	16	Washington	17	18
Franklin	57	64	McDonough	43	44	Wayne	13	11
Fulton	47	45	McHenry	520	544	White	14	14
Gallatin	4	4	McLean	469	526	Whiteside	68	71
Greene	14	15	Menard	12	13	Will	808	860
Grundy	66	72	Mercer	11	10	Williamson	123	130
Hamilton	11	11	Monroe	42	44	Winnebago	711	731
Hancock	22	22	Montgomery	35	34	Woodford	23	22

**II. Report on Disciplinary Matters and Non-Disciplinary Action Affecting Attorney Status**

**A. Investigations**

During 2005, the Commission docketed 6,082 investigations, essentially no change from 2004. Those 6,082 investigations involved charges against 4,163 different attorneys, representing about 5% of all registered attorneys. About 22% of these 4,163 attorneys were the subject of more than one investigation docketed in 2005, as shown in Chart 1.

Charts 2 and 3 report the classification of investigations docketed in 2005, based on an initial assessment of the nature of the misconduct alleged, if any, and the type of legal context in which the facts apparently arose. Chart 2 reflects that the most frequent areas of a grievance are neglect of the client’s cause, failure to communicate with the client, fraudulent or deceptive activity and excessive fees.

**Chart 1: Investigations Docketed in 2005**

<i>Number of Investigations</i>	<i>Number of Attorneys</i>
1	3,247
2	607
3	156
4	68
5 or more	85

<i>Gender</i>	<i>Years in Practice</i>
Female.....20%	Less than 10 years..... 20%
Male .....80%	10 years or more ..... 80%

Consistent with prior years, the top areas of practice most likely to lead to a grievance of attorney misconduct are criminal law, domestic relations, tort, and real estate, as shown in Chart 3.

**Chart 2: Classification of Charges Docketed in 2005 by Violation Alleged**

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect.....	2,670	Failing to preserve client confidences or secrets.....	47
Failing to communicate with client, including failing to communicate the basis of a fee.....	1,463	Prosecutorial misconduct.....	47
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client.....	960	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter.....	42
Excessive or improper fees, including failing to refund unearned fees.....	834	Practicing after failing to register.....	37
Filing frivolous or non-meritorious claims or pleadings.....	511	Failing to supervise subordinates.....	28
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks.....	475	Aiding a nonlawyer in the unauthorized practice of law.....	25
Conduct prejudicial to the administration of justice, including conduct which is the subject of a contempt finding or court sanction.....	322	Improper division of legal fees with another lawyer.....	15
Conflict of Interest:.....	248	Incapacity due to chemical addiction or mental condition.....	14
Rule 1.7: concurrent conflicts.....	163	Improper division of legal fees/partnership with nonlawyer.....	13
Rule 1.9: successive conflicts.....	42	Failing to report misconduct of another lawyer or judge.....	9
Rule 1.8(a)-(e); (i): self-dealing conflicts.....	24	False statements in a bar admission or disciplinary matter.....	9
Rule 1.8(f)-(h): improper agreement to limit liability/avoid disciplinary action.....	9	Bad faith avoidance of a student loan.....	7
Rule 1.10: imputed disqualification.....	8	Sexual harassment/abuse or violation of law prohibiting discrimination.....	6
Rule 1.11: successive government and private employment.....	2	Assisting a judge in conduct that violates the judicial code.....	6
Failing to properly withdraw from representation, including failing to return client files or documents.....	235	Failing to maintain an appropriate attorney-client relationship with disabled client.....	5
Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal.....	219	Failing to comply with Rule 764.....	5
Criminal activity, including criminal convictions, counseling illegal conduct or public corruption.....	195	Improper <i>ex parte</i> communication with judge.....	5
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf.....	148	Improper employment where lawyer may become a witness.....	4
Failing to provide competent representation.....	144	Improper extrajudicial statement.....	3
Practicing in a jurisdiction where not authorized.....	102	Failing to pay tax obligation in bad faith.....	3
Improper commercial speech, including inappropriate written or oral solicitation.....	100	Use of public office to obtain advantage in legislative matter for client.....	2
Improper communications with a party known to be represented by counsel or unrepresented party.....	69	Failing to pay child support.....	2
		False statements about judge, jud. candidate or public official.....	1
		No misconduct alleged.....	282

\*Totals exceed the number of charges docketed in 2005 because in many charges more than one type of misconduct is alleged.

**Chart 3: Classification of Charges Docketed in 2005 by Area of Law**

<i>Area of Law</i>	<i>Number*</i>
Criminal/Quasi-Criminal .....	1,307
Domestic Relations .....	932
Tort (Personal Injury/Property Damage) .....	768
Real Estate/Landlord-Tenant .....	543
Probate .....	331
Labor Relations/Workers' Comp .....	314
Bankruptcy.....	218
Contract.....	199
Debt Collection .....	150
Immigration .....	147
Civil Rights .....	142
Criminal Conduct/Conviction.....	138
Corporate Matters .....	92
Local Government Problems .....	45
Tax .....	23
Patent and Trademark .....	16
Social Security .....	16
Adoption .....	9
Mental Health .....	2
Other .....	41
Undeterminable.....	244

\*Totals exceed the number of charges docketed in 2005 because in many charges more than one area of law is involved.

If an investigation fails to 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 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 6% of investigations concluded in 2005 resulted in the filing of formal charges. Charts 4 and 5 show the number of investigations docketed and terminated during 2005, and the type of actions, which terminated the investigations.

**Chart 4: Investigations Docketed: 2001-2005**

<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>
2001	2,047	5,811	5,778	2,080
2002	2,080	6,182	6,183	2,079
2003	2,079	6,325	6,215	2,189
2004	2,189	6,070	6,315	1,944
2005	1,944	6,082	6,185	1,841

**Chart 5: Investigations Concluded in 2005**

<b>Concluded by Administrator:</b>	
Closed after initial review.....	1,460 (No misconduct alleged)
Closed after investigation .....	4,239
Filed at Supreme Court pursuant to Supreme Court Rules 761, 762(a) and 763.....	57
<b>Concluded by Inquiry:</b>	
Closed after panel review .....	102
Complaint or impairment petition voted.....	317
Closed upon completion of conditions of Rule 108 supervision .....	<u>10</u>
<b>Total.....</b>	<b>6,185</b>

**B. Hearing Matters**

Once an Inquiry Board panel authorizes the filing of charges, a formal complaint setting forth all allegations of misconduct pending against the attorney is filed, and the matter proceeds before the Hearing Board. The Hearing Board functions much like a trial court in a civil case and is comprised of three panel members, two lawyers and one nonlawyer, appointed by the Commission. Upon filing and service of the complaint, the case becomes public. In addition to complaints alleging misconduct filed pursuant to Supreme Court Rule 753, and complaints alleging conviction of a criminal offense under Rule 761, the Hearing Board also entertains petitions for reinstatement pursuant to Rule 767, petitions for transfer to inactive status because of impairment pursuant to Rule 758, and petitions for restoration to active status pursuant to Rule 759.

Chart 6 shows the activity before the Hearing Board in 2005. There were 144 cases added to the Hearing Board’s docket in 2005. Of those, 128 were initiated by the filing of a new disciplinary complaint.

**Chart 6: Matters Before the Hearing Board in 2005**

<b>Cases Pending on January 1, 2005</b> .....	164
<b>New Cases Filed in 2005:</b>	
<i>Disciplinary Complaints Filed: *</i>	
➤ Rules 753, 761(d) .....	128
<i>Reinstatement Petitions Filed:</i>	
➤ Rule 767 .....	8
<i>Disciplinary proceedings resumed after Supreme Court lifted stay</i> .....	3
<i>Petition for Restoration to Active Status Filed:</i>	
➤ Rule 759 .....	2
<i>Petition for Transfer to Disability Inactive Status Filed:</i>	
➤ Rule 758 .....	1
<i>Remanded after Supreme Court denied Rule 762 Petition</i> .....	1
<i>Remanded by Review Board for hearing on count dismissed by summary judgment</i> .....	1
<b>Total New Cases</b> .....	144
<b>Cases Concluded During 2005</b> .....	134
<b>Cases Pending December 31, 2005</b> .....	174

\* 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 an Inquiry Board has voted a complaint are consolidated into a single complaint for purposes of filings at Hearing.

Chart 7 shows the years in practice of the 128 lawyers who were the subject of a formal complaint in 2005.

**Chart 7: Disciplinary Complaints Filed in 2005**

<b>Number of Complaints Filed in 2005</b> ..... 128		
<b>Respondent's</b>		
<b>Years in Practice</b>	<b>Number of Complaints</b>	<b>Percentage</b>
Less than 5 years .....	4 .....	3%
Between 5 and 10 years .....	17 .....	13%
10 or more years .....	107 .....	84%

Charts 8 and 9 show the types of misconduct alleged in the 128 disciplinary complaints filed during 2005 and the areas of practice in which the alleged misconduct arose. In large part, the categories most frequently seen in formal complaints track the categories most frequently seen in the initial charges, as reported in Charts 2 and 3. The number of formal cases alleging fraudulent or deceptive activity, impeding the disciplinary process (failure to cooperate/false statements in a disciplinary matter), as well as criminal conduct by the lawyer remains high.

**Chart 8: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 2005**

<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 .....	53 .....	41%	Improper withdrawal from employment without court approval or avoiding prejudice to client .....	11 .....	9%
Failure to communicate with client .....	47 .....	37%	Pursuing/filing frivolous or non-meritorious claims or pleadings .....	7 .....	5%
Neglect/lack of diligence .....	45 .....	35%	Not abiding by client's decision or taking unauthorized action on client's behalf .....	7 .....	5%
In many cases where neglect was charged, the neglect was accompanied by at least one of the following:			Misrepresentation to third persons .....	6 .....	5%
Misrepresentation to client .....	18		Failure to register .....	6 .....	5%
Failure to return unearned fees .....	23		Failure to report criminal conviction .....	4 .....	3%
Improper handling of trust funds .....	39 .....	30%	Improper lawyer advertising/solicitation .....	3 .....	2%
Criminal conduct by the lawyer .....	34 .....	27%	Failure to comply with Rule 764 .....	3 .....	2%
Conflict of interest .....	31 .....	24%	Induce/assist another to violate rules .....	3 .....	2%
Rule 1.7: concurrent conflicts .....	16		Failure to supervise employees .....	2 .....	2%
Rule 1.8(a): improper business transaction with client .....	5		Aiding in the unauthorized practice of law .....	2 .....	2%
Rule 1.9: successive conflicts .....	4		Improper division of fees with non-lawyer .....	2 .....	2%
Rule 1.8(d): improper financial assistance to client .....	3		Failure to maintain client confidences .....	2 .....	2%
Rule 1.8(g): improper settlement of client's claim against lawyer .....	2		Threatening criminal or disciplinary charges to gain an advantage in a civil matter .....	2 .....	2%
Rule 1.8(i): improper acquisition of property interest .....	1		Improper communication with a party the lawyer knows to be represented .....	1 .....	1%
False statement or failure to respond in bar admission or disciplinary matter .....	22 .....	17%	Assist client in criminal/fraudulent conduct .....	1 .....	1%
Falsifying evidence or making false statements to tribunal .....	15 .....	12%	Failure to maintain records as required under Rule 769 .....	1 .....	1%
Practice in jurisdiction not authorized .....	14 .....	11%	Improper gift/loan to judge/court official .....	1 .....	1%
Excessive or unauthorized fees .....	12 .....	9%	False statement about judge .....	1 .....	1%
Failure to provide competent representation .....	11 .....	9%			

\*Totals exceed 128 cases and 100% because most complaints allege more than one type of misconduct.



**Chart 9: Area of Law Involved in Complaints Filed Before Hearing Board in 2005**

<i>Area of Law</i>	<i>Number of Cases</i>	<i>% of Cases Filed*</i>	<i>Area of Law</i>	<i>Number of Cases</i>	<i>% of Cases Filed*</i>
Impeding Disciplinary Process .....	29	23%	Personal Misconduct .....	9	7%
Criminal Conduct by Lawyer.....	25	20%	Workers' Comp/Labor Relations .....	8	6%
Tort .....	24	19%	Civil Rights .....	6	5%
Real Estate .....	24	19%	Debt Collection .....	6	5%
Domestic Relations .....	19	15%	Immigration .....	4	3%
Probate .....	18	14%	Corporate Matters .....	3	2%
Contract .....	15	12%	Tax .....	3	2%
Bankruptcy.....	12	9%	Patent and Trademark .....	2	2%
Criminal .....	12	9%	Local Gov't.....	2	2%
			Social Security .....	1	1%

\* Totals exceed 128 cases and 100% because many complaints allege several counts of misconduct arising in different areas of practice.

Chart 10 shows the type of action by which the Hearing Board concluded 134 cases during 2005.

**Chart 10: Actions Taken by Hearing Board in Matters Terminated in 2005**

<b>A. Disciplinary Cases: Rules 753 &amp; 761(d)</b>	
Recommendation of discipline .....	50
Case closed by filing of petition for disbarment on consent .....	10
Case closed by filing of petition for other discipline on consent.....	56
Recommendation of dismissal after hearing .....	3
Complaint dismissed before hearing .....	5
Case closed by administration of a reprimand to respondent .....	1
Case closed by motion to consolidate granted ..	1
Case closed by death of respondent .....	1
Complaint dismissed without prejudice .....	1
<b>Total Disciplinary Cases.....</b>	<b>128</b>
<b>B. Reinstatement Petitions: Rule 767</b>	
Dismissed on Administrator's motion .....	1
Petition granted.....	1
Petition withdrawn.....	1
Closed by respondent's death .....	1
<b>C. Restoration Cases: Rule 759</b>	
Recommendation of restoration with conditions.....	2
<b>Total Matters Terminated.....</b>	<b>134</b>

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

Once the Hearing Board files its report in a case, either party may file exceptions before the Review Board, which serves as an appellate tribunal. Chart 11 shows activity at the Review Board during 2005.

**Chart 11: Trend of Matters in the Review Board in 2005**

<b>Cases pending on January 1, 2005 .....</b>	<b>38</b>
<b>Cases filed during 2005:</b>	
Exceptions filed by Respondent .....	17
Exceptions filed by Administrator.....	10
Exceptions filed by both .....	1
<b>Total.....</b>	<b>28</b>
<b>Cases decided in 2005:</b>	
Hearing Board reversed on findings and/or sanction .....	21
Hearing Board affirmed.....	13
Notice of exceptions withdrawn .....	5
Recommend remand to Hearing Board .....	3
Notice of exceptions stricken .....	2
Case closed by filing of petition for disbarment on consent .....	2
Transferred to disability inactive status .....	1
<b>Total.....</b>	<b>47</b>
<b>Cases pending December 31, 2005 .....</b>	<b>19</b>

**D. Supreme Court – Disciplinary Cases**

The Supreme Court has sole authority to sanction attorneys for misconduct, except for a Board reprimand, which can be imposed in a disciplinary case without order of the Court by either the Hearing or Review Board. In 2005, the Hearing Board administered one reprimand (see Chart 10). Other than Board reprimands, the Hearing and Review Board reports are recommendations to the Supreme Court. During 2005, the Court entered a record number of 167 sanctions against 165 attorneys, the most sanctions entered by the Court in one year. Chart 12 reflects the nature of the orders entered.

**Chart 12: Disciplinary Sanctions Ordered by the Supreme Court in 2005**

Disbarment.....	32
Suspension.....	85*
Probation.....	21
Censure.....	24
Reprimand.....	5
Total	167

\*In addition to the 85 suspensions, the Court also ordered 12 interim suspensions, as reported in Charts 14F and 14J.

Chart 13 provides demographic information on the 165 lawyers disciplined by the Court and the one lawyer reprimanded by the Hearing Board in 2005.

**Chart 13: County of Practice**

County	Number Disciplined	County	Number Disciplined
Cook .....	84	DeKalb .....	1
Out-of-State .....	31	Franklin .....	1
DuPage .....	15	Jefferson .....	1
Lake .....	10	Kane .....	1
Sangamon .....	3	Kankakee.....	1
Champaign.....	2	LaSalle.....	1
Madison .....	2	McHenry .....	1
Stephenson.....	2	McLean .....	1
Rock Island.....	2	Morgan .....	1
Will .....	2	Peoria.....	1
Winnebago.....	2	Pike.....	1

In 2005, the Court accepted two lawyer disciplinary cases for briefing and oral argument. The two matters are as follows:

*In re Peter Deforest Winthrop*, S.Ct. No. 101316, Comm. No. 02 CH 27. Mr. Winthrop, who was licensed in 1990, was charged in a two-count complaint with misconduct arising out of his representation of an elderly woman for whom he drafted a will and a power of attorney appointing Farouq Nobani as the woman’s attorney in fact to handle her financial affairs. Winthrop was introduced to the woman by Nobani, who was a neighbor of the woman and an acquaintance and former client of the respondent. The Administrator’s complaint alleged that the respondent’s conduct, which allowed Nobani to gain control over the client’s financial assets and to misappropriate a large sum for his own purposes, constituted a breach of fiduciary duty and a conflict of interest and involved dishonesty. The Hearing Board concluded that there was insufficient evidence to establish that respondent had knowledge of, or was compliant with, Nobani’s misconduct, and it recommended dismissal of the charges.

The Review Board reversed some of the findings of the Hearing Board, concluding that respondent had engaged in some of the misconduct alleged in the complaint, and recommended that he be suspended for two years. Both parties filed petitions for leave to file exceptions, with the Administrator arguing for a more severe sanction and the respondent arguing that the Review Board had improperly reversed the Hearing Board’s findings, or, alternatively, that the sanction recommended by the Review Board was too harsh.

On March 23, 2006, the Court issued its opinion suspending Winthrop from the practice of law for two years. The Court concluded that he had made a material misstatement of fact when he told the attorney for a social services agency, which had been asked to look into the elderly woman’s circumstances and had gone to court in an attempt to freeze her accounts, that Nobani had been denied access to the woman’s funds; the respondent had, in fact, been present when Nobani closed out one of the client’s bank accounts and received a cashier’s check for the balance of the account. This conduct, the Court explained, violated Rules 4.1 and 8.4(a)(4) of the Rules of Professional Conduct and former

Supreme Court Rule 771 (now renumbered as Rule 770). The Court agreed with the Hearing Board's findings that respondent did not breach his fiduciary duty to his client, either by drafting the power of attorney or by failing to protect his client's interests when he accompanied Nobani to the client's bank, even though the respondent's conduct was suspicious and showed, at the very least, poor judgment. In imposing a suspension of two years, the Court found in aggravation that the respondent had previously been suspended for two years for dishonest and deceitful conduct, and that his misstatement to the attorney for the social services agency showed a disregard for the interests of his client. In mitigation, the Court noted the lack of evidence showing that the respondent knew of Nobani's plan to improperly convert his client's funds or that he personally benefitted from Nobani's conduct.

*In re Joseph Anthony Martinez-Fraticelli*, M.R. 18852, 03 RT 3002. Mr. Martinez-Fraticelli was disbarred on consent in 1998 following a conviction in federal court for theft of funds from city programs receiving federal monies. He was involved in a ghost-payrolling scheme at Chicago's City Hall from 1985 until 1992. The petitioner, who was initially licensed in 1979, fraudulently received over \$90,000 in wages and benefits while holding jobs but performing no work. He sought reinstatement of his law license in 2003 pursuant to Illinois Supreme Court Rule 767. The case proceeded to a hearing. The Hearing Board concluded that petitioner's reinstatement was appropriate finding that the evidence showed that petitioner is rehabilitated and possesses the present good character necessary to return to the practice of law. The Hearing Board believed the petitioner's expressions of remorse and noted the testimony of numerous representatives of petitioner's church who testified that since his release from prison, petitioner openly disclosed his criminal conduct, expressed genuine contrition for his illegal acts, and has led an exemplary life.

The Administrator filed exceptions and the Review Board affirmed the findings and Hearing Board recommendation. The Administrator

filed a petition for leave to file exceptions and argued that both the Hearing and Review Boards failed to give adequate consideration to the serious nature of petitioner's prior misconduct and petitioner's lack of candor in failing to take responsibility for his prior misconduct. Petitioner argued that the Hearing Board correctly considered petitioner's present state of mind in recommending reinstatement and the record reflected that petitioner understood the seriousness of his misconduct and acknowledged the wrongful nature of his actions. The Court heard oral arguments on January 11, 2006.

Disciplinary cases reach the Court in several ways. Chart 14 reflects the actions taken by the Supreme Court in disciplinary matters in varying procedural contexts in which those matters are presented. Chart 15 tracks the type of misconduct that led to the 167 sanctions entered in 2005.

**Chart 14: Orders Entered by Supreme Court in Disciplinary Cases in 2005**

<p><b>A. <u>Motions for disbarment on consent: Rule 762(a)</u></b>  Allowed..... 17  Denied without prejudice to refile..... <u>1</u>  Total ..... 18</p>	<p><b>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u></b>  Allowed ..... 40  Denied ..... <u>0</u>  Total..... 40</p>
<p><b>B. <u>Petitions for discipline on consent: Rule 762(b)</u></b>  Allowed:  Suspended ..... 32  Suspension stayed in part,  probation ordered ..... 5  Suspension stayed in its entirety,  probation ordered ..... 3  Censured ..... <u>15</u>  Total ..... 55  Denied ..... 1  Total ..... 56</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>1</u>  Total..... 3</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>  Denied, and sanctions recommended by  Review Board imposed ..... 16  Allowed, and more discipline imposed ..... 10  Allowed, and briefing schedule ordered..... <u>2</u>  Total..... 28</p>	<p><b>G. <u>Petitions for reciprocal discipline: Rule 763</u></b>  Allowed ..... 23  Denied ..... <u>0</u>  Total..... 23</p>
<p><b>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u></b>  Allowed..... 6  Denied..... <u>0</u>  Total ..... 6</p>	<p><b>H. <u>Petitions for reinstatement: Rule 767</u></b>  Denied ..... 1  Allowed ..... 1  Petition withdrawn ..... <u>2</u>  Total..... 4</p>
	<p><b>I. <u>Motions to revoke probation: Rule 772</u></b>  Allowed, probation revoked/stayed,  and respondent suspended ..... 4  Denied ..... <u>0</u>  Total..... 4</p>
	<p><b>J. <u>Petitions for interim suspension: Rule 774</u></b>  Rule enforced and lawyer suspended..... 10  Denied ..... <u>0</u>  Total..... 10</p>

**Chart 15: Misconduct Committed in the 168 Disciplinary Cases Decided in 2005\***

Types of Misconduct	Number of Cases in Which Type of Misconduct Was Sanctioned			
	Disbarment	Suspension**	Censure	Reprimand***
<b>Total Number of Cases:</b>	<b>32</b>	<b>106</b>	<b>24</b>	<b>6</b>
Improper management of client or third party funds, including commingling and conversion.....	19	36	1	0
Neglect or lack of diligence .....	10	46	9	2
Fraudulent or deceptive activity.....	22	25	5	0
Criminal conduct by the lawyer.....	15	22	3	0
Failing to communicate with client, including failing to communicate basis of a fee.....	9	44	9	2
Failure to provide competent representation.....	2	17	1	0
Fee violations, including failing to refund unearned fees .....	5	33	2	1
Failure to cooperate with or false statement to disciplinary authority .....	9	28	0	0
Not abiding by a client’s decision concerning the representation or taking unauthorized action on the client’s behalf .....	4	3	0	1
Improper withdrawal, including failure to return file .....	5	10	1	1
Conflict of interest (financial assistance to client) .....	0	1	3	0
Conflict of interest (between current clients) .....	0	7	2	1
Conflict of interest (lawyer’s own interests).....	2	10	0	0
Conflict of interest (improper business transaction with client).....	1	8	0	0
Conflict of interest (improper agreement with client to limit lawyer’s liability or avoid disciplinary action) .....	2	1	1	0
Conflict of interest (former client) .....	0	3	1	0
Threatening to present criminal/disciplinary charges.....	1	2	0	0
Filing false, frivolous or non-meritorious claims or pleadings.....	4	8	5	1
Counseling/assisting a client in criminal or fraudulent conduct .....	0	1	1	0
Misrepresentation to a tribunal .....	4	18	2	0
Misrepresentation to clients to cover up neglect.....	5	20	3	0
Misrepresentation to third persons .....	0	7	1	0
Unauthorized practice in another jurisdiction .....	1	5	0	0
Practice after failure to register.....	0	3	0	0
Practice after suspension.....	3	5	0	0
Improper solicitation or advertising .....	1	3	0	0
Failure to supervise lawyer’s employees .....	0	1	0	1
Failure to report conviction to ARDC.....	2	4	0	0
Improper communication with a represented person.....	1	1	0	1
Failure to comply with Rule 764.....	2	0	0	0
Failure to notify the ARDC of change of address .....	0	1	0	0
Improper gift to judge/court employee .....	0	1	0	0
Breach of client confidences.....	0	0	0	1

\* Totals exceed 168 cases because in most cases more than one type of misconduct was found.  
 \*\* Includes 80 suspensions, 21 suspensions stayed in part or entirely by probation and 5 probations terminated.  
 \*\*\* Includes 1 Hearing Board reprimand.

**E. Supreme Court – Non-Disciplinary Action**

In addition to activity in disciplinary cases, the Supreme Court entertains pleadings in non-disciplinary matters that affect an attorney’s status. Chart 16 reflects the orders entered in such cases during 2005.

**Chart 16: Non-Disciplinary Actions by the Supreme Court for 2005**

<b>A. Rule 759</b>	
Petitions for restoration to active status:	
Allowed.....	23
Allowed with conditions .....	2
Withdrawn without prejudice.....	1
Referred to Hearing Board for hearing on petition.....	<u>1</u>
<i>Total</i> .....	27
<b>B. Rule 758</b>	
Petitions for involuntary transfer to inactive status due to mental disability or substance addiction:	
Allowed.....	1
Denied.....	<u>0</u>
<i>Total</i> .....	1
<b>C. Rule 752</b>	
Petitions by complainant to require Administrator to further investigate charges or expedite proceedings:	
Allowed.....	0
Denied.....	<u>1</u>
<i>Total</i> .....	1
<b>D. Rule 383</b>	
Motions for supervisory order:	
Allowed.....	0
Denied.....	<u>1</u>
<i>Total</i> .....	1

**Chart 17: Caseload Trends: 1993-2005**

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

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

### ***III. Amendments to the Rules Regulating the Profession***

#### ***A. Supreme Court Rule 799: Establishing Professionalism Commission***

On September 29, 2005, the Supreme Court adopted Rule 799, establishing a permanent Commission on Professionalism. The Commission is a direct outgrowth of the Supreme Court Committee on Professionalism, created in November 2001. Illinois is believed to be one of only 13 states with a permanent commission to promote professionalism. The Commission was established to improve civility among lawyers, their clients and judges in Illinois. The Commission will develop and approve professionalism and related courses certified under the MCLE program, serve as a resource for information on professionalism, and make recommendations to the Court on improving the profession. The Commission will have no authority to impose discipline upon any member of the bar or bench.

In December 2005, the Court appointed the 14 members of the Commission, including David F. Rolewick, a Wheaton lawyer with the law firm of *Rolewick & Gutzke*, as chairperson. On March 1, 2006, the Court appointed Cheryl Niro as executive director. Ms. Niro is a former president of the Illinois State Bar Association (1999-2000) and was formerly with the law firm of *Quinlan & Carroll* in Chicago. The Commission is funded entirely by lawyers through a \$10 increase in the annual registration fee, as provided in amendments to Rules 751 and Rule 756.

#### ***B. Supreme Court Rules 790 et seq.: Minimum Continuing Legal Education Requirement***

Also on September 29, 2005, the Supreme Court adopted Rules 790 *et seq.* requiring all lawyers who maintain an active status license in Illinois to take a certain number of hours of legal instruction. For the first reporting period, lawyers must earn 20 hours of credit over a two-year period, gradually increasing to 24 hours during the next two years, and 30 hours every two years thereafter. The reporting period begins July 1, 2006, for lawyers whose last

names begin with the letters A thru M, and July 1, 2007, for those whose last names begin with the letters N thru Z.

On November 23, 2005, the Court appointed the nine-member board to oversee the new program, chaired by Rock Island lawyer Jack Brooks, a partner in the law firm of *Brooks & Trinrud P.C.* On April 11, 2006, the Court approved the appointment of Karen L. Johnson, as the Director of the MCLE Board. Further information on the MCLE Board and the MCLE rules can be obtained from the board's website at [www.state.il.us/court/MCLE/](http://www.state.il.us/court/MCLE/).

The Court also made changes to Rules 756(a)(5), (a)(6), and (c), and 759(a) and (c), to implement the MCLE requirement.

#### ***C. Supreme Court Rule 766: Referrals to LAP***

On March 29, 2006, effective immediately, the Court amended Rule 766, to allow the Administrator to make a referral to the Lawyers' Assistance Program (LAP) during an otherwise confidential stage of a matter when investigation has revealed reasonable cause to believe that a respondent is or may be addicted to alcohol or other chemicals, is or may be abusing the use of alcohol or other chemicals, or is or may be experiencing a mental health condition or other problem that is impairing the respondent's ability to practice law.

### ***IV. Amendments to ARDC Commission Rules and Policies Governing Disciplinary Proceedings***

#### ***A. Commission Policies***

Three policies were adopted by the Commission, effective June 2005. The first policy prohibits a Board member from representing a respondent in any disciplinary proceeding pending or filed during his or her term as a Board member. The second policy concerns the circumstance of Board members being asked or subpoenaed to testify in a proceeding before the Hearing Board. Under this policy, a Board member may not testify as an expert witness in any matter before the



Hearing Board, and as is true for judges (Cannon 62B), may not *voluntarily* testify as a character witness in a matter before the Hearing Board. The third policy sets forth circumstances in which a Board member would be required to recuse from participation in a matter. These policies are posted on the ARDC website at [www.iardc.org/policiesandorders.html](http://www.iardc.org/policiesandorders.html). A copy also may be obtained by calling the ARDC Clerk's Office at (312) 565-2600.

## **B. Amendments to Commission Rules**

### **1. Com. Rule 251: Discovery**

Effective September 30, 2005, the Commission amended Com. Rule 251, adding paragraph (b), codifying the work product privilege and procedures for implementing the privilege in disciplinary proceedings.

### **2. Com. Rule 253: Disclosure of Witnesses**

Effective September 30, 2005, the Commission amended Com. Rule 253(a) and (b) requiring the parties to include in their witness disclosure reports an identification of the subject matter of the witness' knowledge and to disclose the reports of any experts who will testify at hearing, and modifying the provision barring the testimony of witnesses if disclosures were not adequate.

### **3. Com. Rule 302: Briefs**

Effective May 31, 2005, the Commission amended Com. Rule 302(d), to impose certain format requirements on briefs filed with the Review Board.

### **4. Com. Rules 411 and 412: Reinstatement**

Effective September 30, 2005, the Commission amended Com. Rule 411(c) to require petitioners filing a petition for reinstatement to show proof of payment of any disciplinary costs imposed and the reimbursement for all Client Protection payments made as the result of the petitioner's misconduct. Com. Rule 412 was amended, also

effective September 30, 2005, providing for the assignment of the petition to a chair of the Hearing Board upon notice from the Court that petition has been filed.

## **V. Commission Programs**

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

In October 2004, the Commission launched a searchable database of disciplinary decisions on the Commission web site ([www.iardc.org](http://www.iardc.org)). With up to 60,000 visitors to the site in a month, the web site also includes the Master Roll of Attorneys in Illinois, which enables the user to search the Master Roll for certain basic public registration information, including business address and public disciplinary information about Illinois lawyers. Beginning with the 2006 registration, lawyers were able to register on-line. The Commission regrets that there were some initial technical difficulties in using the system and appreciates the patience of those lawyers who attempted to use the on-line system. The availability of on-line registration will be helpful throughout the year in enabling lawyers to view and make changes to their registration information. This will help keep the Master Roll current and assist lawyers in notifying the ARDC of any change of address within 30 days of the change as provided in Supreme Court Rule 756(c).

### **B. Ethics Inquiry Program**

The Commission's Ethics Inquiry Program is a telephone inquiry service that allows Illinois attorneys to call for help in resolving hypothetical ethical dilemmas. To make an inquiry, please call the Commission offices in Chicago (312-565-2600) or Springfield (217-522-6838). Additional information about the program can be obtained at [www.iardc.org/ethics.html](http://www.iardc.org/ethics.html).

### ***C. Client Protection Program***

The Supreme Court of Illinois created the Client Protection Program (CPP) in 1994 to reimburse clients who lost money as a result of the dishonest conduct of a lawyer. Supreme Court Rule 780 directed the ARDC to administer the program and to pay claims with sums allocated from the Disciplinary Fund. The program is financed by the annual registration fees that Illinois lawyers pay pursuant to Supreme Court Rule 756.

Over the life of the program, it has received more than 2,500 claims, and has awarded a total \$4,844,825 to reimburse 1181 victims. The program's claims history is reflected below in Chart 18. The number of claims filed and the amount of awards paid per year have varied widely, but in recent years the numbers have trended upward. In 2004, a record 357 claims were filed, and the program paid out \$617,772. In 2005, the program awarded a record \$951,173 on a record 179 approved claims.

***Chart 18: Client Protection Program Claims: 1994-2005***

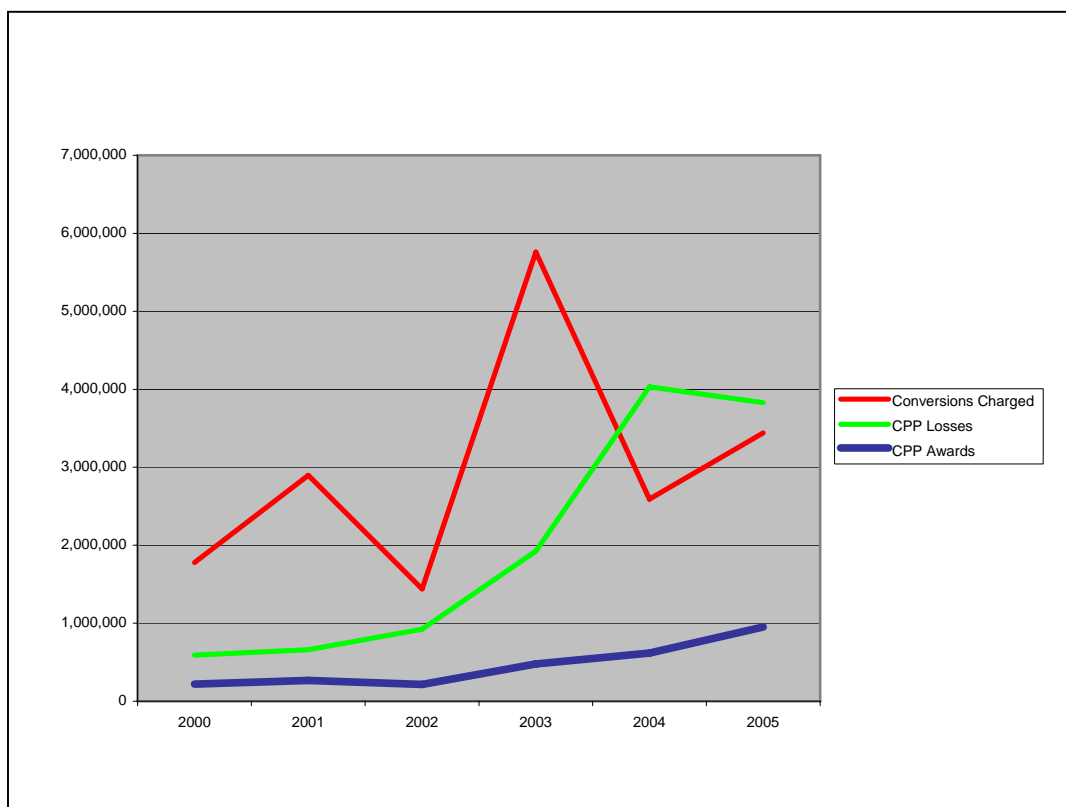
<b>Year</b>	<b>Claims filed</b>	<b># Claims Approved</b>	<b># Claims Denied</b>	<b>For Claims Approved, # Respondent Attys</b>	<b>Total Amounts Paid</b>	<b>Losses Not Reimbursed Because of Caps and Proration</b>
1994	213	40	26	29	\$162,111	\$185,748
1995	152	107	80	49	\$453,799	\$2,549,300
1996	197	119	74	52	\$504,619	\$1,299,867
1997	267	103	94	48	\$321,628	\$787,000
1998	219	73	108	41	\$257,682	\$1,049,152
1999	153	141	88	44	\$397,583	\$7,171,800
2000	169	73	87	45	\$218,880	\$371,592
2001	161	68	88	31	\$266,419	\$393,657
2002	187	57	86	31	\$215,564	\$707,000
2003	208	68	83	31	\$477,595	\$1,446,583
2004	357	153	113	40	\$617,772	\$3,413,793
2005	242	179	132	46	\$951,173	\$2,878,082
<b>Totals</b>	<b>2,525</b>	<b>1181</b>	<b>1059</b>	<b>487</b>	<b>\$4,844,825</b>	<b>\$22,253,574</b>

Although total payments have increased over the last few years, many theft-related losses have not been reimbursed due to claim caps and prorations. Over the life of the program, caps and prorations have resulted in more than \$22,000,000, 82%, in otherwise eligible losses not being paid. The per-claim cap is currently \$25,000 and the aggregate payment arising from the conduct of any one attorney is capped at \$250,000. Claims are prorated at the end of each year when the amounts approved exceed the amount budgeted by the Commission for the year, supplemented by any reimbursements recouped or interest earned on the fund. For 2005, the Commission began the year budgeting \$600,000 despite estimates that approved claims for the year would total about \$1.2 million. The Commission agreed to revisit that decision at the end of the year, and having seen the extremity of the client losses, the Commission decided

to add \$300,000 from funds saved in other parts of the budget to pay the 2005 CPP claims.

The increases in claims and payouts track the trends noted in discipline. The number of formal disciplinary cases has risen steadily since 2001. Filings of new complaints at the Hearing Board peaked to the highest ever in 2004, and disciplinary orders entered by the Court reached the highest number ever in 2005. Particularly relevant for purposes of the Client Protection Program, the incidence and extremity of conversions reported to the ARDC rose over those years. The following Chart 19 shows the spike in conversion amounts alleged in complaints and name strike petitions filed in 2003, with the resulting increases in losses incurred by and amounts paid to clients whose CPP claims were considered in the following years.

**Chart 19: Amounts of Conversions Charged in Disciplinary Complaints, CPP Claims Paid, and Losses Incurred by Claimants Paid 2000 – 2005**



Lawyers impaired by addiction or mental illness contributed disproportionately to the spike in awards. A review of data concerning lawyers disciplined between 1998 through 2005 showed that 28% (255 of 899) of all those disciplined in that period<sup>1</sup> were impaired by addiction or a mental health issue. By comparison, 189 of all those disciplined generated Client Protection claims, and 37%, 69 of those 189, were identified as impaired. The conduct of those impaired attorneys led to payment of \$1,080,639 in

<sup>1</sup> The study did not include lawyers who were disciplined reciprocally under Supreme Court Rule 763 based upon discipline imposed in another state. Information available in such cases is typically only that transmitted by the other state, and states vary widely in how impairments are considered.

awards, 40% of the \$2,702,014 total paid out between 1998 and 2005. Chart 20 below shows the impairments, the number of attorneys in each impairment category, and the resulting CPP awards by category.

**Chart 20: Impairment of Disciplined Attorneys Responsible for CPP Awards, 1998 through 2005**

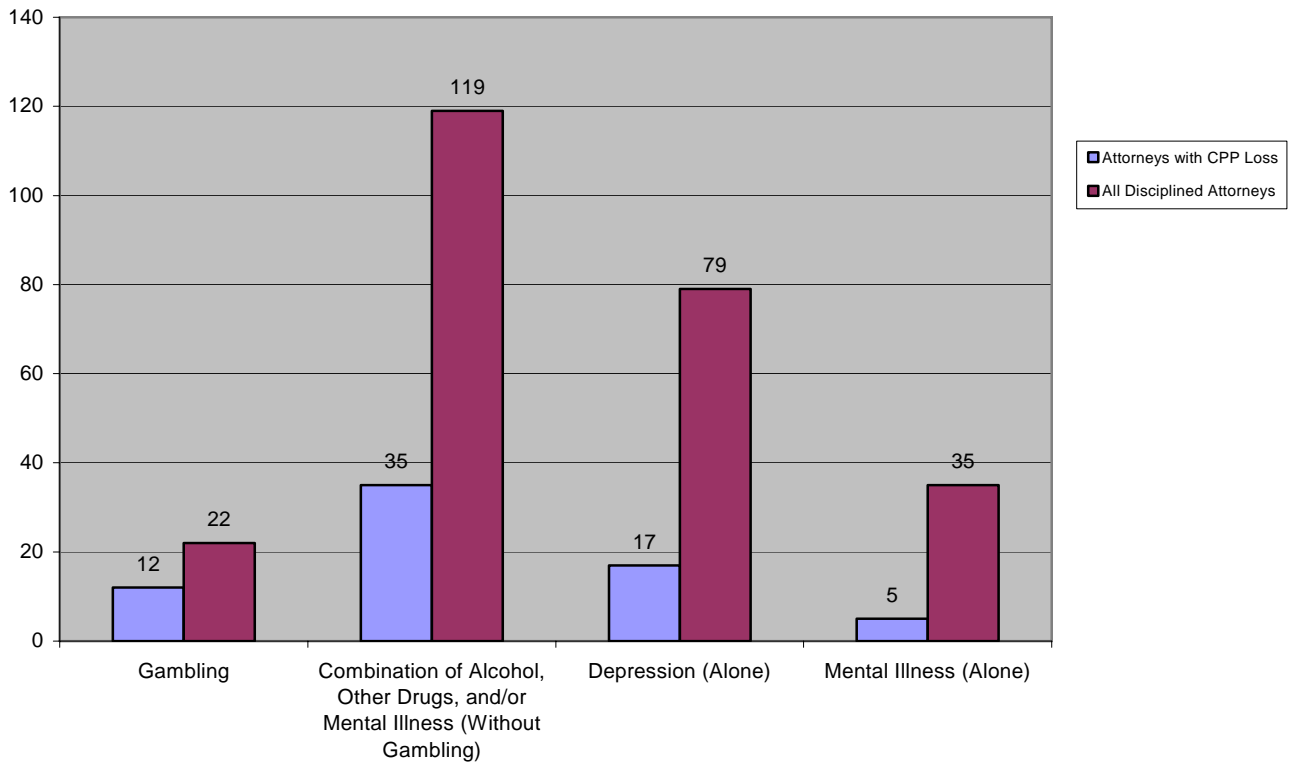
<b>Impairment</b>	<b>Attorneys</b>	<b>Amounts</b>
Gambling	8	\$339,593.00
Gambling with Addiction and/or Depression	4	\$184,691.00
Depression	17	\$117,321.00
Alcohol	18	\$120,022.00
Alcohol and Other Drugs	5	\$69,087.00
Depression and Drugs	2	\$68,372.00
Cannabis or Other Unknown Drug	2	\$45,748.00
Other Mental Illness	2	\$17,473.00
Alcohol and Mental Illness	4	\$38,738.00
Cocaine	3	\$31,162.00
Bipolar	3	\$29,465.00
Alcohol, Other Drugs, and Depression	1	\$18,967.00
	69	\$1,080,639.00

Gambling was by far the most costly of the impairments identified. The relatively few lawyers whose conduct led to CPP awards and who were identified as being impaired by compulsive gambling (12) accounted for \$524,284 in CPP awards, just barely less than the amounts paid due to the conduct of all other 57 impaired lawyers (\$556,355).

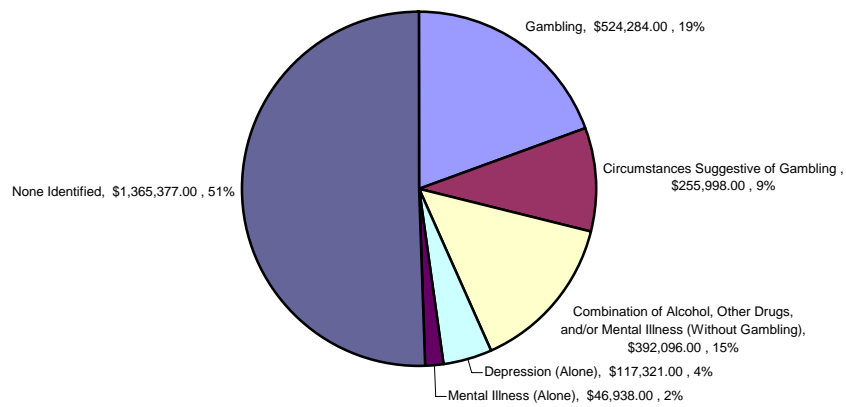
Charts 21 and 22 below further illustrate the disparate impact of impairments on program losses. The charts consolidate impairment data into four major categories: gambling, combination of alcohol, other drugs, and/or mental illness (without gambling), depression alone, and other mental illness alone. Chart 21 compares the number of attorneys in each impairment category responsible for CPP awards with the total number of disciplined attorneys in the same impairment category. The data shows that 55% (12 out of 22) of the disciplined lawyers identified as having a gambling problem generated CPP awards. On the other end of the spectrum, only 14% of the disciplined lawyers with mental illness (5 of 35) were the cause of CPP awards.

Chart 22 shows the relationship between total program awards between 1998 and 2005 in the amount of \$2,702,014 and impairments, depicting the amount associated with the four impairment categories from Chart 21, as well as amounts associated with two attorneys about whom there was a suggestion of gambling-related impairments that could not be confirmed. Gambling-related claims (generated by only 7% of the lawyers responsible for CPP claims) accounted for awards totaling \$780,282, 28% of the all amounts paid over that period. By comparison, claims generated by lawyers with alcohol impairments (who represented one-quarter of all attorneys who generated CPP awards) accounted for payments of \$392,096, only 15% of the total.

**Chart 21: Disciplined Attorneys with Impairments: 1998 through 2005**



**Chart 22: CPP Award Amounts by Attorneys' Impairments: 1998 - 2005**



If nothing else, the data show the importance of the ARDC disciplinary staff being trained to recognize gambling addictions and being directed to address cases that might involve gambling as a high priority, focusing on blocking the lawyer's ability to access other clients' money. For the most part, though, gambling addictions tend to stay hidden until much of the harm has already been done, and it remains unlikely that a discipline reaction alone will contain the CPP claims associated with gambling.

In administering the Client Protection Program over the past twelve years, the Commission has witnessed first hand the damage done when a lawyer betrays the trust of clients. The victims of lawyer misconduct are often the most vulnerable among us, inclined to trust their lawyers implicitly and not even consider that their trust may not be deserved. Vulnerable or not, a client who has been defrauded by his or her own lawyer has a profound sense of betrayal that is projected upon our whole profession. When the profession steps in and addresses the betrayal through both effective discipline *and* a substantial reimbursement of loss, the damage to the reputation of the legal profession can be significantly mitigated. For the cynics among us, the goal may seem wholly speculative, but letters from clients who have received Client Protection awards repeat as a theme that the clients are impressed that the legal profession is so unwilling to countenance what their lawyers did to them as to fund a program to reimburse the loss. In the words of a claimant whose lawyer converted and gambled away the \$20,000 proceeds of her personal injury case: "Please know that I am very grateful for the reimbursement check, and also for the consideration given by all those involved with the Client Protection Program in general. How wonderful to know that the majority of attorneys are trustworthy and that they personally support this program."

Unfortunately, when the clients' losses far exceed the amount that can be reimbursed, the redemptive value of the Program weakens considerably. The Commission is working toward a model for funding the Client Protection Program that will accommodate the variable and unpredictable nature of claims, that will avoid the present competition for resources between the Client Protection Program and the disciplinary system in times when lawyer misconduct peaks, and that will allow more substantial reimbursements.

#### ***D. Education***

##### ***1. Illinois Professional Responsibility Institute: Professionalism Seminar***

Since November 1996, the Commission has sponsored a seminar on law office management issues and ethical obligations of lawyers. The seminar is held three times a year for lawyers who are required to attend as part of their disciplinary sanctions or who attend voluntarily. The Commission will continue to present the seminar for lawyers with law office management difficulties. More information may be obtained from the Commission web site at [www.iardc.org](http://www.iardc.org).

#### ***V. Commission Board Appointments***

##### ***A. Review Board Appointments***

###### ***Retirement of Kevin M. Forde***

On December 31, 2005, Kevin M. Forde

concluded his term on the Review Board. He was a member of the Review Board since 1997. Mr. Forde has his own law firm, *Kevin M. Forde Ltd.*, in Chicago, concentrating in trial and appellate practice. He is a past president of the Chicago Bar Association (1981-82), and previously served on the boards of the Appellate Lawyers Association and American Judicature Society.

###### ***Appointment of William R. Quinlan***

Effective January 1, 2006, the Court appointed William R. Quinlan of Chicago to a three-year term to serve on the Review Board. Mr. Quinlan is founding partner of the Chicago law firm *Quinlan & Carroll, Ltd.* He is a former Justice of the Illinois Appellate Court and a former Judge of the Circuit Court of Cook County. Mr. Quinlan was admitted to practice in Illinois and received his J.D., cum laude, from Loyola University of Chicago in 1964. He was appointed to fill the vacancy left by the

retirement of Kevin Forde. His term expires December 31, 2008.

### ***B. Hearing Board Appointment***

#### *Arthur B. Smith Named to Newly-Created Position of Assistant Hearing Board Chair*

Arthur B. Smith was appointed to serve as Assistant Hearing Board Chair in April 2006. This position was created by the Commission to assist the Chair of the Hearing Board and act in the Chair's absence. Mr. Smith was first appointed to the Inquiry Board in 1980 and later became a member of the Hearing Board, where he has served since 1986. He is a partner in the labor and employment law firm of *Ogletree, Deakins, Nash, Smoak & Stewart, P.C.* in Chicago. He received his J.D. from the University of Chicago in 1969.

### ***V. Financial Report***

The Commission engaged the services of Legacy Professionals LLP to conduct an independent audit as required by Supreme Court Rule 751(e)(7). The audited financial statements for the year ended December 31, 2005, including comparative data from the 2004 audited statements, are attached. In addition, a five-year summary of revenues and expenditures as reported in this and prior audited statements appears after the text in this section.

For 2005, Commission revenue from fees grew 2.2% over fees collected in 2004. The growth was a welcome relief from the average 1.3% rate of growth in fee revenues since 2001, hopefully signaling a return to more historic rates that averaged closer to 3% growth per year. In addition, higher interest rates and a return to more substantial sums collected for reimbursement of costs and Client Protection claims helped bring total revenue growth to 4.5% over 2004, substantially better than the average -.25% experienced since 2001.

Nevertheless, the impact of depressed

revenues since 2001 remains a significant factor for Commission finances. Actual revenues since 2000, when the Commission submitted the request for a fee increase, have fallen more than \$3 million below what the Commission had projected at the time the increase was sought.

The same economic trends that depressed revenues produced more discipline cases, and, in particular, more cases involving misappropriation of substantial amounts of money. Over the years since 2000, the number of new disciplinary complaints filed at the Hearing Board grew, peaking in 2004 at 156, an 11% increase over the prior year's high of 141. The number of sanction orders entered by the Court hit an all time high of 167 in 2005, a 12% increase over the prior year's total of 149, which itself had been an all time high. As discussed in greater detail above, pressure on the Client Protection Program followed in lock step, resulting in the highest number of claims ever submitted in 2004, and then, in 2005, the highest number of claims ever allowed and the highest total awards ever paid.

As a result, it has been a significant challenge to keep expenditures since 2000 within the amounts projected in connection with the 2000 fee proposal. While the Commission succeeded in doing so, there was no room for significantly reducing expenditures over that time frame.

The result of the experience since 2001 has been that expenditures were supported by dipping into the reserve two years before the 2000 projections would have indicated. Thus while the Commission projected in 2000 that the proposed fee structure would fund operations and maintain an adequate reserve through 2008, it is now apparent that this fee structure will support operations and a prudent reserve only through 2006. The Commission has submitted its assessment and a proposal for a future funding plan to the Supreme Court.

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

**Five Year Summary of Operations**

	2005	2004	2003	2002	2001
<b>Revenue</b>					
Registration fees and delinquent charges	\$ 12,158,815	\$ 11,897,576	\$ 11,716,104	\$ 11,531,261	\$ 11,434,636
Investment income					
Interest	461,504	281,816	272,336	492,902	802,206
Net unrealized (depreciation) of investments	(10,906)	(86,014)	(83,150)	(74,221)	36,530
Costs reimbursements collected	128,036	106,223	65,374	131,012	49,704
Client protection reimbursements	34,785	30,041	-	-	-
Miscellaneous	2,240	-	1,293	23,955	3,162
Total revenue	<u>12,774,474</u>	<u>12,229,642</u>	<u>11,971,957</u>	<u>12,104,909</u>	<u>12,326,238</u>
<b>Expenditures</b>					
Salaries and related costs	8,688,348	8,522,136	8,042,551	7,554,563	7,054,656
Travel expenses	105,353	96,862	105,250	92,122	95,217
Library and continuing education	152,474	179,152	173,191	166,361	155,324
General expenses and office support	1,953,714	1,953,849	1,815,962	1,827,255	1,748,924
Computer expense	212,009	137,304	153,814	173,993	199,360
Other professional and case-related expenses	983,152	967,780	942,123	903,775	783,260
Client protection program payments	951,173	617,772	477,595	215,566	266,419
Depreciation and amortization expense	171,091	198,430	180,641	197,166	348,996
Total expenditures	<u>13,217,314</u>	<u>12,673,285</u>	<u>11,891,127</u>	<u>11,130,801</u>	<u>10,652,156</u>
Increase (decrease) in net assets	(442,840)	(443,643)	80,830	974,108	1,674,082
<b>Unrestricted net assets</b>					
Beginning of year	<u>5,468,730</u>	<u>5,912,373</u>	<u>5,831,543</u>	<u>4,857,435</u>	<u>3,183,353</u>
End of year	<u>\$ 5,025,890</u>	<u>\$ 5,468,730</u>	<u>\$ 5,912,373</u>	<u>\$ 5,831,543</u>	<u>\$ 4,857,435</u>
<b>Other information at year end</b>					
Number of active and registered attorneys	80,041	78,101	76,671	75,421	74,311
Registration fees					
More than one year and less than three years	\$ 90	\$ 90	\$ 90	\$ 90	\$ 90
More than three years	\$ 180	\$ 180	\$ 180	\$ 180	\$ 180
Inactive/out of state	\$ 90	\$ 90	\$ 90	\$ 90	\$ 90



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**2005 COMMISSIONERS**

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Benedict Schwarz, II, *Chairman*, West Dundee

Donn F. Bailey, Chicago  
Patricia C. Bobb, Chicago

John R. Carroll, LaGrange  
R. Michael Henderson, Peoria

John Paul Kujawski, O'Fallon  
Brian McFadden, Springfield

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**2005 BOARD MEMBERS**

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***Review Board***

John Walter Rapp, Jr. *Chairman*

Leonard F. Amari  
Daniel P. Duffy

Kevin M. Forde  
Stuart R. Lefstein

Bruce J. Meachum  
Cheryl I. Niro

Terrence V. O'Leary  
Thomas A. Zimmerman, Jr.

***Hearing Board***

John B. Whiton, *Chairman*

Michael R. Albert  
Jack O. Asher  
Derrick K. Baker\*  
Albert C. Baldermann\*  
Joseph A. Bartholomew  
Lawrence S. Beaumont  
Brian W. Bell  
Mary Pat Benz  
Carolyn Berning  
Robert M. Birndorf  
Michael L. Bolos\*  
Matthew Bonds\*  
Debra J. Braselton\*  
Howard H. Braverman\*  
Philip G. Brinckerhoff\*  
Terrence M. Burns  
Stuart Jay Chanen  
Robert A. Chapman\*  
Yehuda C. Cohen\*  
Richard Corkery\*  
David A. Dattilo\*  
Linda E. Davenport  
Champ W. Davis, Jr.  
William M. Dickson\*  
Yao Dinizulu\*

Brigid A. Duffield  
Albert O. Eck, Jr.\*  
Matthew J. Egan\*  
Thomas E. Eimermann\*  
Mark Fitzgerald\*  
Jill Flickinger\*  
Eldridge T. Freeman, Jr.\*  
David Frisse  
William T. Gabbard\*  
John L. Gilbert\*  
Gary A. Grasso\*  
Richard A. Green\*  
Michael C. Greenfield  
John A. Guzzardo  
Michael A. Hall\*  
Pamela Hammond-McDavid\*  
Harry M. Hardwick\*  
Hermene Hartman  
Paul C. Hendren  
Terence M. Heuel\*  
Roxanna M. Hipple  
William H. Hooks  
William E. Hornsby, Jr.  
Joann Horton  
Edward W. Huntley\*

Donald Ray Jackson\*  
Ellen L. Johnson\*  
Robert E. Jones\*  
Larry R. Kane\*  
Mark L. Karasik  
Henry T. Kelly  
Cheryl M. Kneubuehl\*  
Leo H. Konzen  
Arden J. Lang\*  
Vincent A. Lavieri\*  
Sang-yul Lee\*  
Harvey N. Levin\*  
Judith N. Lozier\*  
Claire A. Manning\*  
Richard J. Mark\*  
Richard Matzdorff\*  
Edward J. Miller\*  
Stephen S. Mitchell\*  
Michelle M. Montgomery\*  
Nam H. Paik\*  
Roberta Parks\*  
Kenneth A. Peters\*  
Betty J. Phillips  
Thomas J. Potter  
James B. Pritikin

Millicent Proctor  
Lon M. Richey\*  
David F. Rolewick  
Randall Rosenbaum\*  
Marshall R. Rowe\*  
Jean Rudd  
Eddie Sanders, Jr.\*  
Leonard J. Schrage\*  
Alec M. Schwartz\*  
James A. Shapiro  
Jason S. Sharps\*  
George M. Shur\*  
Geraldine C. Simmons\*  
Francis J. Skinner\*  
Arthur B. Smith, Jr.  
Melody Spann-Cooper\*  
John M. Steed, III  
Paula S. Tillman\*  
Katheryn H. Ward\*  
Valerie C. Wells  
Fran McConnell Williams\*  
David A. Winter  
Henry P. Wolff\*  
Thomas P. Young\*  
Richard W. Zuckerman

***Inquiry Board***

Paul M. Lisnek, *Chair*\*  
J. William Lucco, *Chair*\*  
David S. Mann, *Chair*\*

Lee J. Schoen, *Chair*\*  
Zafar A. Bokhari\*  
James D. Broadway\*

Jerry B. Gott\*  
Ralph Johnson\*  
Sharon L. Law\*

Maritza Martinez\*  
Willis Rollin Tribler\*  
Norvell P. West\*

\*Also serves on Oversight Committee

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**2005 OVERSIGHT COMMITTEE**

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Louis T. Ascherman

William F. Carmody

Dennis S. Nudo

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**2005 CLIENT PROTECTION REVIEW PANEL**

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James D. Parsons, *Chair*

Patrick T. Driscoll, Jr.\*

John C. Keane

**REPORT OF INDEPENDENT AUDITORS**

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

We have audited the accompanying statements of financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission) as of December 31, 2005 and 2004 and the related statements of activities and of cash flows for the years then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 2005 and 2004 and the changes in net assets and cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

*Legacy Professionals LLP*

February 6, 2006

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

**STATEMENTS OF FINANCIAL POSITION**

DECEMBER 31, 2005 AND 2004

	<u>2005</u>	<u>2004</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 10,002	\$ 76,289
Short-term investments	20,104,806	19,460,586
Accrued interest receivable	83,821	42,546
Accounts receivable	20,765	5,695
Prepaid expenses	90,251	93,987
Total current assets	20,309,645	19,679,103
PROPERTY AND EQUIPMENT - net	538,839	549,026
LONG-TERM INVESTMENTS	430,767	329,841
Total assets	\$ 21,279,251	\$ 20,557,970
<b>LIABILITIES AND NET ASSETS</b>		
<b>CURRENT LIABILITIES</b>		
Cash overdraft	\$ 496,601	\$ -
Accounts payable and other accruals	1,109,135	758,239
Amounts held for others	1,789,210	1,070,801
Accrued vacation	282,126	271,969
Deferred registration fees	8,980,628	9,550,170
Deposits	11,382	7,728
Total current liabilities	12,669,082	11,658,907
<b>LONG-TERM LIABILITIES</b>		
Accrued Medicare replacement funding	1,394,683	1,239,665
Deferred rent expense	2,189,596	2,190,668
Total long-term liabilities	3,584,279	3,430,333
Total liabilities	16,253,361	15,089,240
UNRESTRICTED NET ASSETS	5,025,890	5,468,730
Total liabilities and net assets	\$ 21,279,251	\$ 20,557,970

See accompanying notes to financial statements.

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

**STATEMENTS OF ACTIVITIES**

YEARS ENDED DECEMBER 31, 2005 AND 2004

	<u>2005</u>	<u>2004</u>
<b>REVENUE</b>		
Registration fees and delinquent charges	\$ 12,158,815	\$ 11,897,576
Investment income		
Interest	463,744	281,816
Net unrealized (depreciation) of investments	<u>(10,906)</u>	<u>(86,014)</u>
Total investment income	<u>452,838</u>	<u>195,802</u>
Cost reimbursements collected	<u>128,036</u>	<u>106,223</u>
Client protection reimbursements	<u>34,785</u>	<u>30,041</u>
Total revenue	<u>12,774,474</u>	<u>12,229,642</u>
<b>EXPENDITURES</b>		
Salaries and related expenses	8,688,348	8,522,136
Travel expenses	105,353	96,862
Library and continuing education	152,474	179,152
General expenses and office support	1,953,714	1,953,849
Computer expenses	212,009	137,304
Other professional and case-related expenses	983,152	967,780
Client protection program payments	951,173	617,772
Depreciation and amortization expense	<u>171,091</u>	<u>198,430</u>
Total expenditures	<u>13,217,314</u>	<u>12,673,285</u>
<b>CHANGE IN NET ASSETS</b>	(442,840)	(443,643)
<b>UNRESTRICTED NET ASSETS</b>		
Beginning of year	<u>5,468,730</u>	<u>5,912,373</u>
End of year	<u>\$ 5,025,890</u>	<u>\$ 5,468,730</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, 2005 AND 2004

	<u>2005</u>	<u>2004</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ (442,840)	\$ (443,643)
Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities		
Net unrealized depreciation of investments	10,906	86,014
Depreciation and amortization expense	171,091	198,430
Investment security amortization	(5,729)	(69,072)
(Increase) decrease in assets		
Accounts receivable and accrued interest receivable	(56,345)	(9,408)
Prepaid expenses	3,736	(27,453)
Increase (decrease) in liabilities		
Accounts payable and other accruals	350,896	395,968
Amounts held for others	718,409	104,993
Accrued vacation	10,157	16,027
Deferred registration fees	(569,542)	336,836
Increase (decrease) in deposits	3,654	(2,390)
Accrued Medicare replacement funding	155,018	117,658
Deferred rent expense	(1,072)	32,783
Net cash provided by operating activities	<u>348,339</u>	<u>736,743</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of investment securities	(31,168,842)	(27,610,253)
Maturities of investment securities	30,418,519	26,922,840
Acquisitions of property and equipment	(160,904)	(237,274)
Net cash (used in) investing activities	<u>(911,227)</u>	<u>(924,687)</u>
<b>CHANGE IN CASH AND CASH EQUIVALENTS</b>	(562,888)	(187,944)
<b>CASH AND CASH EQUIVALENTS</b>		
Beginning of year	<u>76,289</u>	<u>264,233</u>
End of year	<u>\$ (486,599)</u>	<u>\$ 76,289</u>

See accompanying notes to financial statements.

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

**NOTES TO FINANCIAL STATEMENTS**

DECEMBER 31, 2005 AND 2004

**NOTE 1. GENERAL PURPOSE DESCRIPTION**

The Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (Commission) was appointed 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.

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

- Rule 756, as amended effective September 29, 2005, increased the annual registration fees for active lawyers licensed to practice law for three years or more from \$229 to \$239. As amended, the Rule provides that the Commission collect \$10 to be remitted to the Supreme Court Commission on Professionalism. The Rule also provides that \$7 is to be remitted to the Lawyers Assistance Program Fund, and that \$42 is to be remitted to the Lawyers Trust Fund. Rule 751(e)(6) as amended, imposes the duty to collect the above fees and remit them to the respective entities.
- Rule 773, as amended, provides that an attorney-respondent has a duty to pay certain costs associated with the disciplinary proceedings against the attorney-respondent, including witness fees, court reporting expenses, expert fees and document duplication fees. The Commission is limited to collection of \$1,000 for cost reimbursements, absent exceptional circumstances (see Note 3).
- Rule 769 provides that every attorney has a duty to retain all financial records related to the attorney's practice for a period of not less than seven years.
- Rule 780 establishes the Client Protection Program to reimburse claimants for losses caused by the dishonest conduct of Illinois lawyers. Pursuant to section (d) of the rule, the Commission annually allocates an amount of money to pay these claims.

**NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

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

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

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

**Accounts Receivable - Cost Reimbursements and Client Protection Program**

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

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

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

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

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

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

**Amounts Held for Others** - Amounts held for others at December 31, 2005 and 2004 consist of funds collected for the Lawyers Assistance Program of \$191,443 and \$152,881, the Lawyers Trust Fund of \$1,149,071 and \$917,920, and the Supreme Court Committee on Professionalism of \$448,696 and \$0 respectively, which were remitted subsequent to year end.

**Deferred Registration Fees** - The Commission is funded by an annual registration fee assessed on Illinois attorneys. The annual fee for the subsequent year is billed before November 1 and is due January 1. Deferred registration fees represent the fees for next year received in the current year.

**Deposits** - Portions of these funds are the reinstatement deposits that accompany the petition of any attorney who is filing for reinstatement under rule 767. The amount the attorney actually owes will be assessed at the conclusion of the proceedings. Reinstatement deposits held at December 31, 2005 and 2004 are \$4,500 and \$3,000 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, 2005 and 2004, the amounts held are \$6,882 and \$4,728 respectively.

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

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

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

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

**Functional Allocation of Expenses** - The Commission has allocated certain administrative expenses, such as salary costs, among the various programs benefited. These allocations have been based on management's estimate of time incurred on these programs or other reasonable and consistent methodology. (See Note 4).



**NOTE 3. COST REIMBURSEMENTS**

The Commission receives cost reimbursements for investigative and disciplinary costs from disciplined attorneys. Cost reimbursement is billed at the time that discipline is imposed by the Court, but may not be a total reimbursement or match the period in which the investigative disciplinary costs were incurred. The Commission is limited to \$1,000 in cost reimbursement for each disciplined attorney, absent exceptional circumstances. During the years ended December 31, 2005 and 2004, the Commission regularly sought entry of judgments by the Court with interest at the rate charged by the State of Illinois for all invoices not paid within 30 days of the initial billing. This interest rate was 9% for both 2005 and 2004. The Commission has also established payment plans for disciplined attorneys.

**NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION**

An analysis of the Commission's functional expenses, by natural classification, is as follows for the years ended December 31, 2005 and 2004:

	2005			
	Registration and <u>Discipline</u>	Client <u>Protection</u>	Administration and <u>Support</u>	<u>Total</u>
Salaries and related expenses	\$ 7,125,746	\$ 193,768	\$ 1,368,834	\$ 8,688,348
Travel expenses	78,902	1,134	25,317	105,353
Library and continuing education	124,264	3,527	24,683	152,474
General expenses and office support	1,606,855	43,364	303,495	1,953,714
Computer expenses	172,785	4,904	34,320	212,009
Other professional and case-related expenses	944,138	2,206	36,808	983,152
Client protection program payments	-	951,173	-	951,173
Depreciation and amortization expense	139,438	3,957	27,696	171,091
Total expenditures	<u>\$10,192,128</u>	<u>\$1,204,033</u>	<u>\$ 1,821,153</u>	<u>\$ 13,217,314</u>
	2004			
	Registration and <u>Discipline</u>	Client <u>Protection</u>	Administration and <u>Support</u>	<u>Total</u>
Salaries and related expenses	\$ 6,987,920	\$ 198,237	\$ 1,335,979	\$ 8,522,136
Travel expenses	74,550	1,056	21,256	96,862
Library and continuing education	146,128	4,128	28,896	179,152
General expenses and office support	1,606,396	43,429	304,024	1,953,849
Computer expenses	111,994	3,163	22,147	137,304
Other professional and case-related expenses	911,138	2,782	53,860	967,780
Client protection program payments	-	617,772	-	617,772
Depreciation and amortization expense	161,853	4,572	32,005	198,430
Total expenditures	<u>\$ 9,999,979</u>	<u>\$ 875,139</u>	<u>\$ 1,798,167</u>	<u>\$ 12,673,285</u>

**NOTE 5. INVESTMENTS**

Investments at December 31, 2005 and 2004 consist of the following:

	<u>2005</u>		<u>2004</u>	
	<u>Cost</u>	<u>Fair Value</u>	<u>Cost</u>	<u>Fair Value</u>
U.S. Treasury notes and bills	\$ 17,571,792	\$ 17,587,650	\$ 17,352,165	\$ 17,374,475
Money market account	<u>2,947,923</u>	<u>2,947,923</u>	<u>2,415,952</u>	<u>2,415,952</u>
Total	<u>\$ 20,519,715</u>	<u>\$ 20,535,573</u>	<u>\$ 19,768,117</u>	<u>\$ 19,790,427</u>

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

The following table lists the maturities of securities held for the years ended December 31, 2005 and 2004:

	<u>2005</u>		<u>2004</u>	
	<u>Cost</u>	<u>Fair Value</u>	<u>Cost</u>	<u>Fair Value</u>
Due on demand or in one year or less	\$ 20,096,501	\$ 20,104,806	\$ 19,459,580	\$ 19,460,586
Due after one year to five years	423,214	430,767	175,328	186,719
Due after five years	<u>-</u>	<u>-</u>	<u>133,209</u>	<u>143,122</u>
Total	<u>\$ 20,519,715</u>	<u>\$ 20,535,573</u>	<u>\$ 19,768,117</u>	<u>\$ 19,790,427</u>

**NOTE 6. PROPERTY AND EQUIPMENT**

Property and equipment at December 31, 2005 and 2004 consist of the following:

	<u>2005</u>	<u>2004</u>
Office furniture and equipment	\$ 1,316,309	\$ 1,315,002
Computer and related equipment	745,297	706,881
Library	63,494	56,682
Leasehold improvements	<u>349,980</u>	<u>316,081</u>
	2,475,080	2,394,646
Less accumulated depreciation and amortization	<u>(1,936,241)</u>	<u>(1,845,620)</u>
Property and equipment - net	<u>\$ 538,839</u>	<u>\$ 549,026</u>

## NOTE 7. LEASE AND MAINTENANCE COMMITMENTS

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

The Springfield office lease, which began in November 2002, has a term of 10 years and provides for a minimum annual rent. The lease gives the Commission the option to renew the lease for another five-year period.

Rent expense under all lease agreements was \$1,217,924 in 2005 and \$1,227,681 in 2004.

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

	<u>Springfield</u>	<u>Chicago</u>	<u>Total</u>
Year ending December 31,			
2006	\$ 87,315	\$ 1,147,930	\$ 1,235,245
2007	87,603	1,184,199	1,271,802
2008	89,046	1,138,709	1,227,755
2009	89,333	1,200,739	1,290,072
2010	90,777	1,376,221	1,466,998
Remaining	<u>168,160</u>	<u>6,612,410</u>	<u>6,780,570</u>
	<u>\$ 612,234</u>	<u>\$ 12,660,208</u>	<u>\$ 13,272,442</u>

**NOTE 8. MEDICARE REPLACEMENT RESERVE TRUST**

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

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

The Commission engages the services of an actuary to compute the liability every other year.

A summary of actuarial assumptions and methods as of the last measurement date is as follows:

Measurement date	January 1, 2005
Actuarial cost method	Projected unit credit method
Actuarial assumptions	Mortality - 1994 GAR Discount rate - 5.5% Expected return on assets - 5.5% Retirement will occur between ages 55 and 65 Medical trend ultimate - 4.5%

	<u>2005</u>	<u>2004</u>
Actuarial valuation:		
Net periodic postretirement benefit cost:		
Service cost	\$ 70,415	\$ 56,358
Interest cost	83,673	68,177
Amortization	7,965	-
Expected return	(65,540)	(66,621)
Expected benefit payments	<u>(7,035)</u>	<u>(6,877)</u>
	<u>\$ 89,478</u>	<u>\$ 51,037</u>
	<u>2005</u>	<u>2004</u>
Accumulated postretirement benefit obligations:		
Benefit obligation, January 1, 2005:	\$1,239,665	\$1,122,007
Service cost	70,415	56,358
Interest cost	83,673	68,177
Amortization	7,965	-
Benefits paid	<u>(7,035)</u>	<u>(6,877)</u>
Benefit obligation, December 31, 2005	<u>\$1,394,683</u>	<u>\$1,239,665</u>

**NOTE 8. MEDICARE REPLACEMENT RESERVE TRUST (CONTINUED)**

The following changes in actuarial assumptions were recognized above:

- The discount rate was lowered from 6.50% to 5.50%.
- The health care cost ultimate trend rate assumption was changed from 5.0% being reached in 2008 to 4.5% being reached in 2009.
- The mortality rate table was changed from 1983 GAM to 1994 GAR.

The accrued Medicare replacement funding liability at December 31, 2005 and 2004 represents:

	<u>2005</u>	<u>2004</u>
Actuarially determined benefit obligation at January 1	\$ 1,239,665	\$ 1,122,007
Benefit expense for the year end	<u>155,018</u>	<u>117,658</u>
Estimated benefit obligation at December 31	<u>\$ 1,394,683</u>	<u>\$ 1,239,665</u>

The Commission maintains a separate trust for the Medicare replacement reserve. The trust fund assets are included in the Commission's investments (see Note 5). The trust fund assets at fair value for the years ended December 31, 2005 and 2004 are as follows:

	<u>2005</u>	<u>2004</u>
U.S. Treasury notes and bills	\$ 1,287,614	\$ 754,590
Money market account	6,397	440,560
Accrued interest receivable	<u>5,922</u>	<u>6,894</u>
	<u>\$ 1,299,933</u>	<u>\$ 1,202,044</u>

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

The effect of a 1% increase in health care cost trend assumption would be an increase of \$27,623 on total service cost and interest cost components.

**NOTE 9. EMPLOYEE BENEFIT PLANS**

The Commission maintains a defined contribution retirement plan and trust for the benefit of all eligible employees. Based on the decision of the Social Security Administration discussed in Note 8, the Commission enhanced employees' retirement benefits. Employee contributions are not permitted under the plan's provisions. The Commission contributes 18% of compensation for eligible employees, which totaled \$1,148,472 in 2005 and \$1,129,707 in 2004. The Commission also pays the plan's administrative expenses, which totaled \$82,360 in 2005 and \$88,538 in 2004.

The Commission also maintains a Section 357 savings plan which is entirely funded by voluntary pre-tax employee contributions. The Commission paid the savings plan's administrative expenses, which totaled \$3,050 in 2005 and \$2,650 in 2004.

**NOTE 10. LITIGATION**

Various complaints and actions have been filed against the Commission. At December 31, 2005, the Commission believes that pending matters do not present any serious prospect of negative financial consequences.