

**ANNUAL REPORT OF THE  
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

**ANNUAL REPORT OF THE  
OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY**

JUDITH M. RUSH  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD  
University of St. Thomas School of Law  
1000 LaSalle Avenue  
MSL 400, Office 333  
Minneapolis, MN 55403-2005  
(651) 962-4898

MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF  
LAWYERS PROFESSIONAL  
RESPONSIBILITY  
1500 Landmark Towers  
345 St. Peter Street  
St. Paul, MN 55102-1218  
(651) 296-3952

July 2013

## TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND HIGHLIGHTS .....	1
II. DIRECTOR'S OFFICE .....	4
A. Budget .....	4
B. Personnel .....	5
C. Web Site .....	5
D. Complainant Appeals .....	6
E. Probation .....	6
F. Advisory Opinions .....	16
G. Overdraft Notification .....	18
H. Judgments and Collections .....	21
I. Disclosure .....	22
J. Trusteeships .....	23
K. Professional Firms .....	24
III. DISTRICT ETHICS COMMITTEES .....	25
IV. FY2014 GOALS AND OBJECTIVES .....	29

### APPENDIX

Lawyers Professional Responsibility Board Members	
Biographical Information .....	A. 1 – A. 2
Statistical Tables .....	A. 3 – A. 6
2012 Summary of Public Matters Decided .....	A. 7
Speaking Engagements and Seminars .....	A. 8 – A. 9
FY2014 Organizational Chart .....	A. 10
Current Office Web Page .....	A. 11
Advisory Opinion Requests Received .....	A. 12

## **I. INTRODUCTION AND HIGHLIGHTS.**

Pursuant to Rules 4(c) and 5(b), Rules on Lawyers Professional Responsibility (RLPR), the Lawyers Professional Responsibility Board and the Director of the Office of Lawyers Professional Responsibility report annually on the operation of the professional responsibility system in Minnesota. These reports are made for the period from July 2012 to June 2013, which represents the Board's and the Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2012.

### **Activities of the Board.**

Terms of Lawyers Board members are staggered with the intent that every year there is roughly equal turnover in members. Board members are eligible to serve two three-year terms (plus any stub term if applicable). This past year, Board members Robert Bauer, Stuart Williams and Susan Goldstein completed their second and final terms on the Board; Steve Bolluyt, although eligible to be reappointed to a second term, elected not to be reappointed due to his time commitments to other public service projects. Newly appointed members are attorneys Anne Honsa and Robin Wolpert, and public members Michael Leary and Norina Jo Dove. Lawyer members reappointed were Kenneth Engel and Cheryl Prince (who completed a term for former member Sheridan Hawley, when she was appointed to the district court bench. Thus, Ms. Prince will be eligible to serve another term). A complete listing of Board members is attached at A. 1.

The Board has a five-member Executive Committee, charged with oversight of the Director's Office, consisting of Chair Judith Rush, Vice-Chair Michael Unger, Christopher Cain, Marne Gibbs Hicke and Daniel Wexler. The Board members who act as Panel Chairs for probable cause determinations are now: Nancy Zalusky Berg, Cassandra Ward Brown, William Donohue, Richard Kyle, Jr., Richard Lareau and Stacy

Vinberg. All are experienced Board members. Mr. Kyle is now chair of the Board's Opinion Committee; Mr. Donohue remained chair of the Board's Rules Committee.

The Board also continued the initiative begun last year to improve the district ethics committee (DEC) system used in Minnesota. The Board's DEC Committee was made a permanent Board committee (previously established as an *ad hoc* committee), chaired by Kenneth Engel. The committee made a first round of recommendations that were adopted by the Board and held a second annual symposium in St. Cloud at which many DEC Chairs were present (with others participating by conference call), to discuss DEC issues, in particular timeliness and recruiting. DEC Chairs have expressed a strong approval of such regular meetings. Efforts to ensure compliance with membership requirements for public members and other recruiting issues will be ongoing concerns for the committee.

Also noteworthy this past year was that federal court litigation in which the Board was a named defendant was resolved successfully. Attorney Gregory Wersal sued the Board and others over the constitutionality and enforcement of several election-related portions of the Code of Judicial Conduct. After a lengthy process, the Eighth Circuit Court of Appeals, *en banc*, upheld the provisions. The United States Supreme Court denied certiorari on the case, which thus is finally concluded.

### **Complaint Statistics.**

The number of complaints received in 2012 was 1,287, a minor decrease from the previous year's total of 1,337. This is the second year in a row that complaints received decreased slightly, a positive trend after several years of increasing totals. It is hoped this reflects that the continuing educational efforts in which the Director's Office partakes are being effective. Tables outlining these and related statistics are at A. 3 - A. 7.

Complaint totals for the first five months of 2013 project to a year-end total of approximately 1,260, another minor decrease. There have been so far this year more file closings than openings, which it is hoped will allow open file levels to end consistently below 600. Year-old files have remained approximately at 190, and closing these older matters remains a major target for file handling, especially the limited number of old files that remain under investigation and not yet in litigation.

The Board's Executive Committee, in addition to monitoring overall file numbers, receives information on case management time guidelines. The Office targets that 75 percent of all cases will meet certain time expectations for each step in the investigation process. The Executive Committee continues to monitor the number of open files and year-old files closely.

#### **Lawyers Board Seminar.**

On September 28, 2012, the Board and Director's Office hosted their 27<sup>th</sup> annual professional responsibility seminar at the Ramada Plaza Hotel in Minneapolis. Presentations included sessions on lawyer aging and succession planning, an update of fees and trust account issues and a primer on conflict of interest issues. In addition, there was the annual session on current developments and training for DEC investigators, including a demonstration of the Board's SharePoint system.

The other highlight was the annual presentation by the Board's liaison Justice Alan Page of the annual Volunteer(s) of the Year Award, this year awarded to Patrick Goggins. Mr. Goggins is a partner in a firm in New Prague, and past President of the Eighth District Bar Association and Chair of the DEC. Mr. Goggins and his family were present for the award.

#### **Public Discipline Decisions.**

Thirty-eight attorneys were publicly disciplined in calendar year 2012, a one-third increase from the previous two years, and slightly above the historical average for the

past twenty-five years.<sup>1</sup> The six disbarments also was an increase over recent years; disbarred were Joseph Rymanowski, Erin Marie Wolff, Steven Lundeen, Richard Sand, Deno Berndt and William Jacobs. Criminal convictions and major acts of dishonesty remain the cause of most disbarments; the Berndt matter involved misappropriation from several clients and has resulted in some substantial claims to the Client Security Board.

Twenty-five attorneys have already been publicly disciplined through mid-June of this year, indicating that another sizeable increase in public disciplines will occur this year. This trend was recently noted in a front-page story in the Minneapolis *StarTribune* newspaper. Such a trend is of course troubling, but also reflects that the Office is successfully handling many major matters while continuing to perform its many other myriad tasks.

## **II. DIRECTOR'S OFFICE.**

### **A. Budget.**

#### **1. FY'13 and FY'14 Budgets.**

Expenditures for the fiscal year ending June 30, 2013, are projected to be \$3,024,500. The FY'14 budget which begins July 1, 2013, and runs through June 30, 2014, projects anticipated expenditures of \$3,263,566. The Director's Office budget is funded primarily by lawyer registration fees, and therefore is not dependent upon legislative dollars, as is the judicial branch's overall budget. Nevertheless, at the direction of State Court Administration, the Director's Office did not budget salary increases for employees for the past four years. As a result of these salary savings and the recent upturn in the economy, for FY'14 the Court has provided for a 3 percent across-the-board (ATB) increase for judicial branch employees, including the Director's Office. The FY'14 budget reflects this increase. Increases for health insurance have also

---

<sup>1</sup> Public disciplines include disbarments, suspensions, stayed suspensions, public reprimands and probations.

been budgeted. In addition, funds have been budgeted for the creation of a new support staff position within the Director's Office (*see* p. 28).

The FY'14 budget, once again, includes significant funds carried forward to rebuild the Attorney Disciplinary Record System (ADRS). During FY'13 the ADRS project was again postponed due to the possibility of the Office having to move, as well as other projects including enhancements to the Office of Lawyers Professional Responsibility (OLPR) Web site, software upgrades and creation of the DEC Intranet. In anticipation of a new lease to the Office's current space being approved, it is hoped that preliminary steps in rebuilding ADRS can begin in FY'14.

**B. Personnel.**

The Director's Office employs 11 attorneys including the Director, 5.5 paralegals, an office administrator, 8 support staff and one law clerk (*see* organizational chart at A. 10).

In September 2012, Assistant Directors Siama Chaudhary, Robin Crabb and Megan Engelhardt were promoted to Senior Assistant Directors and Joshua Brand was promoted to an Attorney II classification. Also in September 2012, the Office hired former Assistant Director Mary Galvin as a temporary attorney working two days a week to help while a full-time Senior Assistant Director was on three months leave. Upon return of the full-time Senior Assistant Director, Ms. Galvin continued to work her two-day-a-week schedule until May 31, 2013.

Law clerk Jeana Dahl was hired in June 2012. Ms. Dahl graduated from the University of St. Thomas School of Law this spring and will study for the bar this summer.

**C. Web Site.**

The current OLPR Web site went live in July 2010. Since that time, the Office has made enhancements to ensure the site remains current and user friendly, including adding the ability for complainants to file complaints online. The site is updated

regularly and contains a significant amount of useful information regarding every facet of the discipline system as well as services provided by the Director's Office. Attached at A. 11 is a recent print of the home page for the Web site.

**D. Complainant Appeals.**

Under Rule 8(e), RLPR, a dissatisfied complainant has the right to appeal most dismissals and all private discipline dispositions. Complainant appeals are reviewed by a Board member, other than members of the Board's Executive Committee, selected in rotation. During 2012, the Director's Office received 216 complainant appeals, compared to 240 such appeals in 2011. The 216 complainant appeal determinations made by Board members in 2012 were as follows:

		<u>%</u>
Approve Director's disposition	202	93.5
Direct further investigation	12	5.5
Instruct Director to issue an admonition	1	.5
Instruct Director to issue charges	1	.5

Approximately 36 clerical hours were spent in 2012 processing and routing appeal files. Limited attorney time was expended in reviewing appeal letters and responding to some complainants who continued to correspond even after their appeals were decided.

**E. Probation.**

Attorney disciplinary probations are an important part of the attorney disciplinary system administered by the Director's Office. Disciplinary probations may be agreed to as part of the resolution of a complaint against a lawyer or they may be required by the Minnesota Supreme Court as a condition of a lawyer's reinstatement to the practice of law. Probations ordered by the Supreme Court are public. Those agreed to between the respondent lawyer and the Director, and approved by the Lawyers



Board Chair, are private. The Director may pursue a private probation when the Director concludes that the lawyer's conduct does not warrant public discipline, but is too serious to justify an admonition (pursuant to Rule 8(d)(2), RLPR, the Director may issue an admonition in any matter where the "Director concludes that a lawyer's conduct was unprofessional but of an isolated and non-serious nature").

In 2012, there were 22 new probations. This represents a decrease from the 34 new probations in 2011. Of the 22 new probations in 2012, half were public. Of those, five were ordered by the Court as a condition of reinstatement for attorneys who had been suspended from the practice of law.

If a lawyer is having difficulty complying with the terms of his or her probation, the Director may seek to have the probation extended, or in the case of a more serious failure to comply, have the probation terminated. In 2012, the Director sought to terminate two probations. One of the probations was terminated after just ten months as a result of the probationer failing to respond to the Director's communications or comply with the conditions of the probation. The other was terminated early due to the probationer's failure to successfully pass the professional responsibility portion of the state bar examination.

The types of attorney misconduct that often precedes a disciplinary probation include the lawyer's failure to provide competent or diligent representation to clients, failure to adequately communicate with clients, or failure to follow the requirements governing the lawyer trust accounts. Chemical dependency and mental health concerns also contribute to attorney misconduct and, accordingly, a number of the lawyers on probation have a history of such afflictions.

Given this, probations frequently include requirements that promote sound practices to ensure that the conduct does not reoccur or a continued course of mental health treatment, abstinence, and support to ensure continued mental and chemical health.

For example, to make sure a probationer is diligently pursuing client matters and communicating with clients, the lawyer may be required to maintain case lists documenting the nature of the file, upcoming deadlines, communications with clients, and next anticipated action on the file.

Of the new probations in 2012 that resulted at least in part from the lawyer improperly maintaining his or her trust account, a majority of the probationers were required to provide their trust account books and records to the Director for review. Over the course of the probation, most probationers acquire the skills necessary to maintain their trust account books in compliance with the Rules of Professional Conduct.

One of the new probations in 2012 involved a lawyer with mental health issues. As part of that probation the lawyer was required to treat with a licensed psychologist or other mental health professional acceptable to the Director, to complete all recommended therapy, and to provide the Director with authorizations to confirm compliance with treatment recommendations.

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

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

decrease the number of tests per month or terminate the UA requirement if the probationer is fully compliant with the terms of the Director's UA program and all tests are negative. Currently, there are four probationers participating in a random UA program. Two others are required to participate in a UA program only if they return to the practice of law.

Another common element of probations is the involvement of another lawyer to supervise the probationer. Five of the new probations in 2012 were supervised by volunteer lawyers who met with the probationers on a regular basis, reviewed the probationers' case lists, and offered suggestions on file management and law office procedures.

Not every probation has a supervisor. However, this does not mean that the probation is "unsupervised." Even in probations with no supervisor, the Director's Office is involved in monitoring various aspects of the lawyer's probation. For example, as indicated above, lawyers with trust account issues are required to submit their trust account books and records to the Director for audit. One probationer was required to provide the Director with evidence of continued mental health treatment. Two probationers were required to submit to random urinalysis and to attend Alcoholics Anonymous or other abstinence-based support groups and provide that information to the Director.

Of the probationers whose probations opened in 2012 (and accordingly for whom the Director has data on the nature of their practice while on probation), the majority were either in solo practice or were part of very small (i.e., 2- to 3-person) firms. With the exception of two probationers who were in practice less than 10 years, the majority of the probationers had practiced between 10 to 20 years. Four probationers had practiced 30 or more years, including one lawyer with 35 years of practice and another with 44 years' experience.

### DISABILITY RELATED PROBATIONS

Psychological Disorders – existing files on 1/1/12	5	
New files opened during 2012	<u>1</u>	
Total Psychological Disorder Related Files		5
Chemical Dependency <sup>2</sup> – existing files on 1/1/12	4	
New files opened during 2012	<u>2</u>	
Total Chemical Dependency Related Files		<u>6</u>
<b>Total Disability Related Probations</b>		<b>11</b>

### HISTORICAL BREAKDOWN OF DISABILITY PROBATIONS

YEAR	TOTAL PROBATION FILES OPENED	NUMBER OF MENTAL HEALTH & CHEM DEP PROBATIONS <sup>3</sup>	PROBATION REQUIREMENTS:		
			THERAPY	AA/NA	RANDOM UAs
1993	26	3	0	3	1
1994	40	9	7	1	2
1995	40	7	5	1	1
1996	29	4	2	3	0
1997	29	5	3	0	2
1998	23	1	1	0	0
1999	40	5	5	0	0
2000	33	5	4	2	2
2001	32	7	6	2	2
2002	32	8	7	2	1
2003	27	10	8	3	2
2004	21	4	2	2	3
2005	20	7	6	2	2
2006	29	10	5	6	3
2007	31	8	7	0	1
2008	32	9	8	4	1
2009	29	4	4	0	1
2010	40	9	7	3	3
2011	34	7	3	4	3
2012	22	3	1	2	2

<sup>2</sup> Probations involving Alcoholics Anonymous attendance and/or random UAs.

<sup>3</sup> Since mental health and chemical dependency probations may require some combination of psychological therapy, Alcoholics Anonymous attendance, or random UA, the totals of those categories may be greater than the number of mental health and chemical dependency probations for any given year.

**Probation Supervisors.** During 2012, 21 Minnesota attorneys served as volunteer probation supervisors. Upon closing a probation, the Director asks supervisors to complete a survey regarding their practice of law, the probationer's law practice and their supervisory experience. Four probation supervisors (one solo practitioner, two lawyers from small firms, and one lawyer from a firm with more than 100 members) responded to the Director's survey in 2012.

The supervisors volunteered between one and five hours per month traveling to probationers' offices, reviewing client inventories and client files, communicating with probationers (either in-person or by phone and email), and reporting their observations quarterly to the Director. The primary focus of these probations was maintaining and documenting client communications, calendar and docket control systems, file organization, timekeeping and billing issues, improving law office management skills, and, in one probation, transitioning away from litigation. It is not unusual for a supervisor's efforts to go beyond office management issues and focus on the probationer's overall wellbeing. One supervisor counseled his probationer to discontinue his litigation practice because, in the supervisor's opinion, the probationer's temperament was not suited to a litigation practice. Another supervisor suggested timekeeping and billing changes as ways to manage stress.

All of the supervisors surveyed in 2012 were pleased with the probation system. All supervisors, with the exception of one who would only supervise a friend, indicated they would likely serve again and would consider recommending service as a probation supervisor to a friend. All of the supervisors responding to the Director's survey in 2012 found their probationers to be cooperative and responsive to their suggestions.

Since one probationer had made all needed changes prior to the supervisor's appointment, the probation then focused on continued compliance with the terms of probation. Other probationers hired support staff, changed their retainer agreements, or instituted other office management improvements recommended by their supervisors.

Overall, all supervisors were pleased with the probation system and the support received from the Director's Office. All believed that the purpose of the probation was well served. One supervisor whose probationer was located outside the Twin City metro area would have liked to be closer geographically to the probationer to facilitate easier and possibly more frequent in-person contact. Another would have liked the ability to recommend the probation be concluded early given the probationer's early and full compliance with the terms of probation.

Suggested improvements included more feedback from the Director's Office, a checklist of items to review with the probationer, and notice prior to the probation's termination. Other comments addressed a supervisor's discomfort with reviewing and critiquing the files of an experienced lawyer from a large firm. One supervisor, who prior to undertaking to supervision did not know the probationer well, commented that the supervisory experience strengthened both her professional and personal relationships with the probationer.

PROBATION STATISTICS

**TOTAL PROBATION FILES OPEN DURING 2012**

Public Supervised Probation Files (29%)	28	
Public Unsupervised Probation Files (21%)	<u>21</u>	
Total Public Probation Files (50%)		49
Private Supervised Probation Files (11%)	11	
Private Unsupervised Probation Files (39%)	<u>38</u>	
Total Private Probation Files (50%)		<u>49</u>
<b>Total Probation Files Open During 2012</b>		<b>98</b>

**TOTAL PROBATION FILES**

Total probation files as of 1/1/12	76
Probation files opened during 2012	22
Public probation extended during 2012	0
Probation files closed during 2012	<u>(36)</u>
<b>Total Open Probation Files as of 12/31/12</b>	<b>62</b>

**PROBATIONS OPENED IN 2012**

**Public Probation Files**

    Court-ordered Probation Files

Supervised	4	
Unsupervised	<u>2</u>	
		6

**Reinstatements**

Supervised	1	
Unsupervised	<u>4</u>	

		<u>5</u>
<b>Total Public Probation Files</b>		<b>11</b>

**Private Probation Files**

Supervised	1	
Unsupervised	<u>4</u>	
Total Private Probation Files		<u>11</u>
Total New Probation Files in 2012		22

**PROBATIONS OPENED IN 2012 INVOLVING:**

Client Related Violations	4	
Non-Client Related Violations	12	
Both Client & Non-Client Violations	<u>6</u>	
Total New Probation Files in 2012		22

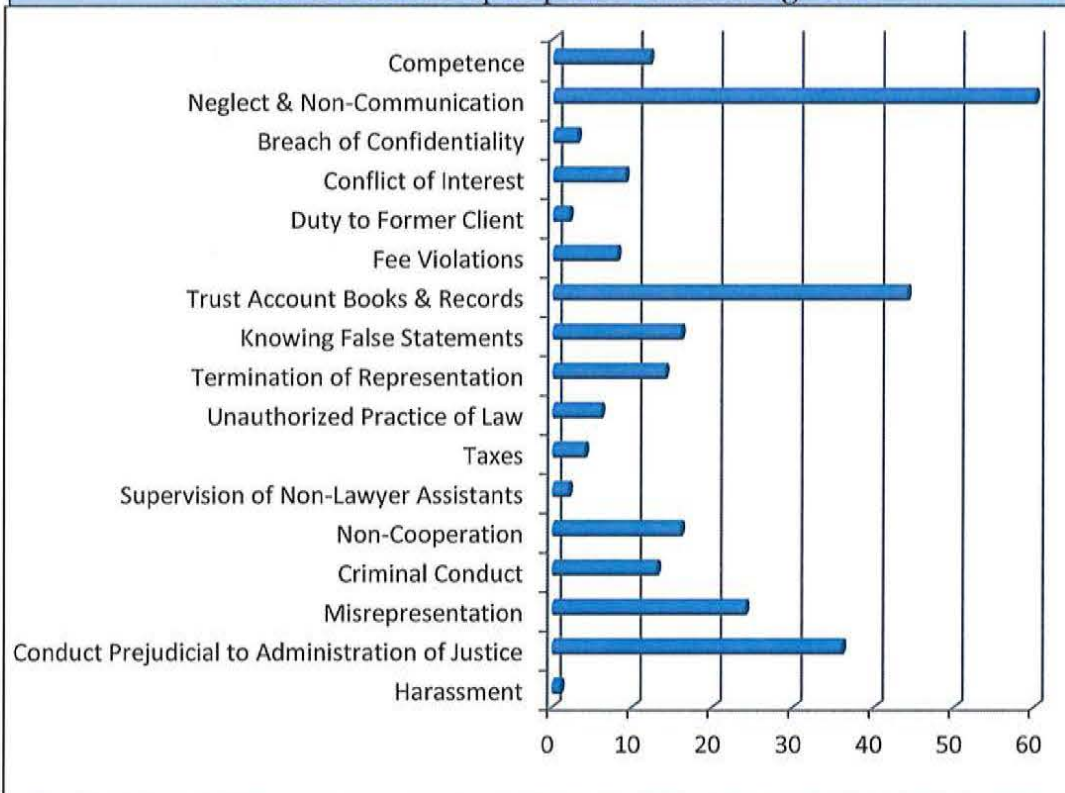
**PROBATION FILES CLOSED IN 2012**

Probations Successfully Completed	34	
Probation Revocations	2	
Probations Extensions	<u>0</u>	
Total Probation Files Closed in 2012		36



## AREAS OF MISCONDUCT

As reflected in 98 open probations during 2012<sup>4</sup>



Competence (Violation of Rules 1.1 and 1.2, Minnesota Rules of Professional Conduct (MRPC))	12
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	60
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	3
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	9
Duty to Former Client (Violation of Rule 1.9, MRPC)	2
Fee Violations (Violation of Rule 1.5, MRPC)	8
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	44
Termination of Representation (Violation of Rule 1.16, MRPC)	14
Knowing False Statements to Others (Violation of Rule 4.1, MRPC)	16
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	6
Taxes	4
Supervision on Non-Lawyer Assistants (Violation of Rule 5.3, MRPC)	2
Non-Cooperation (Violation of Rule 8.1, MRPC)	16
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	13
Misrepresentation (Violation of Rule 8.4(c), MRPC)	24
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	36
Harassment (Violation of Rule 8.4(g), MRPC)	1

<sup>4</sup> A file may involve more than one area of misconduct.

**Probation Department.** During 2012 Senior Assistant Director Craig Klausing and Senior Assistant Director Robin Crabb, with the assistance of two paralegals, monitored all probations.

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

**F. Advisory Opinions.**

The number of advisory opinions requested by Minnesota lawyers and judges increased only slightly in 2012. In 2012 the Director's Office received 2,249 requests for advisory opinions, compared to 2,215 in 2011. This represents a two percent increase over last year. *See A. 12.*

Minnesota attorneys submitted 236 advisory opinion requests via the email link on the OLPR Web site in 2012, compared to 254 requests received in 2011. Like telephone advisory opinion requests, inquiries from the Web site are responded to by telephone.

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

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

Set forth below is a statistical summary of advisory opinions for the period 1991 through 2012:

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

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

\*\* Percentage amount corrected.

In 2012 the Director's Office expended 348 Assistant Director hours in issuing advisory opinions. This compares with 359 hours in 2011. Dissolution/custody was the

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

**G. Overdraft Notification.**

The lawyer trust account overdraft reporting program provided for by Rule 1.15(j) – (o), MRPC, has been in effect since 1990. Since that time, Minnesota banks wanting to maintain lawyer trust accounts have had to be “approved” to do so, by agreeing to report all overdrafts on such accounts to the Director’s Office.<sup>5</sup> When the Director receives notice of an overdraft on a lawyer trust account, the Director writes to the account-holder and requests an explanation for the cause of the overdraft and proof that it has been corrected, together with three months of the lawyer’s trust account books and records, i.e., bank statements, checkbook register, client subsidiary ledgers, trial balances and reconciliations. The purposes of requesting these books and records are to (1) interpret and verify the account-holder’s overdraft explanation, (2) where necessary, educate the account-holder regarding the trust account books and records requirements and assist him/her in conforming his/her trust account books and records to those requirements, and (3) identify shortages and other serious deficiencies requiring discipline.

The number of trust account overdraft notices reported to the Director in 2012 (70) was comparable to the number reported in 2011 (72). The total number of overdraft inquiries closed<sup>6</sup> by the Director in 2012 (71) was also comparable to the number closed in 2011 (75). The percentage of total closings that did not involve conversion to a

---

<sup>5</sup> More recently, as part of the trust account approval process, banks are also required to agree to pay a certain minimum level of interest on lawyer trust accounts.

<sup>6</sup> When the Director receives a satisfactory explanation for the overdraft and is assured that the account-holder is adequately maintaining his/her trust account books and records, the Director will simply close the overdraft notice inquiry without any further action. Where, however, the overdraft appears to have been caused by a shortage in the account-holder’s trust account and/or there are other serious deficiencies identified in the account, the Director will convert the overdraft inquiry into a formal disciplinary investigation. These numbers reflect a combination of these two types of overdraft inquiry closings.

disciplinary investigation in 2012 (58 or 82%) was likewise comparable to 2011 (61 or 81%).

At the end of 2012, 13 overdraft inquiry files remained open. The Director's staff's overall time requirements for processing overdrafts in 2012 was 238 hours.

Overdrafts Reported by Banks

2012	70
2011	72

Closed Inquiries During 2012

• Closed Without Need for Disciplinary Investigation	58
• Inquiry Converted to Disciplinary Investigation	13
Total Trust Account Inquiries Closed	71

Public Discipline Decisions Related to Trust Account Overdraft Inquiry

Thirteen disciplinary matters arising from a trust account overdraft inquiry were resolved in 2012. Four such matters resulted in public discipline:

*In re Fogel*, 812 N.W.2d 81 (Minn. 2012) (public reprimand/probation);

*In re Ellenbecker*, unpublished (Minn. 2012) (suspension);

*In re Nimis*, 812 N.W.2d 830 (Minn. 2012) (suspension); and

*In re Hobbs*, 813 N.W.2d 813 (Minn. 2012) (suspension).

The other nine disciplinary matters were resolved as follows:

Private probation:	5
Admonition:	2
Dismissal:	2

In 48 (or 83%) of the inquiries closed without a disciplinary investigation, the Director recommended changes or improvements to the lawyer's trust account books, records and/or practices. This is slightly higher than the percentage of inquiries in which such guidance was given in 2011 (46 or 75%). The most common deficiencies

discovered in lawyers' trust account books and records were a lack of proper books, failure to properly reconcile the account and minor unintentional commingling.

In 2012 the overdraft inquiries closed without a disciplinary investigation were closed for the following reasons:

<b>Overdraft Cause</b>	<b>No. of Closings</b>
Check written in error on TA	4
Bank error	15
Service or check charges	6
Late deposit	4
Mathematical/clerical error	12
Third party check bounced	6
Reporting error	1
Deposit to wrong account	2
Improper/lacking endorsements	0
Bank hold on funds drawn	7
Other	1

#### Disciplinary File Openings

As noted, the Director will convert an overdraft inquiry into a disciplinary investigation if shortages or other significant problems are identified in the lawyer's trust account books and records, the lawyer fails to respond to the overdraft inquiry or the lawyer's response does not adequately explain the overdraft. During 2012, overdraft inquiries were converted into disciplinary investigations for the following reasons:

<u>Reason for Investigation</u>	
Shortages	9
Response fails to explain overdraft	2
Commingling	2
<b>Total</b>	<u>13</u>

### Time Requirements

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

	<u>1/11-12/11</u>	<u>1/12-12/12</u>
Attorney	84.25 hrs	94.00
Paralegal and other staff	<u>132.00 hrs</u>	<u>144.00</u>
<b>Total</b>	<b>216.25 hrs</b>	<b>238.00</b>

### **H. Judgments and Collections.**

In 2012 judgments were entered in 34 disciplinary matters totaling \$33,412.09. The Director's Office collected a total of \$24,645.22 from judgments entered during or prior to 2012.

A comparison of the 2011 statistics and 2012 statistics is presented below:

	<b>2011</b>	<b>2012</b>
Number of judgments entered:	27	34
Dollar value of judgments entered:	\$28,134.45	\$33,412.09
Total amount collected:	\$28,853.32	\$25,545.22
Portion attributable to current year's judgment:	\$19,237.76	\$20,111.69
Portion attributable to judgments of prior years:	\$9,615.56	\$4,533.53

Nineteen out of the 34 judgments entered in 2012 were paid in full during the 2012 calendar year. Two additional judgments are being paid in monthly installments pursuant to signed payment agreements. An additional \$900 was collected after the Court's order but before a judgment was issued in the matter, and one respondent paid his judgment in full in early January 2013. While the Director's Office collected more in 2011 than in 2012, the amount collected in 2012 was more than collected in 2009 and 2010.

I. Disclosure.

1. Department Function.

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with a properly executed authorization from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. Public discipline information also is available through the OLPR Web site. These informal telephone requests and responses are not tabulated.

2. Source and Number of Written Requests for Disclosure.  
Calendar Year 2012.

	<u># of Requests</u>	<u># of Attorneys</u>	<u>Discipline Imposed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	201	201	4	1
B. Individual Attorneys	366	366	19	4
C. Local Referral Services				
1. RCBA	20	57	0	1
2. Hennepin County	3	216	8	0
D. Governor's Office	22	57	4	0
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	60	60	3	0
F. F.B.I.	16	20	0	0
G. MSBA: Specialist Certification Program	16	86	8	0
H. Miscellaneous Requests	23	158	7	2
<b>TOTAL</b>	<b>727</b>	<b>1221</b>	<b>53</b>	<b>8</b>
(2011 Totals)	(630)	(1166)	(63)	(9)



### 3. Press Releases.

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

#### J. **Trusteeships.**

**Rule 27(a), RLPR, states:**

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

The Director's Office was assigned one new trusteeship this year. On March 21, 2013, the Director was appointed trustee of the client files of Steven K. Marden. Mr. Marden passed away suddenly in February 2013. Prior to his death, he was a solo practitioner. The Director's Office took possession of and inventoried files relating to approximately 343 clients and is currently in the process of returning the files to former clients. These client files were located at Mr. Marden's home.

In addition, the Director's Office also took possession of 150 boxes of files from a storage unit maintained by Mr. Marden. The files were very old and in dilapidated condition. Staff were concerned about handling these files due to their condition. As a precaution, the Director's Office requested inspection of the files by a State risk management representative. Risk management discovered that the files were covered

in mold and deemed them unsafe to handle without extensive precautions, such as the use of a respirator. Based on this determination, together with the age of the files, the Director's Office petitioned the Court and requested that the files be destroyed without being inventoried. That petition is currently pending.

In May 2013 in accordance with Supreme Court order, four files relating to the Thornton P. Anderson trusteeship were expunged.

In April 2013 the Director's Office was appointed trustee of the trust account of deceased attorney George C. Riggs. In May 2013 the Director's Office was appointed trustee of the trust account of deceased attorney William J. Joanis.

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

- William J. Platto trusteeship—224 files which are eligible for expunction September 1, 2013;
- Alfred Edwall trusteeship—6 files which are eligible for expunction in December 2013;
- Centro Legal, Inc. trusteeship—4,800 files which are eligible for expunction in October 2013.
- Albert A. Garcia trusteeship—442 files which are eligible for expunction January 1, 2014.
- Deno Walter Berndt trusteeship—494 files which are eligible for expunction in March 2016.

Additional storage space continues to be maintained both off-site and in the building for the long-term storage of these trusteeship files.

#### **K. Professional Firms.**

Under the Minnesota Professional Firms Act, Minn. Stat. § 319B.01 to 319B.12, professional firms engaged in the practice of law must file an initial report and annual reports thereafter demonstrating compliance with the Act. The Director's Office has handled the reporting requirements under this statute since 1973. Annual reports are

sought from all known legal professional firms, which include professional corporations, professional limited liability corporations and professional limited liability partnerships. The filing requirements for professional firms are described on the OLPR Web site.

Professional firms pay a filing fee of \$100 for the first report and a \$25 filing fee each year thereafter. In reporting year 2011<sup>7</sup> there were 186 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2013, the Director's Office received \$65,775 from 2,316 professional firm filings. There were 87 new professional firm filings for the reporting year. The Director's Office received \$73,450 during fiscal year 2012.

An Assistant Director, paralegal, and file clerk staff the professional firms department in the Director's Office. The work rarely requires direct attorney involvement. For reporting year 2012 (as of April 30, 2013), the total attorney work time for overseeing the professional firms department was 22 hours. The total non-attorney work time was 709 hours.

### **III. DISTRICT ETHICS COMMITTEES.**

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

Initial review of complaints by practitioners and non-lawyers is valuable in reinforcing confidence in the system. The overall quantity and quality of the DEC investigative reports remain high. For calendar year 2012, the Director's Office

---

<sup>7</sup> December 1, 2011 – November 30, 2012.

followed DEC recommendations in 87 percent of investigated matters that were closed during the year. Many of the matters in which the recommendation was not followed involved situations in which the DEC recommended a particular level of discipline, but the Director's Office sought an increased level of discipline. This typically involved attorneys with substantial prior relevant discipline that was not considered by the DEC in making its recommendation. These matters are counted as not following the DEC recommendation.

In 2012 the monthly average number of files under DEC consideration was 130, fluctuating between a low of 116 and a high of 148. The year-to-date average for 2013 has increased to 152 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of investigations. For the calendar year 2012, the DEC completed 363 investigations, taking an average of four months to complete each investigation. The Hennepin DEC was assigned 217 of these investigations, taking an average of four months per investigation.

For calendar year 2012, of the completed DEC investigations statewide, there resulted the following dispositions, as measured by number of files, not lawyers:

Determination discipline not warranted	271
Admonition	68
Private probation	4
Panel admonition	3
Public reprimand	6
Suspension	13
Disbarment	3

The Hennepin DEC, the state's largest district, uses a two-tiered complaint review process not employed by other DEC's. The Hennepin statistics are separately monitored to reflect file aging at the two decision points in the process. The Hennepin process involves investigator presentation to a screening committee. If the screening committee

recommends dismissal, the complaint is returned to the Director's Office for disposition. If the screening committee concludes that additional investigation would be helpful or necessary, an Investigative Review Committee (IRC), made up of one of three Hennepin DEC panels, reviews the matter. Both the complainant and the respondent are invited to attend personally and address the committee at the IRC hearing.

In calendar year 2012, 132 matters were referred back to the Director's Office from the Hennepin DEC after screening without an IRC hearing; it took an average of 3.9 months to complete the DEC investigation of these matters. There were three matters referred to an IRC panel before being sent back to the Director's Office, which took an average of three months to complete. Eleven matters were withdrawn.

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, October 4, 2013. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are invited. The seminar again will be held at the Ramada Plaza Minneapolis.

The Lawyers Board DEC Committee continues its efforts to review the DEC process and make recommendations for improvement. A continuing aim of that committee is to ensure that all DEC's have the requisite number of nonlawyer members. Rule 3(a)(2), RLPR, requires that at least 20 percent of each DEC be nonlawyers. Ten districts presently are not in full compliance. The committee is addressing how best to assist the DEC's in meeting this requirement.

On April 29, 2013, the Second Annual DEC Chairs Symposium was held. There, members of the Board and a staff member from the Director's Office discussed a variety of DEC issues with an emphasis on improving the DEC process. Recruitment, training and investigation, meaningful participation of all committee members, and the relationship between the DEC's and the OLPR liaisons were discussed.

As a result of the First Annual DEC Chairs Symposium, a number of changes with respect to the DEC's were implemented or are in the process of implementation. The OLPR is in the process of creating a volunteer support coordinator to work with and monitor the DEC's. This person will assist in monitoring the makeup of the DEC's, assisting in DEC recruitment and training, monitoring investigation progress, serving as a SharePoint resource, and assisting the OLPR liaisons in matters regarding the DEC's. The OLPR liaisons have been urged to try to meet with each of their DEC's at least once a year to work on training and recruitment and to discuss any issues that the DEC's might wish to raise. It was determined that active DEC members would be able to attend the annual DEC Seminar at no cost. Finally, the OLPR will be creating and posting to SharePoint a series of short training videos.

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

The Board and the Office remain committed to the support and training of DEC volunteers, both lawyer members and public members. The Director's Office continues to provide support to all of the DEC's through liaisons assigned to each district.

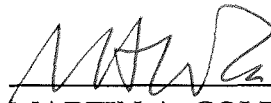
**IV. FY2014 GOALS AND OBJECTIVES.**

Continuing efforts to reduce the overall office caseload, particularly as to a small number of uncharged aging files, remains a major goal for the next year.

Implementation of the recommendations of the Board to assist the DEC's with recruitment, timely resolution of investigations, and training and participation of DEC members will also be a continuing project this coming year.

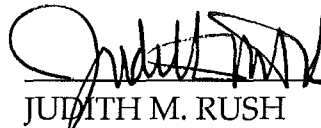
Dated: July 16, 2013.

Respectfully submitted,



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

and



JUDITH M. RUSH  
CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD

## **LAWYERS PROFESSIONAL RESPONSIBILITY BOARD**

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

**Michael W. Unger, Minneapolis** - Attorney member. MSBA nominee. LPRB Vice-Chair. Term expires January 31, 2014. Served on Hennepin County District Ethics Committee for 6 years. Solo practitioner at Unger Law Office Minneapolis. Areas of expertise: Civil litigation (a MSBA certified civil trial specialist), mainly plaintiff personal injury and medical malpractice. Experience in employment, labor, and class action (consumer fraud, antitrust and ERISA).

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

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

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

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

**Mark Daniels, Apple Valley** - Public member. Term expires January 31, 2014. Manages the subrogation department of a major workers' compensation insurer. Areas of expertise: civil litigation, contract and subcontract management issues, ethics, and general business management practice that includes accounting.

**William P. Donohue, Minneapolis** - Attorney member. Term expires January 31, 2014. Chair of the LPRB Rules Committee. Served on Ramsey County District Ethics Committee for 7 years. Deputy General Counsel and instructor at the University of Minnesota.

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

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

**Nancy L. Helmich, Minneapolis** - Public member. Term expires January 31, 2014. Retired. Formerly Senior Civil Litigation Paralegal at the Office of the Minnesota Attorney General for 29 years.



**Marne Gibbs Hicke, Minneapolis** - Public member. Term expires January 31, 2014. Serves on the LPRB Executive Committee. Served on Twenty-First District Ethics Committee for 7 years. Currently a Senior Paralegal at Barna, Guzy & Steffen, Ltd. in Coon Rapids. Areas of expertise: Criminal law/prosecution.

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

**Richard H. Kyle, Jr., Minneapolis** - Attorney member. MSBA nominee. Term expires January 31, 2014. Chair of the LPRB Opinion Committee. Served on Ramsey County District Ethics Committee for 9 years. Shareholder in the law firm of Fredrikson & Byron in Minneapolis. Areas of expertise: White collar criminal defense.

**Richard Lareau, Minneapolis** - Attorney member. MSBA Nominee. Term expires January 31, 2015. Serves on the LPRB Rules Committee. Served on Hennepin County and Ramsey County District Ethics Committees for many years. Partner in the law firm of Oppenheimer, Wolff & Donnelly.

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

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

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

**Stacy L. Vinberg, Granite Falls** - Lawyer member. Term expires January 31, 2014. Assistant County Attorney for the Yellow Medicine County Attorney's Office. Served on Twelfth District Ethics Committee for 10 years, including one year as Chair. Areas of expertise: real estate transactions, criminal prosecution, family law and probate.

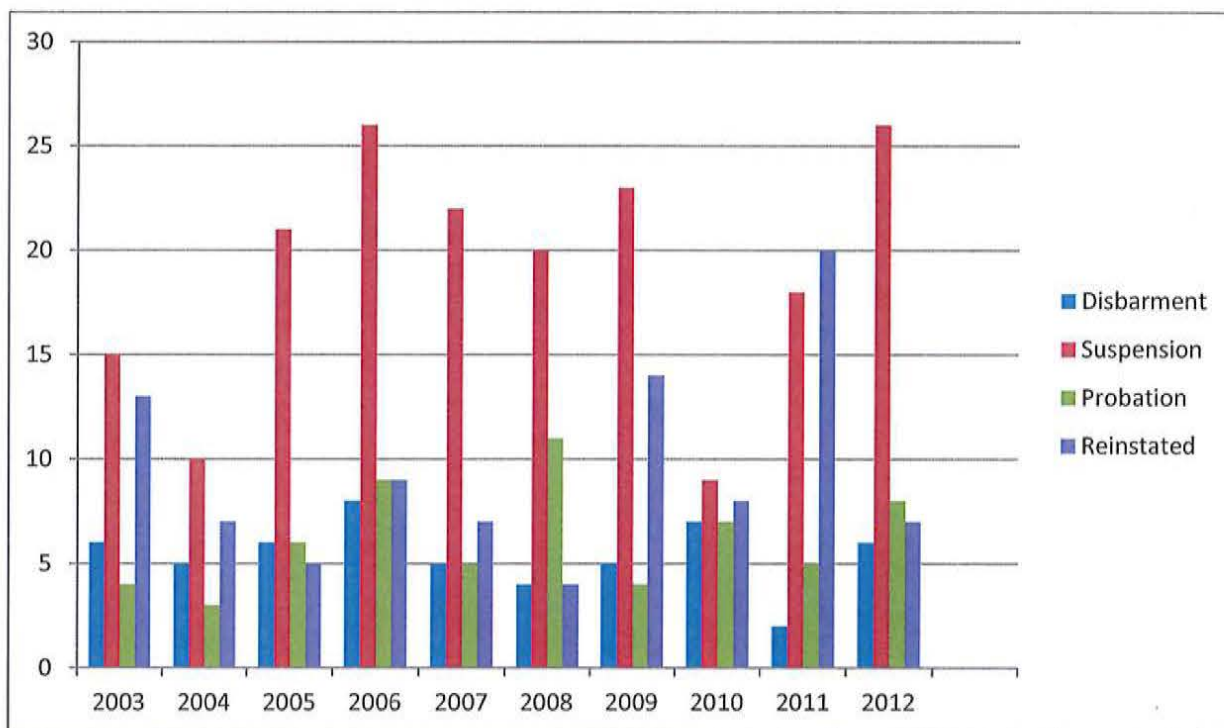
**Daniel R. Wexler, Maple Grove** - Public member. Term expires January 31, 2014. Serves on the LPRB Executive Committee. Background in financial services, land-based and online gaming, marketing and communications.

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

**Todd A. Wind, Minneapolis** - Lawyer member. Term expires January 31, 2014. Shareholder in the firm of Fredrikson & Byron. Served on Hennepin County District Ethics Committee from 1998 to 2010 as investigator, Vice-Chair and Chair. Areas of experience: civil litigation, antitrust, employment and construction.

**Robin M. Wolpert, St. Paul** - Attorney member. MSBA nominee. Term expires January 31, 2016. Served on Nineteenth District Ethics Committee for 7 years. Employed as Senior Counsel at 3M - Business Conduct and Compliance Division.

The graph below shows the number of disbarments, suspensions, probations and reinstatements ordered by the Supreme Court over the last ten years. Clearly, these are the four largest public professional responsibility categories handled by the Director's Office and reviewed by the Court. The table below the graph indicates the variety of matters and exact number of Supreme Court dispositions and reinstatements since 2003.

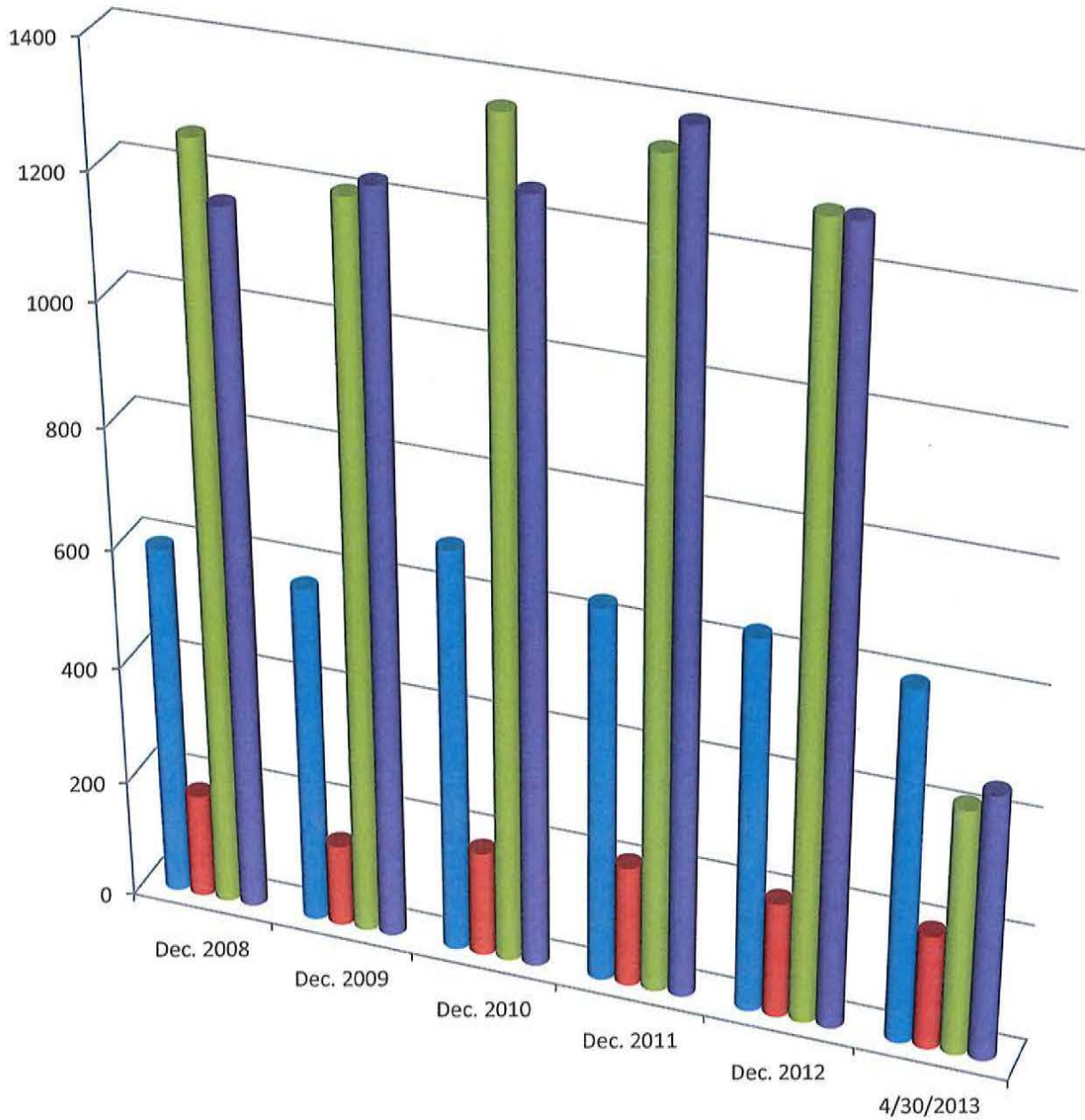


**TABLE I**  
**Supreme Court Dispositions and Reinstatements 2003-2012**  
**Number of Lawyers**

	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstate Denied	Disability	SC AD/Aff	Other	Total
2003	6	15	4	-	-	13	1	3	1	-	43
2004	5	10	3	1	-	7	1	1	-	-	28
2005	6	21	6	1	-	5	-	2	1	-	42
2006	8	26	9	5	-	9	-	2	-	7*	67
2007	5	22	6	-	-	7	2	-	1	-	43
2008	4	20	11	2	-	4	2	2	-	-	45
2009	5	23	4	6	-	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	-	20	-	1	-	-	48
2012	6	26	8	1	1	7	-	-	-	-	49

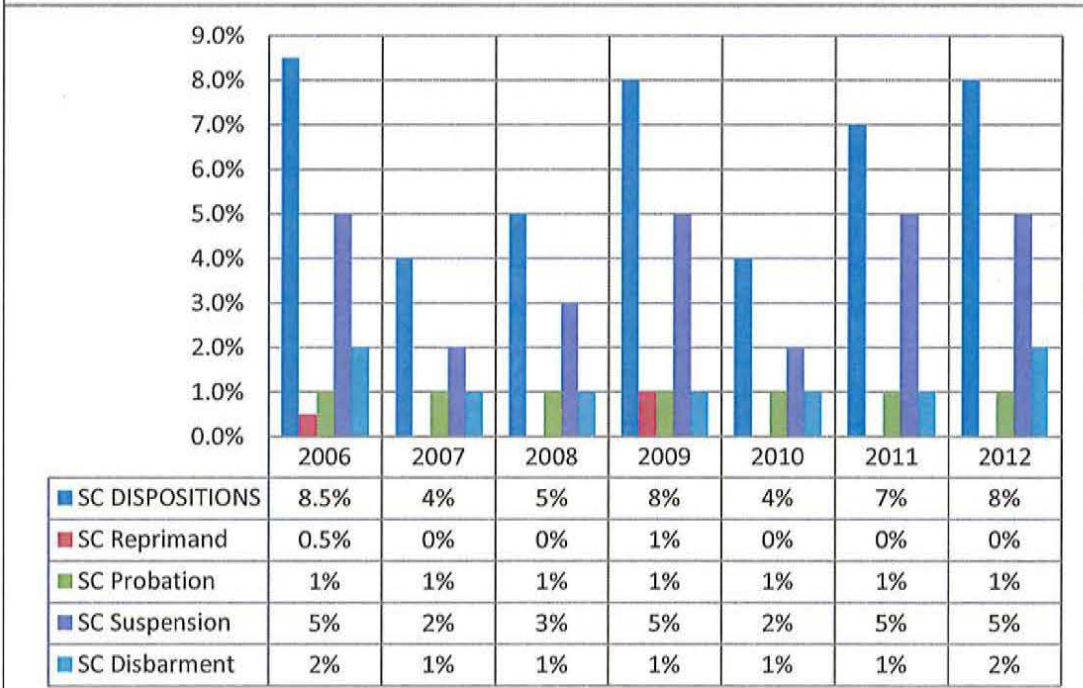
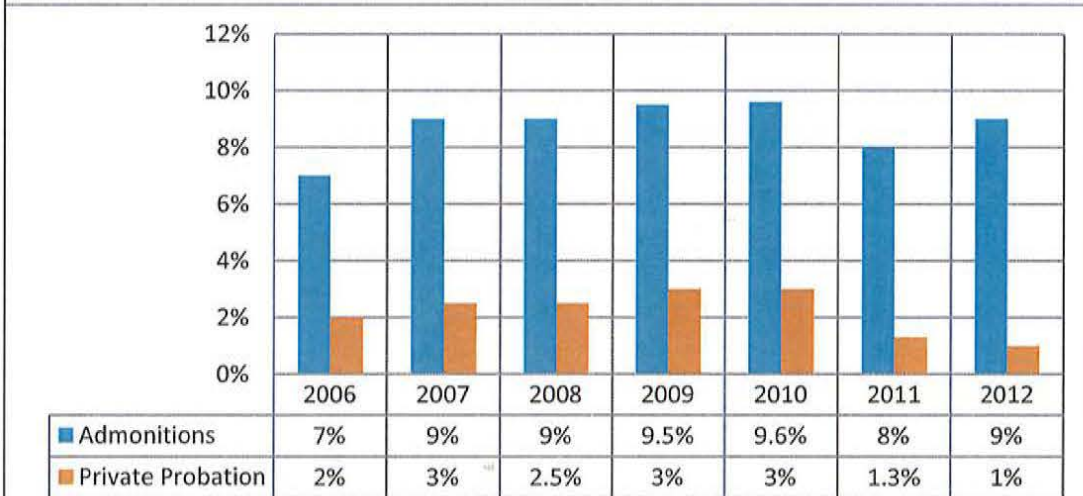
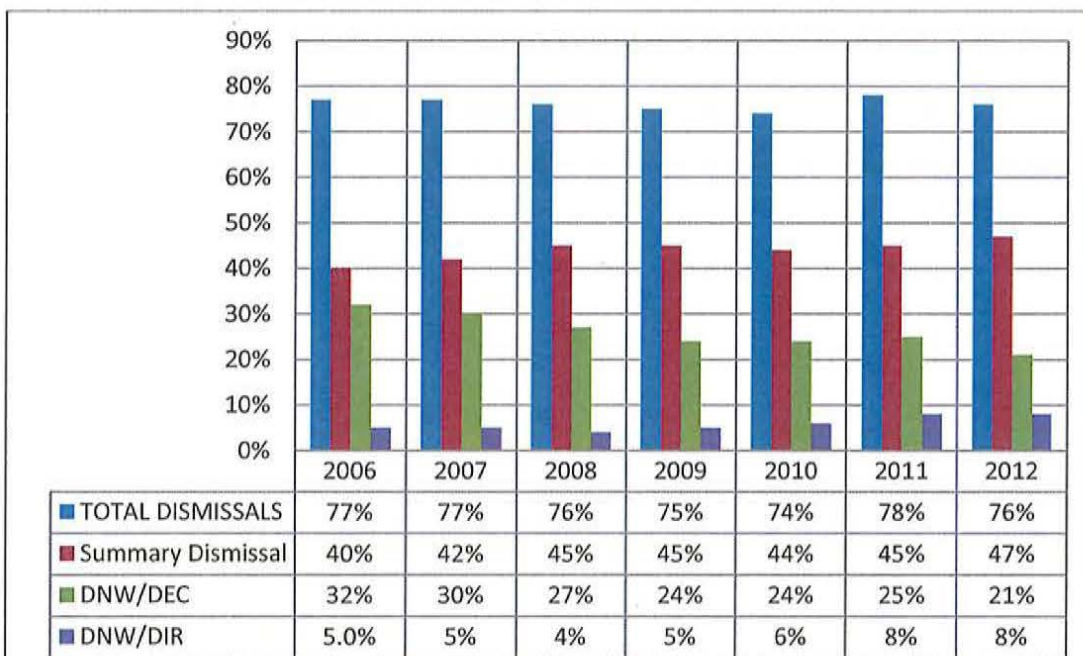
\* 4 Supreme Court stays, 3 reinstated to retired status, 1 conditional reinstatement pending.

**TABLE II**

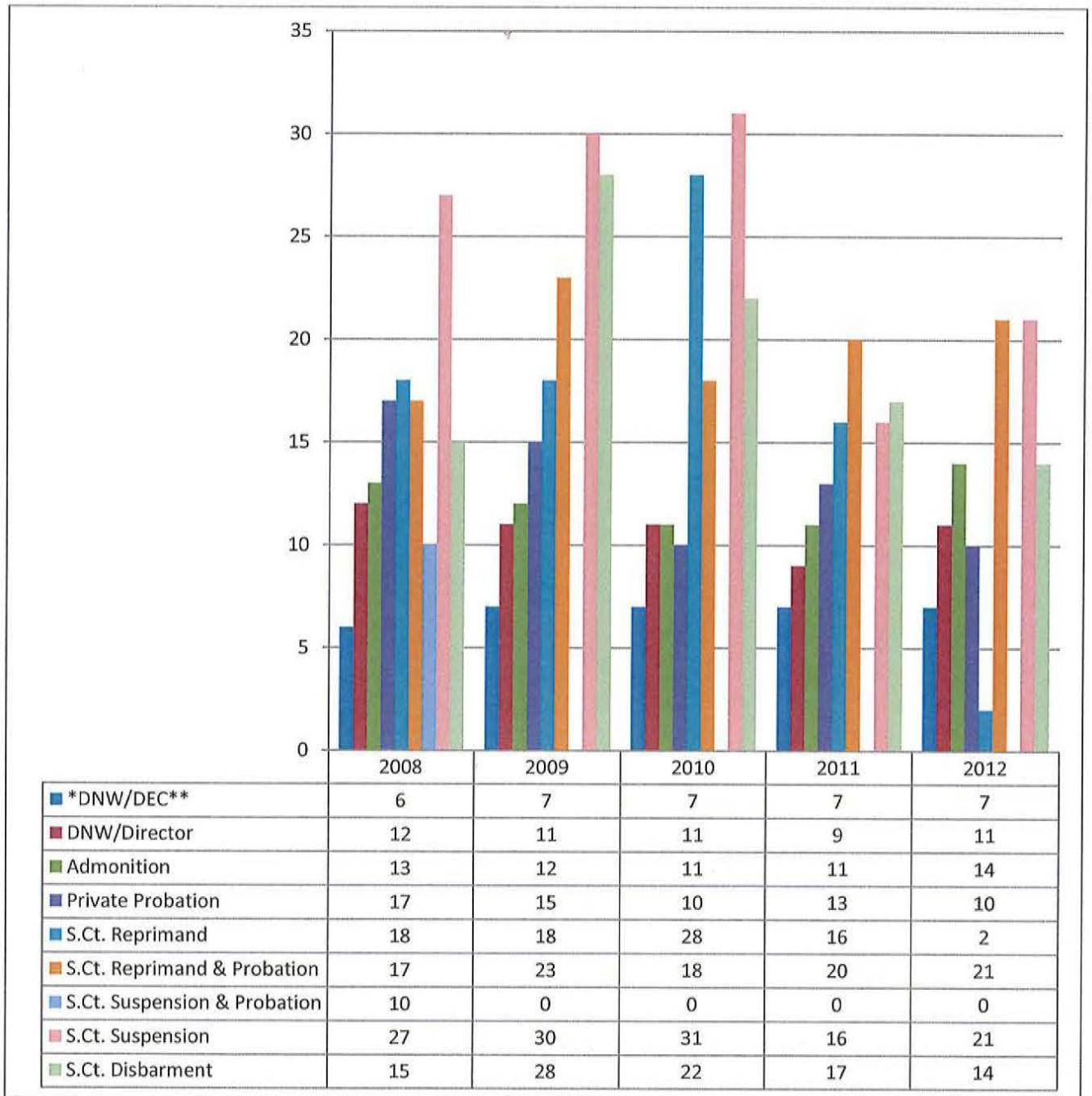


	Dec. 2008	Dec. 2009	Dec. 2010	Dec. 2011	Dec. 2012	4/30/2013
Total Open Files	595	572	682	634	632	598
Cases at Least One Year Old	177	139	179	206	197	196
Complaints Received YTD	1,258	1,206	1,365	1,341	1,287	418
Files Closed YTD	1,161	1,229	1,252	1,386	1,287	451

**TABLE III**  
**Percentage of Files Closed**



**TABLE IV**  
Number of Months File was Open at Disposition



\*Discipline Not Warranted  
\*\*District Ethics Committee

## 2012 OLPR Summary of Public Matters Decided

### 49 Decisions Involving 112 Files

<b>Disbarment</b>	<b>24 files</b>	<b>6 attorneys</b>	<b>Reprimand &amp; Probation</b>	<b>14 files</b>	<b>8 attorneys</b>
BERNDT , DENO WALTER	A12-272	1	FOGEL , JONATHAN JAY	A12-324	1
JACOBS , WILLIAM A	A12-891	1	GOTTSCHALK , RANDALL EDWARD	A12-1029	1
LUNDEEN , STEVEN PAUL	A11-896	12	KALLA , CHRISTOPHER THOMAS	A10-1906	1
RYMANOWSKI , JOSEPH ANTHONY J	A11-340	8	NIELSEN , MATTHEW THOMPSON	A12-1082	1
SAND , RICHARD A	A11-1694	1	OYEN , KRISTIAN LEE	A11-1610	3
WOLFF , ERIN MARIE	A11-1358	1	RICE , JON D	A11-2291	3
			WATERS , VINCENT FRANCIS	A12-1830	2
			YAGER , SUSAN A	A12-583	2
<b>Suspension</b>	<b>65 files</b>	<b>26 attorneys</b>	<b>Reprimand</b>	<b>1 files</b>	<b>1 attorneys</b>
ANDERSON , SUSAN R	A11-1714	1	KIRSCHNER , WILLIAM	A12-94	1
CUMMINGS , JENNIFER LYNN	A12-275	2	<b>Dismissal</b>	<b>1 files</b>	<b>1 attorneys</b>
DAVIS , WILLIE HERMAN JR.	A11-1089	1	SHAFFER , PAUL THOMAS	A11-1437	1
ELLENBECKER , JOHN D	A12-333	4	<b>Reinstatement</b>	<b>3 files</b>	<b>3 attorneys</b>
FREEMAN , THERESA A	A12-740	14	FRU , JOSEPH AWAH	ADM05-80	1
FRU , JOSEPH AWAH	ADM05-80	1	GRIGSBY , STEPHEN VINCENT	A11-976	1
GRIFFIN , ALFRED AARON	A12-1081	1	MCCORMICK , DAVID LAWRENCE	A11-1052	1
GRIGSBY , STEPHEN VINCENT	A11-976	1	<b>Reinstatement &amp; Probation</b>	<b>4 files</b>	<b>4 attorneys</b>
HOBBS , NATHANIEL PATRICK	A11-1999	10	DAVIS , WILLIE HERMAN JR.	A11-1089	1
JONES , WILLIAM F	A11-878	1	GRIFFIN , ALFRED AARON	A12-1081	1
MAHLER , TRENT WILLIAM	A12-1720	1	NIMIS , BARBARA ANN	A11-1279	1
MCCORMICK , DAVID LAWRENCE	A11-1052	1	RUHLAND , DOUGLAS A	A11-2265	1
MELIN , CHANEL GIGI	A12-341	1			
MILLER , TIMOTHY PAUL	ADM05-80	1			
MONTGOMERY MONTEZ , ANGELA	A11-125	1			
MURRIN , JOHN O III	A11-108	1			
NATHANSON , STANLEY H	A10-684	1			
NIMIS , BARBARA ANN	A11-1279	1			
O'BRIEN , JOSEPH D JR.	A10-1467	1			
PAUL , WILLIAM D	A09-2166	9			
RUHLAND , DOUGLAS A	A11-2265	1			
STANEK , JON ELTON	A12-525	1			
STOCKMAN , LOUIS ANDREW	A11-610	6			
TOBERMAN , RACHEL LAUREN	A12-818	1			
TRIMBLE , ELIZABETH MEGAN CARR	A12-526	1			
WATERS , VINCENT FRANCIS	A12-1002	1			

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2012 – June 2013**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
7/16/12	Ethics for Paralegals	St. Paul	MPA
7/18/12	Trust Accounts	Minneapolis	Winthrop & Weinstine
8/8/12	Ethics for Legal Services	Mankato	Southern MN Regional Legal Services
8/7/12	Solo and Small Firm Seminar	Duluth	MNCLE
8/17/12	Dealing with Unrepresented Persons	Minneapolis	MN Ass'n to Townships
8/20/12	MNCLE videotaping	Minneapolis	MNCLE
8/30/12	OLPR Overview	Duluth	Duluth Rotary Club
9/11/12	Legal Corps Patent Project Seminar	Minneapolis	HCBA
9/18/12	Common Complaints and Ethical Issues in Practice of Bankruptcy	Minneapolis	MSBA
9/20/12	Miscellaneous Issues in Attorney Discipline	Minneapolis	Amdahl Inns of Court
9/25/12	Ethics Issues Arising when Representing Business Clients	Minneapolis	HCBA
9/28/12	LPRB/OLPR PR Seminar	Minneapolis	LPRB/OLPR
10/30/12	William Mitchell Moot	St. Paul	William Mitchell
10/30/12	William Mitchell Moot	St. Paul	William Mitchell
11/9/12	Real Estate Institute	St. Paul	MNCLE
11/15/12	MSBA Tax Section Social Media CLE	Minneapolis	MSBA
12/19/12	Ethics Issues	Eagan	Clarion Legal
1/10/13	Attorney Disciplinary System	Minneapolis	Dorsey & Whitney
1/18/13	Excessive Case Loads	St. Paul	St. Paul Public Defender
1/25/13	Ethics for Paralegals Webinar	St. Paul	IPE
2/5/13	Advising the Disadvantaged	Minneapolis	MNCLE
2/7/13	Communication, Confidences, Counseling	Golden Valley	Brown & Carlson
2/8/13	Professionalism	Minneapolis	HCBA
2/22/13	Paralegal Professors	Brooklyn Park	North Hennepin Community College
3/12/13	ADR Section	Minneapolis	MSBA
3/14/13	Starting a New Practice Seminar	Minneapolis	MNCLE
3/19/13	Real Property	St. Paul	RCBA
3/22/13	Mental Health Issues	Minneapolis	HCBA/LCL
3/27/13	Ethical Issues in Real Estate Practice	Stillwater	Washington Co. Bar Ass'n
4/2/13	Recent Developments in Legal Ethics	Duluth	11 <sup>th</sup> DEC
4/4/13	Tools for the New & Experienced Legal Practitioner	Minneapolis	Wolanda Shelton & F. Clayton Tyler
4/10/13	Trial Tactics Webinar	Minneapolis	MNCLE

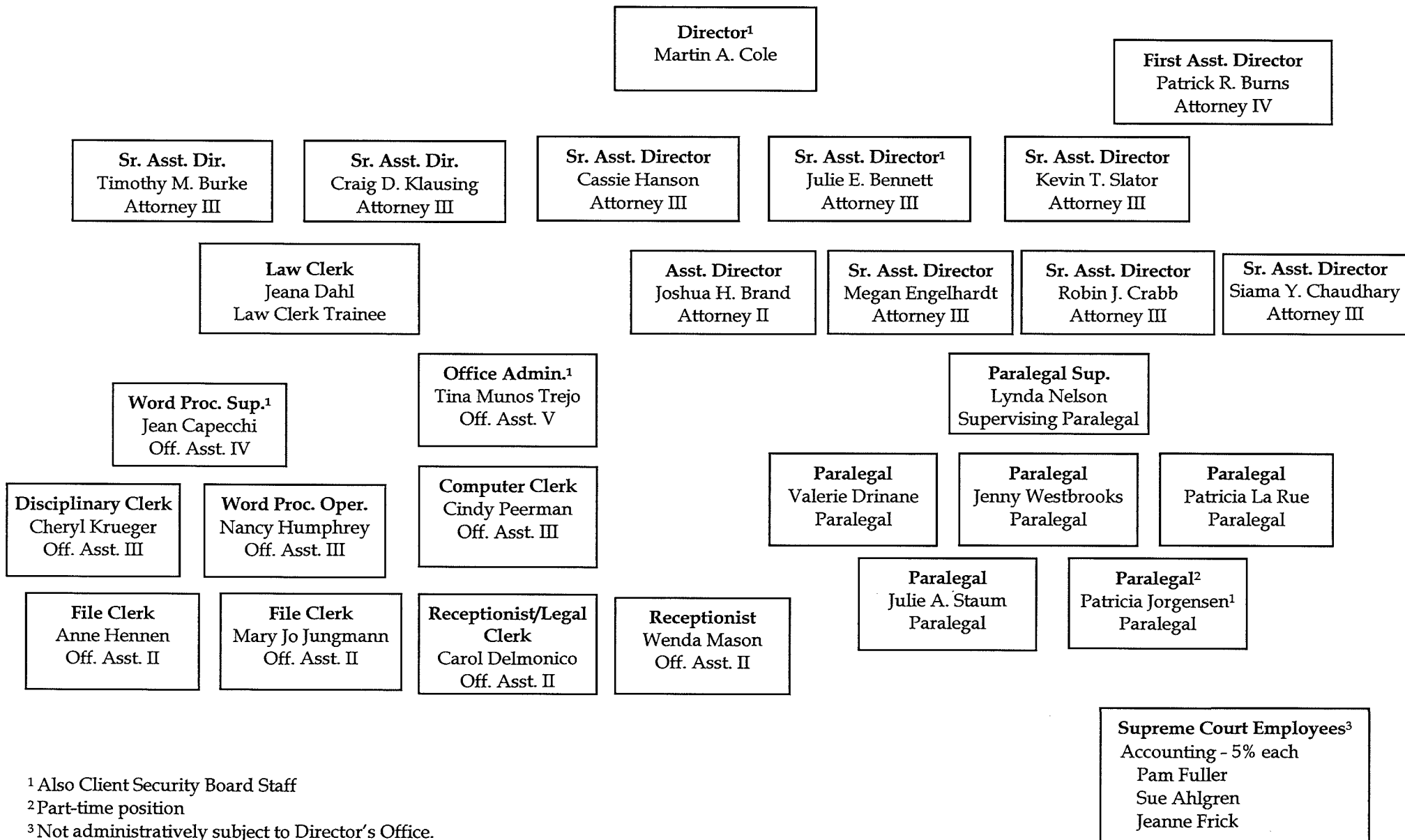
**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2012 – June 2013**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
4/10/13	Ethics for Paralegals	Inver Grove Heights	IHCC
4/12/13	Ethical Issues in Lawyers' Use of Technology	St. Paul	Attorney General's Office
4/12/13	Tort Law Issues	St. Paul	MSBA
4/18/13	Medical Malpractice	Minneapolis	MSBA
4/24/13	Ethics Complaints	Minneapolis	MNCLE Webcast
5/1/13	Update on Ethics	Minneapolis	MN Association for Justice
5/2/13	Probate and Trust Section CLE	Minneapolis	MSBA
5/9/13	Judges Conference	Duluth	Federal Judges/Magistrate Retreat
5/14/13	Conflicts Seminar	Minneapolis	MNCLE
5/14/13	MN Paralegals Real Estate Seminar	Minneapolis	Gray Plant Mooty
5/16/13	Diminished Capacity and Conflicts	St. Cloud	Children's Justice Initiative
5/17/13	MPA Convention	Minnetonka	MPA
5/20/13	Overview of MN Disciplinary System	Minneapolis	Minneapolis City Attorney
5/21/13	Employment Law Institute	St. Paul	MNCLE
5/23/13	Ethics Summit Seminar	Minneapolis	
6/3/13	Ethics Seminar	Minneapolis	MNCLE
6/5/13	Annual Judges and Tax Conference	St. Paul	MSBA
6/18/13	Trust Accounts	Apple Valley	Dakota County Bar
6/20/13	Legal Services Seminar	Minneapolis	Robins Caplan
6/28/13	Year End Roundup of Discipline Cases Webcast	Minneapolis	MNCLE



# Office of Lawyers Professional Responsibility

## FY'14 Organizational Chart



<sup>1</sup> Also Client Security Board Staff

<sup>2</sup> Part-time position

<sup>3</sup> Not administratively subject to Director's Office.  
Office pays percentage of their salary



# MINNESOTA

## Lawyers Professional Responsibility Board

### Office of Lawyers Professional Responsibility

1500 Landmark Towers 651-296-3952  
 345 St. Peter Street 1-800-657-3601  
 St. Paul, MN 55102-1218



- [Home](#)
- [Rules](#) ▾
- [About Us](#) ▾
- [Articles](#)
- [Lawyer Search](#) ▾
- [Lawyer Resources](#) ▾
- [File Complaint](#) ▾

## Announcements

- [Lawyer Registration News Release](#)
- [Amendment to MN Rules of Prof. Conduct](#)
- [2013 Retiring Lawyers Board Members](#)
- [Congratulations Patrick Goggins Lawyers Board 2012 Volunteer of the Year.](#)
- [Lawyers Board Meetings 2013](#)

## What's New

- ["Rules of engagement-judges and ESM," MN Lawyer, June 2013](#)
- ["A reminder about letters of protection," MN Lawyer, May 2013](#)
- ["Taxes and Lawyer Discipline," MN Bench and Bar, April 2013](#)
- ["Do you really want to send that friend request?" MN Lawyer, April 2013](#)
- ["Summary of Public Discipline," MN Bench and Bar, March 2013](#)
- ["ABA addresses foreign outsourcing of legal work," MN Lawyer, March 2013](#)
- ["Summary of Admonitions," MN Bench and Bar, February 2013](#)
- ["Once again Identify your client," MN Lawyer, February 2013](#)
- [2012 LPRB-OLPR ANNUAL REPORT](#)

## Quick Links

## Legal References

- [Professional Responsibility Seminar](#)
- [Trust Accounts](#)
- [Professional Firms](#)
- [LPRB Opinions](#)
- [Disciplinary History Request](#)
- [Proposed and Pending Rules & Opinions](#)

## Contact

Lawyers Professional Responsibility Board  
 Office of Lawyers Professional Responsibility

1500 Landmark Towers  
 345 St. Peter Street  
 St. Paul, MN 55102-1218

651-296-3952  
 1-800-657-3601  
 Fax: 651-297-5801

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

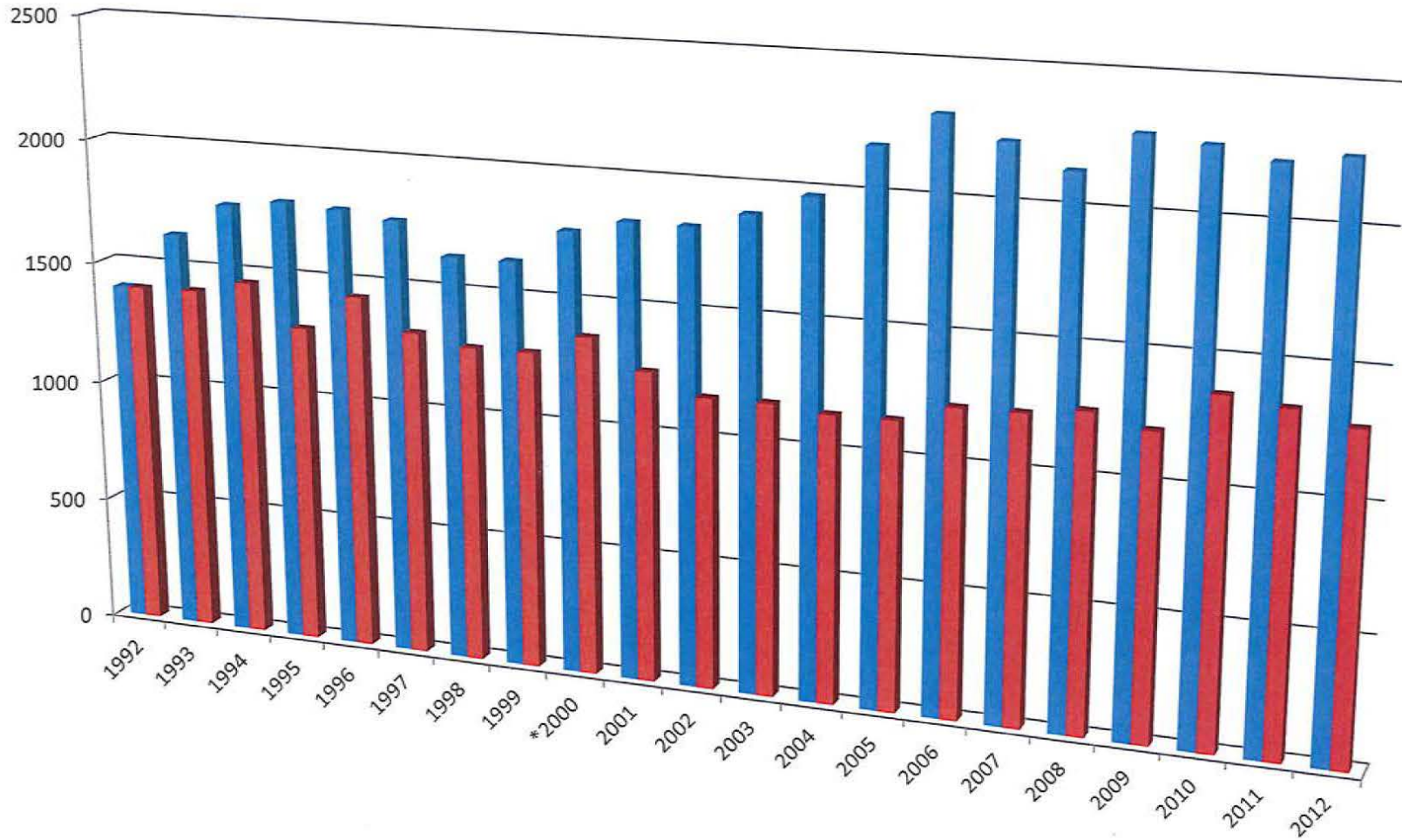
## Resources

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

## Links

- [Lawyers Board Directory](#)
- [OLPR Lawyer Directory](#)
- [Annual Reports](#)
- [Contact Us](#)

**Advisory Opinion Requests Received  
and  
Number of Complaints Opened  
1992 - 2012**



	1992	1993	1994	1995	1996	1997	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
■ Advisory Opinions Received	1398	1627	1765	1795	1783	1757	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135	2282	2258	2215	2249
■ Complaints Opened	1399	1405	1456	1290	1438	1314	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257	1206	1365	1337	1287

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