

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

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OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY**

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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 2008 to June 2009, which represents the Board's and Office's fiscal year. The majority of the statistical information, however, is in fact based upon calendar year 2008.

Implementation of Supreme Court Advisory Committee to Review the Lawyer Discipline System Recommendations.

As reported last year, the Minnesota Supreme Court appointed a committee chaired by Minneapolis attorney Allen Saeks to review the lawyer discipline system in Minnesota and report its findings and any recommendations for change. On the whole, the committee's report was very favorable with almost no significant changes suggested (*see* next section).

The Lawyers Board Executive Committee oversaw implementation of several of the Advisory Committee's administrative recommendations. The principal concern of the committee was with file aging, particularly complaints under investigation for more than one year without having been resolved or charged. The Executive Committee is working with the Director's Office to establish manageable time guidelines for each step in the investigatory process, with the intention that at least 75% (or higher) of all complaints will be handled within those timelines. It is understood that when the Director's Office is awaiting dispositions in other forums or when the responding attorney is not cooperating with the investigation that such timelines will not be met. It is nevertheless hoped that such situations will not account for more than the 25% of matters anticipated to fall outside the time guidelines. Other recommendations included simplifying language used in

dismissals of complaints and formalizing the Office's policy of using translators and interpreters.

Revisions to Rules on Lawyers Professional Responsibility.

The Advisory Committee did make some recommendations for changes to the Rules on Lawyers Professional Responsibility (RLPR), the procedural rules that govern the discipline system. Most significantly was a proposal to alter the manner in which most probable cause determinations are made by Lawyers Board Panels. In the past, an attorney was entitled to a contested evidentiary hearing in all instances in which the Director is seeking public discipline. Minnesota has been perhaps the only jurisdiction to conduct such hearings before authorizing the filing of a public petition for disciplinary action. While in fact hearings have not always been held (attorneys may waive the necessity of a probable cause hearing or in some situations a motion for probable cause may be made by the Director), the Advisory Committee recommended that probable cause determinations in most matters should be made upon written submissions and documents, rather than live evidentiary hearings. Only if a Lawyers Board Panel specifically authorizes live testimony will it now be taken.

The Supreme Court, by order dated March 24, 2009, approved the Committee's recommendation, effective July 1, 2009 (A. 1). This will be a significant revision of the long-standing operating process, and likely will require some education of all participants in the system. While there may be a few "bumps" in the process, the Director's Office and the Board will endeavor to fairly apply the new procedures.

The Lawyers Board also filed a petition this year for amendments to the RLPR, which was heard simultaneously with the Advisory Committee report. Several changes to reinstatement procedures were adopted, along with clarification as to the confidentiality of many of the Director's non-complaint files and records, such as

those pertaining to probation, advisory opinions and trust account overdrafts. These changes also take effect on July 1, 2009.

Lawyers Board Opinion Committee.

Rule 4(c), RLPR, authorizes the Board to issue non-binding opinions that interpret Rules of Professional Conduct on topics of interest to the profession. The Board had not in fact issued any opinions since 1999, largely because of the Supreme Court's decision in *In re Panel File No. 99-42*, 621 N.W.2d 240 (Minn. 2001), in which the Court ruled that Board opinions could not form the basis for lawyer discipline.

This past year, Lawyers Board Chair Kent Gernander called for the re-establishment of the Board's opinion committee, first to study whether the Board should again issue opinions and, if so, by what procedure. The newly formed opinion committee, under the chairpersonship of Board member Stuart Williams, recommended that the Board re-commence issuing opinions and the Board approved the recommendation.

Thereupon, the committee made its first recommendation for an opinion, Proposed Opinion No. 20, concerning the use of the term "& Associates" in a law firm name if the firm in fact consists of only one attorney. Pursuant to the Board's new procedure, the opinion was published for comment and voted on at the Board's June 2009 meeting. As an enforcement position for the Director's Office, the new opinion would not go into effect until January 1, 2010.

At least two other potential opinions are under consideration by the opinion committee; one involving an attorney's duty to report their own potential malpractice to their client preliminarily was presented at the same June meeting.

Complaint Statistics.

The number of complaints received in 2008 was 1258, slightly higher than the previous year's total of 1226. While the number did increase somewhat this past year, perhaps more importantly, the number is approximately 100 more than just

three years ago. This increase in the last three years helps explain the continued high number of year-old files. Tables outlining these and related statistics are at A. 2 - A. 6.

Totals for the first four months of 2009 project to a year-end total of 1200, which may represent a leveling off of the trend towards increasing numbers of complaints received as in each of the recent years. While this number remains larger than the average over the past decade, a slight decrease would allow the Director's Office to "catch up" somewhat with the current case list. As discussed above, the Supreme Court Advisory Committee noted the number of pending files as an area of concern, and indeed it is a source of constant attention within the Director's Office.

Changes to the Board.

The terms of five members of the Lawyers Board ended this past January 2009: Kathleen Clarke Anderson, Mark Anway, Wood Foster, David Sasseville and Dianne Ward. All of these departing Board members had served on Panels and Board committees; Ms. Ward also served on the Executive Committee. Their experience and expertise has been difficult to replace.

Named to replace these departing members were attorney members Nancy Zalusky Berg, Cassandra Ward Brown and Richard Lareau. Two non-lawyer members also were appointed: Carol Cummins and David Malmgren. They all bring experience to the Board and are quickly learning the Board procedures.

Members of the Board's Executive Committee who remained were Kent Gernander, Chair; Vincent Thomas, Vice-Chair; and public members Ann Maas and Mary Medved. Joseph Ferguson of Duluth was named to replace Ms. Ward on the Executive Committee. The Board members who act as Panel Chairs for probable cause determinations are now: Robert Bauer, William Donohue, Sherri Hawley, Lynn Hummel, Stuart Williams and Jan Zender. As noted earlier, Mr. Williams also chairs the Board's Opinion Committee; Mr. Donohue chairs the Board's Rules

Committee. A complete listing with short biographical information of all Board members is attached at A. 7.

Lawyers Board Seminar.

In October 2008, the Board and Director's Office again hosted the annual district ethics committee seminar at the Four Points by Sheraton Minneapolis (now renamed the Ramada Plaza Minneapolis). Highlights included presentations discussing the recommendations of the Supreme Court Advisory Committee headed by the committee's chair, Minneapolis attorney Allen Saeks, and a session of "going paperless" and the "virtual law firm" presented by Minneapolis attorney Eric Cooperstein and Cassie Hanson of the Director's Office. In addition to an update of current cases and district ethics committee training, the other annual highlight was the presentation by the Board's liaison Justice Alan Page of the annual Volunteer(s) of the Year Award to Roger Gilmore and Murray Shabsis, non-lawyer members of the Fourth District Ethics Committee who both also served on the Supreme Court Advisory Committee to Review the Lawyer Discipline System. Both have exhibited an outstanding history of volunteer commitment to improving the administration of justice in Minnesota.

The possibility of holding smaller district ethics training seminars throughout the state on an alternating basis was discussed for the coming year, but it appears that a majority of attendees and district ethics committee members enjoy the annual seminar, with the opportunity to meet and network with their counterparts from throughout the state. The annual seminar thus appears likely to remain a fixture of the lawyer discipline system's calendar. This year's seminar is scheduled for October 2, 2009.

II. PUBLIC DISCIPLINE DECISIONS.

Thirty-six attorneys were publicly disciplined in calendar year 2008, which has been approximately the average number for most recent years (A. 9).¹ Four attorneys were disbarred. Another sixteen attorneys have been publicly disciplined through May of this year, including an additional disbarment. The attorneys who were disbarred in 2008 were:

Eugene Castro	David Redburn
Terry Djonne	James Berg

Obviously criminal conduct and misappropriation of client funds remain the most serious violations an attorney can commit, and the most likely to lead to disbarment. In the past year, however, one disbarment came as a result of a reciprocal discipline (Mr. Castro) of a New York lawyer who was also licensed in Minnesota, another due more to repeated violations of numerous rules over an extended period of time: Mr. Redburn.

In addition to the disciplined lawyers, there were also four attorneys reinstated to the practice of law in 2008, while four others were either denied reinstatement or withdrew their reinstatement petitions. Two attorneys were transferred to disability inactive status and two trusteeships were commenced by the Director's Office.

III. DIRECTOR'S OFFICE.

A. Budget.

1. FY'09 and FY'10 Budgets.

Expenditures for the fiscal year ending June 30, 2009, are projected to be \$2,619,575. The FY'10 budget, which begins July 1, 2009, and runs through June 30, 2010, includes anticipated expenditures of \$3,010,190. The Director's Office budget is

¹ Public disciplines include disbarments, suspensions, stayed suspensions, public reprimands and probations.

funded by lawyer registration fees, and therefore is not dependent upon legislative action, as is the judicial branch's budget. Nevertheless, due to the judiciary's fiscal budget crisis, State Court Administration has directed that the FY'10 payroll budget includes no salary increases for employees and no additional staff.

The FY'10 budget does include significant funds to rebuild the Attorney Disciplinary Record System (ADRS) which was originally scheduled to begin in FY'09. Due to the urgency of the Web site project discussed below, the ADRS project was postponed. The budget also includes funds to replace office computers that are over 3 years old.

There appears to be no need for a fee increase in the coming years.

B. Personnel.

The Director's Office currently employs 9 attorneys plus the Director, 4.5 paralegals, 1 administrator, 8 support staff and 1 law clerk (*see* organizational chart at A. 10). There have been no personnel changes this year. The judicial branch policy currently limits hiring to essential positions only.

C. Web Site.

The OLPR Web site was developed in early 1996 and is written in a now-outdated code. As a result, occasionally members of the public have been unable to access it easily. In April 2009, the Office contracted with Computer Integration Technologies to develop a new Web site design and content management system to replace the existing Web site. It is anticipated that the project will be completed by October 2009. It is anticipated that the new Web site will allow complainants to file complaints via the internet and it will improve public search capabilities on the site.

The Web site is maintained and updated regularly by the Director's Office. The address is www.mncourts.gov/lprb. Attached at A. 11 is the current title page of the Web site's homepage.

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, assigned in rotation. During 2008, the Director's Office received 228 complainant appeals, compared to 281 such appeals in 2007. One of the recommendations of the Supreme Court Advisory Committee was to simplify and personalize some of the language used in summary dismissals. It was hoped this would help better explain such dismissals, resulting in better complainant understanding and satisfaction. This may account for this year's reduced number of appeals. There were 231 complainant appeal determinations made by Board members in 2008 as follows:

		<u>%</u>
Approve Director's disposition	213	92.0
Direct further investigation	17	7.5
Instruct Director to issue an admonition	0	0
Instruct Director to issue charges	1	.5

A total of 43 clerical hours were spent in 2008 processing and routing appeal files. Limited attorney time was expended in reviewing appeal letters and responding to those complainants who continued to correspond even after their appeals were decided.

E. Probation.

Attorney disciplinary probation continues to be an important and time-consuming function of the Office of Lawyers Professional Responsibility. There are two types of probations which may be imposed; public and private. Public probations are often used after a lawyer has been suspended from the practice of law. In that context the probations provide a structure for the lawyer to avoid the type of misconduct that resulted in the public discipline and afford greater protection to the public. In the case of private probation, this type of probation provides the Director

with a disciplinary option for those matters in which an admonition (the lowest level of discipline that the Director can impose) may be insufficient.

Public probations are ordered by the Minnesota Supreme Court and are often based upon more serious misconduct; e.g., criminal conduct, dishonesty and conduct prejudicial to the administration of justice. In 2008, there were 32 new probations and half of those were public. While public probations are often successful in transitioning the lawyer back to the practice of law, the outcome is not always positive. For example, the public probation of John T. Anderson was revoked as a result of further misconduct by Mr. Anderson, including his failure to cooperate with the terms of his public probation. The public probation of Ronald L. Kopeska was placed in abeyance when Mr. Kopeska failed to meet a condition of his probation, that he pass the professional responsibility portion of the bar exam. Attorney Jon Sannes had his public probation extended when he failed to meet the condition of his probation that he comply with the terms of his criminal probation regarding his abstinence from alcohol.

Private probations are agreements between the lawyer and the Director, subject to Lawyers Board Chair approval. Private probations can be followed by public discipline and a public probation when the probationer fails to comply with the terms of the private probation. Attorney Melissa A. Zentner had entered into an agreement for private probation, but failed to cooperate with the Director in his efforts to monitor compliance with her probation. The Director subsequently filed a petition with the Supreme Court seeking revocation of the probation and further discipline.

As has been the case in the past, probations were most often imposed as a result of the attorneys' failure to provide competent and diligent representation to their clients and failing to adequately communicate with clients. Of the 90 probation files open during some part of 2008, over half involved a violation of the rules

concerning competence, diligence or communication. The next most common form of misconduct that results in a lawyer being placed on probation is failure to follow the requirements for maintenance of the lawyer's trust account. 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 issues.

Whether public or private, probations always include requirements designed to address, to the extent possible, the underlying misconduct. Since more than half of the probation files opened in 2008 involved the attorney's failure to provide competent and diligent representation to their client and failing to adequately communicate with clients, probations often include requirements that lawyers maintain case lists documenting the nature of the file, upcoming deadlines, communications with clients, and next anticipated action on the file.

The majority of attorneys placed on probation 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. In 2008, 21 probations resulted, at least in part, from lawyers improperly maintaining their trust accounts. Accordingly, those probations required the lawyer to provide on either a monthly or quarterly basis, his or her trust account books and records to the Director for review. The Director's Office reviews the records for completeness, accuracy and compliance with the Rules. When deficiencies are noted, the Director's Office provides a detailed explanation of how to correct the problem. 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. If, over the course of the probation the probationer fails to bring his or her books and records in compliance with the Rules, the Director may seek an extension of probation or a revocation of the probation and further discipline.

In 2008, the Director opened 12 new probations in which mental health and/or chemical dependency played a role in the underlying misconduct. In those probations, the lawyers were required to initiate or continue current treatment by a licensed psychologist or other mental health professional acceptable to the Director, complete all recommended therapy and provide the Director with authorizations to confirm compliance with treatment recommendations. The Director may also require attorneys to participate in support groups, such as those offered by Lawyers Concerned for Lawyers, or ask supervisors to monitor a probationer's mental status.

Chemical dependency issues may be addressed in a probation by requiring attendance at a twelve-step program, such as Alcoholics Anonymous (AA) or Narcotics Anonymous. Frequently, therapy with a mental health professional is required in addition to AA attendance. Four of the probations opened in 2008 required weekly or monthly attendance at AA or other support group. 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.

As a condition of probation in cases involving serious chemical dependent behavior, the Director may 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, 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. In 2008, the Director opened one new and closed three probations requiring UAs. Currently, there are a total of four probationers participating in the Director's random UA program.

DISABILITY RELATED PROBATIONS

Chemical Dependency – existing files on 1/1/08	7	
New files opened during 2008	<u>4</u>	
Total Chemical Dependency Related Files		11
Psychological Disorders – existing files on 1/1/08	13	
New files opened during 2008	<u>8</u>	
Total Psychological Disorder Related Files		<u>21</u>
Total Disability Related Probations		32

YEAR	TOTAL PROBATIONS OPEN DURING YEAR	NUMBER OF NEW PROBATIONS OPENED REQUIRING:			TOTAL ²
		AA ATTENDANCE	RANDOM UA	MENTAL HEALTH OR THERAPY	
1992	87	1	0	0	1
1993	100	1	0	0	1
1994	114	2	1	7	10
1995	102	1	1	5	7
1996	96	3	0	2	5
1997	87	0	2	3	5
1998	90	0	0	1	1
1999	101	0	0	5	5
2000	97	3	2	4	9
2001	95	1	2	5	8
2002	81	2	2	6	9
2003	83	3	2	8	10
2004	80	1	1	1	2
2005	76	2	2	6	7
2006	73	6	3	5	14
2007	83	0	1	7	8
2008	90	4	1	8	13

² Because a chemical dependency or mental health probation may require AA attendance, random urinalysis and/or psychological therapy, the totals stated in this report may not balance.

Probation Supervisors. During 2008, 33 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 law practice and their supervisory experience. Ten probation supervisors (four solo practitioners, four small firm and two large firm attorneys), responded to the Director's survey in 2008. As a group, the supervisors shared knowledge learned while successfully practicing law from 12 to 33 years.

The supervisors volunteered an average of 2.5 hours per month reviewing client inventories and client files, speaking with probationers either during in-person visits or over the phone, and reporting their observations quarterly to the Director. The primary focus of most probations was maintaining and documenting client communications, calendar and docket control systems, file organization and closure and law office management skills. It is not unusual for a supervisor's efforts to go beyond office management issues and focus on the probationer's overall compliance with the requirements of probation or mental health issues and compliance with treatment.

All ten of the supervisors surveyed stated their experience was positive and they would serve again. Most found their probationers to be cooperative and responsive to their suggestions. All would consider recommending service as a probation supervisor to a friend. One probation supervisor found supervision to be helpful to her own practice.

Most of the supervisors surveyed were pleased with the probation system and the support received from the Director's Office. Two supervisors found calls to the Director to be helpful. One supervisor suggested a short online tutorial explaining a supervisor's duties. Another would have liked more information regarding the overall expectations of the probation, specific suggestions on how to monitor the

probationer's closure of her law office and acknowledgment of issues raised in quarterly reports.

PROBATION STATISTICS

TOTAL PROBATION FILES OPEN DURING 2008		
Public Supervised Probation Files (23.3%)	21	
Public Unsupervised Probation Files (20.0%)	<u>18</u>	
Total Public Probation Files (43.3%)		39
Private Supervised Probation Files (31.1%)	28	
Private Unsupervised Probation Files (25.6%)	<u>23</u>	
Total Private Probation Files (56.7%)		<u>51</u>
Total Probation Files Open During 2008		90
TOTAL PROBATION FILES		
Total probation files as of 1/1/08		64
Probation files opened during 2008		32
Public probation extended during 2008		(1)
Probation files closed during 2008		<u>(31)</u>
Total Open Probation files as of 12/31/08		64
PROBATIONS OPENED IN 2008		
Public Probation Files		
Court-ordered Probation Files		
Supervised	6	
Unsupervised	<u>7</u>	
		13
Reinstatements		
Supervised	3	
Unsupervised	<u>0</u>	
		<u>3</u>
Total Public Probation Files		16
Private Probation Files		
Supervised	6	
Unsupervised	<u>10</u>	
Total Private Probation Files		<u>16</u>
Total New Probation Files in 2008		32

PROBATIONS OPENED IN 2008 INVOLVING:

Client Related Violations	8
Non-Client Related Violations	12
Both Client & Non-Client Violations	<u>12</u>
Total New Probation Files in 2008	32

PROBATION FILES CLOSED IN 2008

Probations Successfully Completed	28
Probation Revocations	2
Probations Extensions	1
Probation Held in Abeyance for PR Exam Completion	<u>1</u>
Total Probation Files Closed in 2008	32

AREAS OF MISCONDUCTAs reflected in 90 open files during 2008³

Competence (Violation of Rules 1.1 and 1.2, MRPC)	14
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	71
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	1
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	6
Duty to Former Client (Violation of Rules 1.9 and 1.11, MRPC)	2
Fee Violations	8
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	24
Termination of Representation (Violation of Rule 1.16)	6
Respect for Rights of Third Persons (Violation of Rule 4.4)	1
Unauthorized Practice of Law (Violation of Rule 5.5, MRPC)	5
Taxes	1
Supervision on Non-Lawyer Assistants. (Violation of Rule 5.3, MRPC)	6
Non-Cooperation (Violation of Rule 8.1, MRPC)	16
Violate the MRPC (Violation of Rule 8.4(a), MRPC)	1
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	13
Misrepresentations (Violation of Rule 8.4(c), MRPC)	21
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	29

³ A file may involve more than one area of misconduct.

Probation Department. During 2008 Senior Assistant Director Craig Klausung and Assistant Director Robin Crabb, with the assistance of two paralegals, monitored all probations.

TIME BY PROBATION DEPT. STAFF (hrs./wk.)	
Attorney 1	12
Attorney 2	8
Paralegal 1	8
Paralegal 2	<u>4</u>
TOTAL PROBATION STAFF TIME PER WEEK	32

F. Advisory Opinions.

The number of advisory opinions requested by Minnesota lawyers and judges decreased slightly in 2008. In 2008 the Director's Office received 2135 requests for advisory opinions, compared to 2223 in 2007 (A. 13). This represents a 4% decrease over last year.

Attorneys submitted 216 advisory opinion requests via the e-mail link on the OLPR Web site in 2008, compared to 190 requests received in 2007. This represents more than a 13% increase over last year. Like telephone advisory 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 at (651) 296-3952. 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.

Set forth below is a statistical summary of advisory opinions for the period 1990 through 2008:

YEAR	OPINIONS GIVEN BY TELEPHONE	OPINIONS GIVEN IN WRITING	TOTAL OPINIONS GIVEN	OPINIONS DECLINED	TOTAL
1990	1130 (83%)	26 (2%)	1156 (85%)	199 (15%)	1355
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

* 2000 totals revised to reflect additional AO's that were not previously included.

** Percentage amount corrected.

In 2008 the Director's Office expended 353 assistant director hours in issuing advisory opinions. This compares with 378 hours in 2007. Dissolution/Custody was the most frequently inquired about area of law. Client Confidentiality and Conflicts of Interest were the most frequent areas 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. 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, 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, and (2) 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.

The number of overdraft notices reported to the Director’s Office in 2008 (78) was comparable to those reported in 2007 (82). Similarly, the number of overdraft inquiries closed by the Director’s Office in 2008 (82) was comparable to the number closed in 2007 (85). Not surprisingly, the Director’s Office time requirements in 2008 (349.50) also were very comparable to 2007 (370.00). The number of closings taking the form of conversions to disciplinary matters also remained fairly constant from 2007 (72) to 2008 (76). At the end of 2008, 13 discipline files based, at least in part, on trust account overdrafts, remained open. This was an almost 30% decrease from the number of discipline files remaining open at the end of 2007 (18).

Overdrafts Reported by Banks

2007	82
2008	78

Closed Inquiries During 2008

• Closed Without Need for Disciplinary Investigation	76
• Inquiry Converted to Disciplinary Investigation	6
Total Trust Account Inquiries Closed	<u>82</u>

Public Discipline Decisions Related to Trust Account Overdraft Inquiry

- *In re Van Sickle*, 744 N.W.2d 374 (Minn. 2008) (suspension)
- *In re Dedefo*, 752 N.W.2d 523 (Minn. 2008) (suspension)
- *In re Overboe*, 745 N.W.2d 852 (Minn. 2008) (suspension)
- *In re Varriano*, 755 N.W.2d 282 (Minn. 2008) (suspension)
- *In re Sheldon*, 748 N.W.2d 920 (Minn. 2008) (public reprimand/probation)
- *In re Williams*, 757 N.W.2d 159 (Minn. 2008) (public reprimand/probation)

In 51 (or 67%) of the inquiries terminated without a disciplinary investigation, the Director recommended changes or improvements to the lawyer's trust account books, records and/or practices. The most common deficiencies discovered in lawyers' trust account books and records were again the lack of proper books, failure to properly reconcile the trust account and commingling.

In 2008 the causes of trust account overdrafts that were closed without a disciplinary investigation were as follows:

Overdraft Cause	No. of Closings
Bank error	17
Mathematical/clerical error	13
Late deposit	9
Check written in error on TA	7
Service or check charges	7
Third party check bounced	7
Deposit to wrong account	5
Bank hold on funds drawn	3
Improper/lacking endorsement	2
Reporting error	1
Other	5

Disciplinary File Openings

The Director will initiate a disciplinary investigation based on an overdraft inquiry if the lawyer fails to respond to the overdraft inquiry, the lawyer's response does not adequately explain the overdraft or significant problems are identified in reviewing the trust account books and records. During 2008, overdraft inquiries were converted into disciplinary investigations for the following reasons:

<u>Reason for Investigation</u>	
Shortages	2
Discipline file open on prior OD	2
Commingling	1
Other	1
Total	<u>6</u>

Time Requirements

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

	<u>1/07-12/07</u>	<u>1/08-12/08</u>
Attorney	150.00 hrs	125.00 hrs
Paralegal and other staff	<u>220.00 hrs</u>	<u>224.50 hrs</u>
Total	370.00 hrs	349.50 hrs

H. Judgments and Collections.

In 2008 judgments were entered in 31 disciplinary matters totaling \$30,076.52.⁴ The Director's Office collected a total of \$28,520.18 from judgments entered during or prior to 2008.⁵ In 2008, the Director's Office collected 57% of the judgments entered in 2008, as compared to 2007, where the Director's Office collected 49% of the judgments entered in 2007.

⁴ The total amount of all outstanding judgments as of January 1, 2009, was \$285,225.50.

⁵ The Director's Office received \$1,228 toward outstanding judgments from the revenue recapture program operated by the Minnesota Department of Revenue.

A summary of the 2008 statistics and how they compare to 2007 is presented below:

	2008	2007
Number of judgments entered:	31	28
Dollar value of judgments entered:	\$30,076.52	\$25,282.00
Total amount collected:	\$28,520.18	\$32,077.78
Portion attributable to current year's judgment:	\$17,283.18	\$12,300.00
Portion attributable to judgments of prior years:	\$11,237.00	\$19,777.78

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 is also available through the OLPR website. The telephone requests and responses are not tabulated.

2. Source and Number of Written Requests for Disclosure.
Calendar Year 2008.

	<u># of Requests</u>	<u># of Attorneys</u>	<u>Discipline Imposed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	123	123	3	1
B. Individual Attorneys	267	267	22	2
C. Local Referral Services				
1. RCBA	18	56	1	0
2. Hennepin County	4	213	11	1
D. Governor's Office	17	55	4	3
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	44	44	2	0
F. F.B.I.	25	27	0	0

G. MSBA: Specialist Certification Program	10	226	8	6
H. Miscellaneous Requests	29	113	4	2
TOTAL	537	1124	55	15
(2007 Totals)	(527)	(1002)	(45)	(11)

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.

J. Trusteeships.

Pursuant to Rule 27, RLPR, the Court periodically appoints the Director's Office as trustee to inventory files and, when necessary, trust accounts of disabled, disappeared, deceased, suspended, disbarred or resigned lawyers.

On May 22, 2008, the Director was appointed trustee of the trust account of deceased attorney Howard J. Groves. The funds in the trust account have been distributed and the final report will be filed once the checks have cleared the account.

In November 2008, the files of Jane E. Brooks were expunged pursuant to court order.

The Director's Office continues to retain:

- Alfred Edwall trusteeship – 6 files which are eligible for expunction in December 2013; and
- Michael W. Coopet trusteeship – 103 files which are eligible for expunction November 1, 2011.
- Charles O. Amdahl trusteeship – 325 files which are eligible for expunction November 1, 2011.

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 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 Lawyers Board 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 2007-2008 there were 141 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2009, the Director's Office received \$55,225 from 1,877 professional firm filings. The Director's Office received \$57,075 during fiscal year 2008. As of April 30, 2009, there were 88 new professional firm filings for reporting year 2008-2009.

An Assistant Director, paralegal, and file clerk staff the professional firms department in the Director's Office. The work rarely requires direct attorney involvement. The total attorney work time for overseeing the professional firms department was 8 hours. The total non-attorney work time was 324 hours.

IV. DISTRICT ETHICS COMMITTEES.

Minnesota is one of a few jurisdictions that extensively use local district ethics committees (DEC) to conduct the preliminary investigation of the majority of ethics complaints. The recent Supreme Court Advisory Committee considered the continued vitality of the DEC system and determined that the Minnesota system continues to work well, and strongly urged its continuation.

Initial review of complaints by practitioners in their own area and by 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 2008, the Director's Office followed DEC recommendations in 90% of investigated matters.

Many of the matters in which the recommendation was not followed involved situations in which the Director's Office sought greater discipline than recommended, usually attorneys with substantial prior relevant discipline that was not considered by the DEC in making its recommendation.

In 2008 the monthly average number of files under DEC consideration was 164, fluctuating between a low of 140 and a high of 190. The year-to-date average for 2009 is 164 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of investigations. The DEC's came close to meeting the goal. For the calendar year 2008, the DEC's completed 446 investigations, taking an average of 4 months to complete each investigation. The Hennepin DEC was assigned 201 of these investigations, taking an average of 4.1 months per investigation (*see* A. 14, DEC Investigation Summary).

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 a violation occurred or that additional investigation is 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 2008, 159 matters were referred back to the Director's Office after screening without an IRC hearing; it took an average of 3.8 months to complete the DEC investigation of these matters. There were 31 matters referred to an IRC

panel before being sent back to the Director's Office, which took an average of 5.7 months to complete. 11 matters were withdrawn.

For calendar year 2008, of the completed DEC investigations, there resulted the following dispositions:

Determination discipline not warranted	312
Admonition	59
Private probation	7

The annual seminar for DEC members, hosted by the Office and the Board, will be held this coming year on Friday, October 2, 2009. All DEC members, plus select members of the bench and bar with some connection to the discipline system, are involved. The seminar will be held at the Ramada Plaza Minneapolis (formerly known as the Four Points by Sheraton Minneapolis).

The Board and the Office remain committed to the support and training of ethics committee volunteers, both lawyer members and public members. In addition, the Hennepin DEC holds training/orientation seminars at least twice a year for its new members. The Director's Office continues to provide support to all of the DEC's through liaisons assigned to each district.

This year the Office has initiated a project to facilitate communication between DEC members and make it easier for the DEC's to share reports and proposed recommendations. This project will permit DEC members to post reports and recommendations on a secure website available only to the Office and the DEC members. DEC members will be able to discuss the report and vote on the proposed recommendation via the website. Additionally, DEC members will have access to a variety of resources through the web site. The project will initially be piloted at one or two DEC's with the hope that it will prove to be a valuable resource that may be provided to all DEC's.

V. FY2010 GOALS AND OBJECTIVES.

Integration of the procedural changes for probable cause determinations, which certainly will require some adjustments by staff, Board members and respondents' counsel, will be a high priority of the coming year. Also continued oversight by the Executive Committee of the implementation of the other Advisory Committee recommendations for timely case handling will be important. Along with that task, maintaining requests for advisory opinions and Continuing Legal Education speakers will require effort and commitment from many individuals. Finally, passage of Board opinions and the impact they may have on the bar will be an interesting development to monitor.

Dated: July 1, 2009.

Respectfully submitted,



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

and



KENT A. GERNANDER
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

STATE OF MINNESOTA

IN SUPREME COURT

ADM07-8001

**ORDER PROMULGATING AMENDMENTS TO THE
RULES ON LAWYERS PROFESSIONAL RESPONSIBILITY**

The Supreme Court Advisory Committee to Review the Lawyer Discipline System and the Lawyers Professional Responsibility Board have each recommended certain amendments to the Rules on Lawyers Professional Responsibility.

The court has reviewed the proposals and is advised in the premises.

IT IS HEREBY ORDERED THAT:

1. The attached amendments to the Rules on Lawyers Professional Responsibility be, and the same are, prescribed and promulgated to be effective July 1, 2009.
2. These amendments shall apply to all actions or proceedings pending on or commenced on or after the effective date.

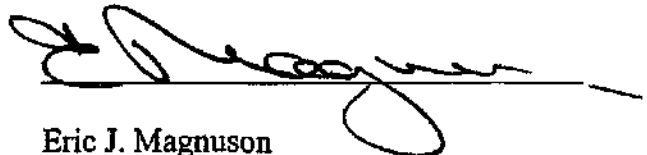
Dated: 3/24/09

BY THE COURT:

OFFICE OF
APPELLATE COURTS

MAR 25 2009

FILED



Eric J. Magnuson
Chief Justice

The graph below shows the number of disbarment, suspension, probation 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 1999.

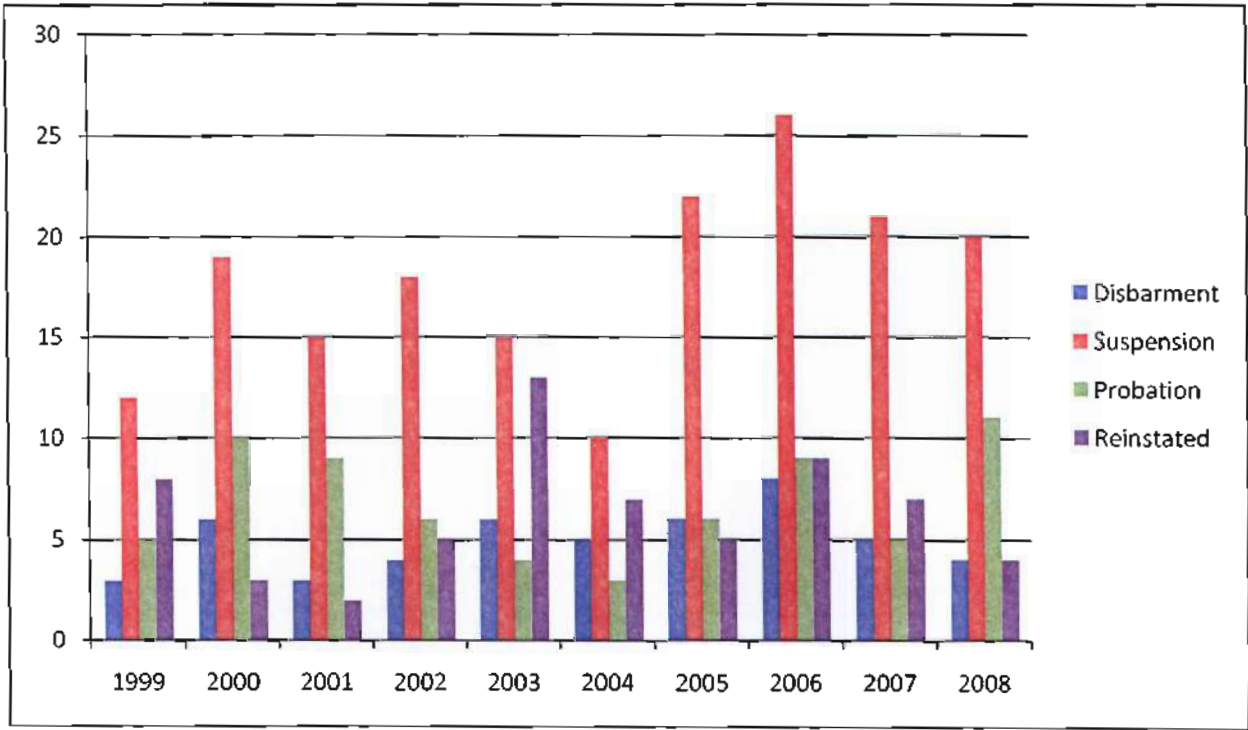
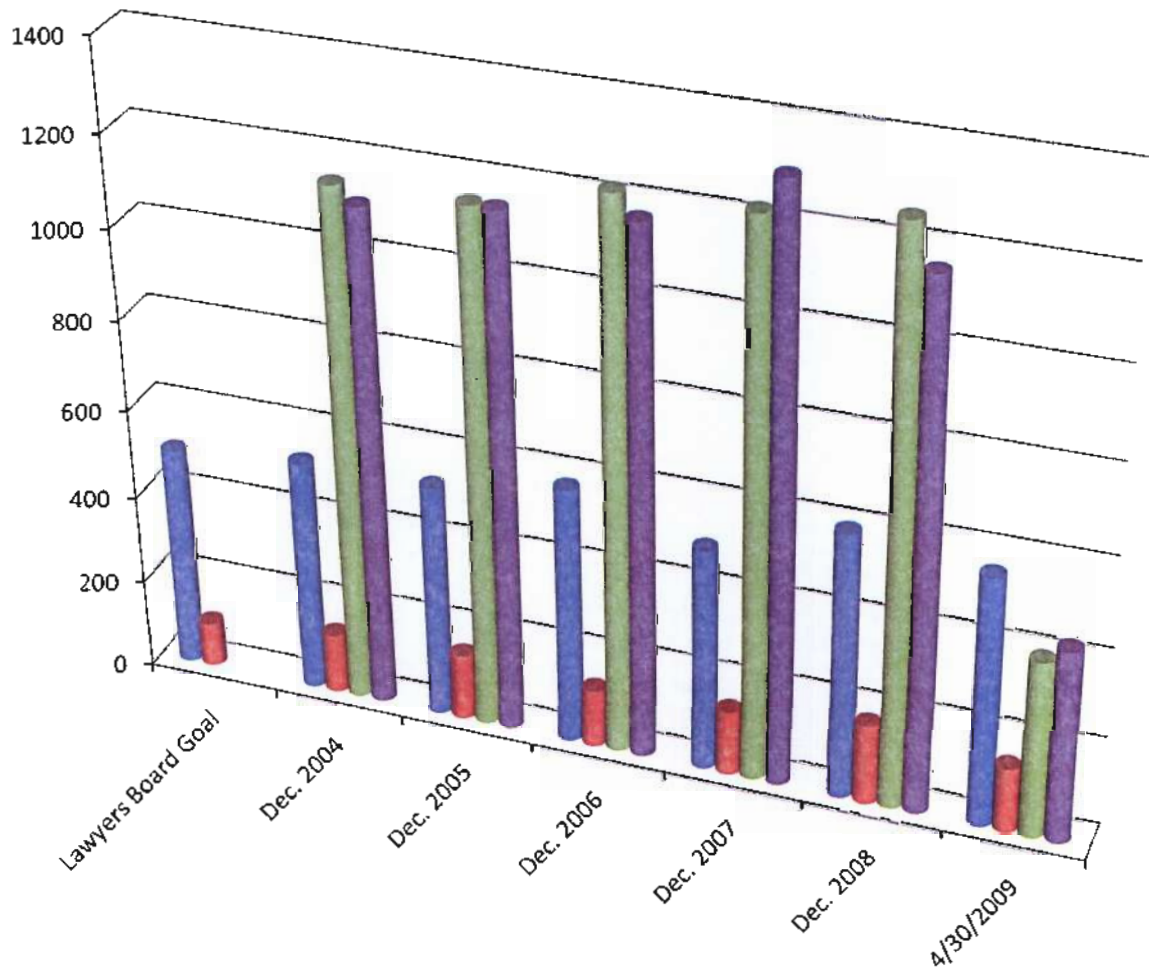


TABLE I
Supreme Court Dispositions and Reinstatements 1999-2008
Number of Lawyers

	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstated Denied	Disability	SC AD/Aff	Other	Total
1999	3	12	5	0	0	8	1	1	0	2 ^{***}	32
2000	6	19	10	2	0	3	0	2	1	0	43
2001	3	15	9	2	0	2	0	2	0	1 [*]	34
2002	4	18	6	1	1	5	0	4	0	1 ^{**}	40
2003	6	15	4	-	-	13	1	3	-	-	42
2004	5	10	3	1	-	7	1	1	-	-	28
2005	6	22	6	1	-	5	-	2	-	-	42
2006	8	26	9	5	-	9	-	2	-	7 ^{****}	66
2007	5	21	5	-	-	7	2	-	-	-	40
2008	4	20	11	2	-	4	2	2	-	-	45

^{*} Supreme Court admonition reversed.
^{**} Supreme Court stay.
^{***} 1 Supreme Court private admonition ordered, and 1 Supreme Court stay.
^{****} 4 Supreme Court stays, 2 reinstated to retired status, 1 conditional reinstatement pending.

TABLE II



	Lawyers Board Goal	Dec. 2004	Dec. 2005	Dec. 2006	Dec. 2007	Dec. 2008	4/30/2009
■ Total Open Files	500	525	527	578	500	596	561
■ Cases at Least One Year Old	100	134	147	128	143	177	147
■ Complaints Received YTD		1,147	1,150	1,222	1,226	1,258	398
■ Files Closed YTD		1,109	1,148	1,171	1,304	1,161	433

TABLE III
Percentage of Files Closed

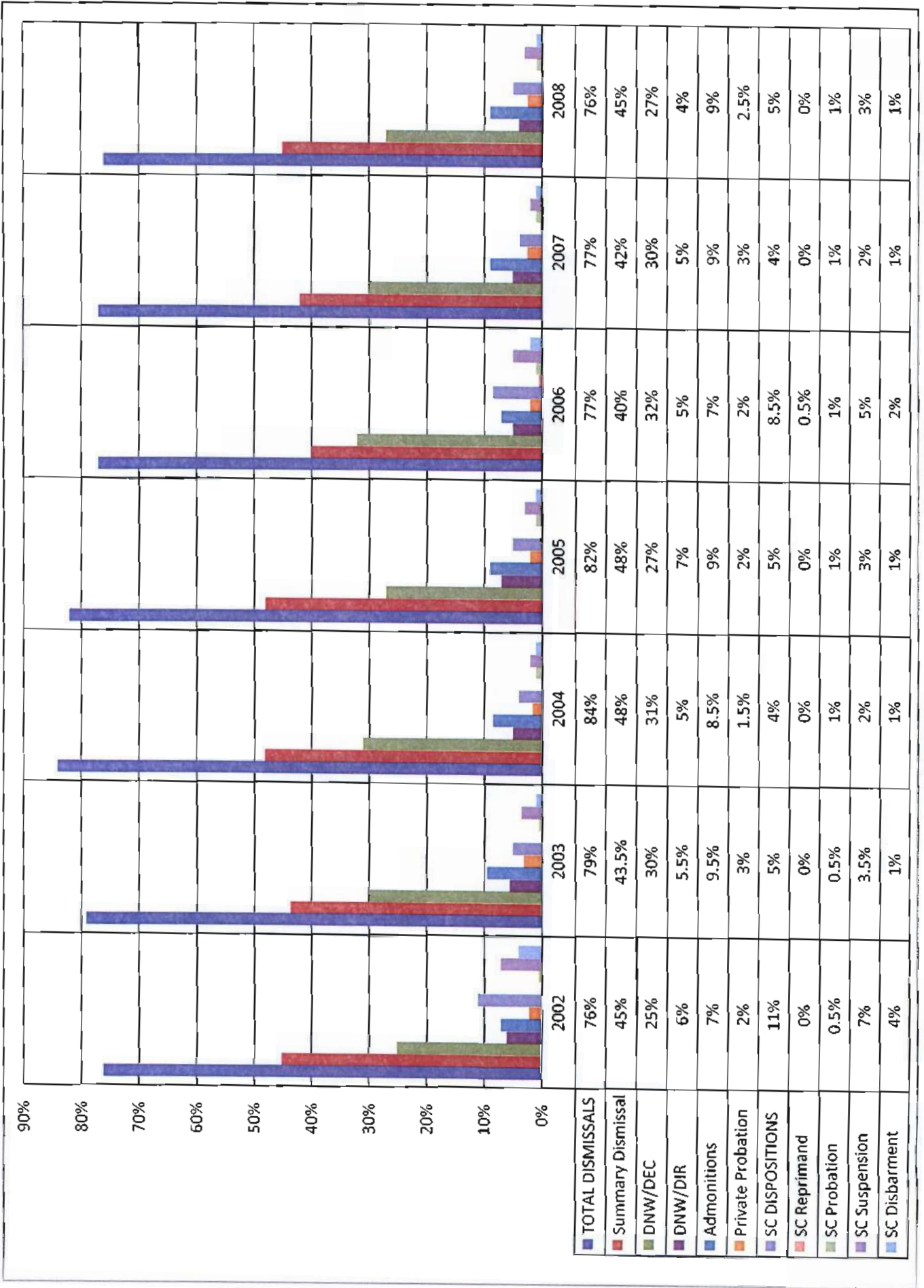
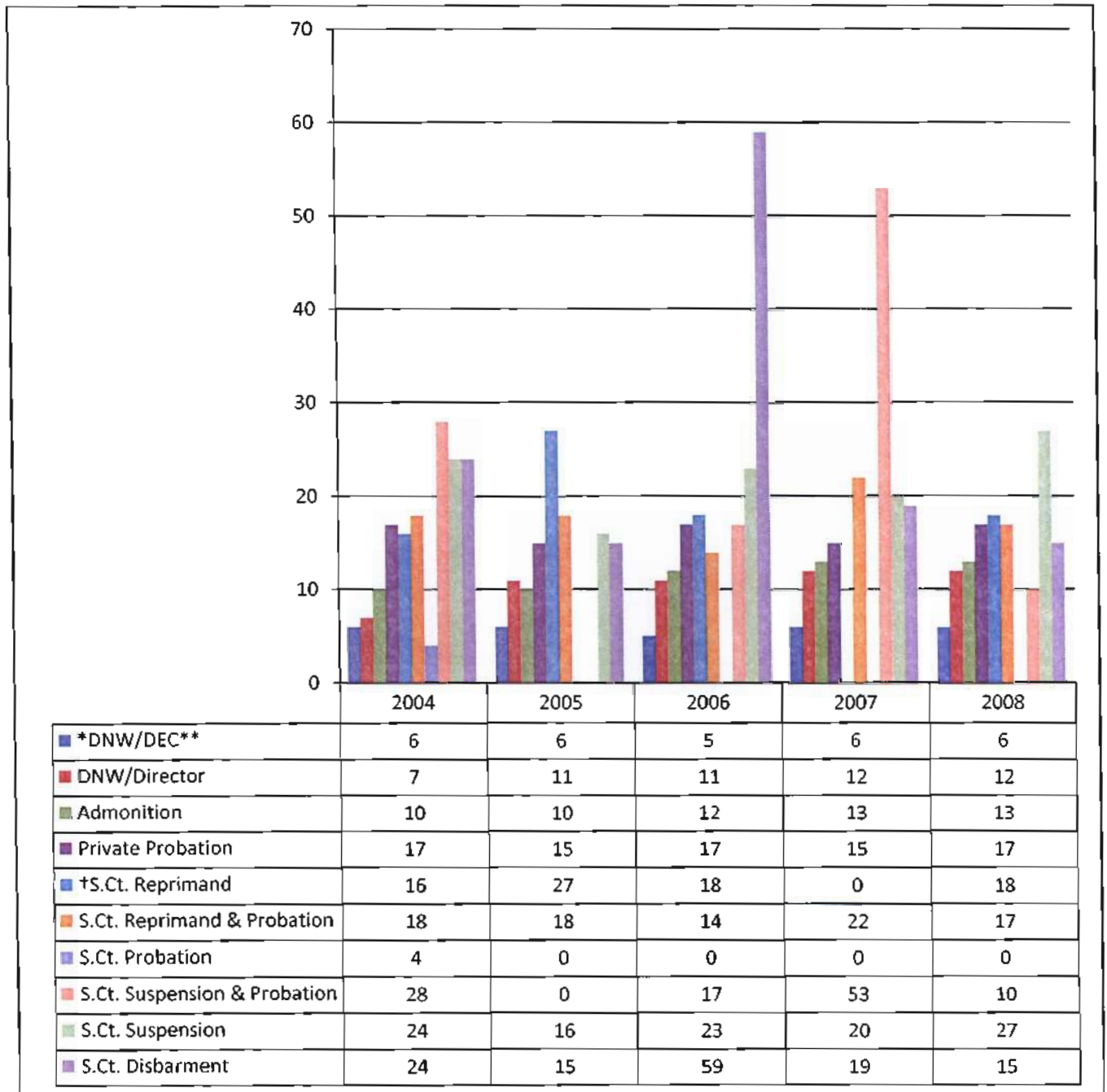
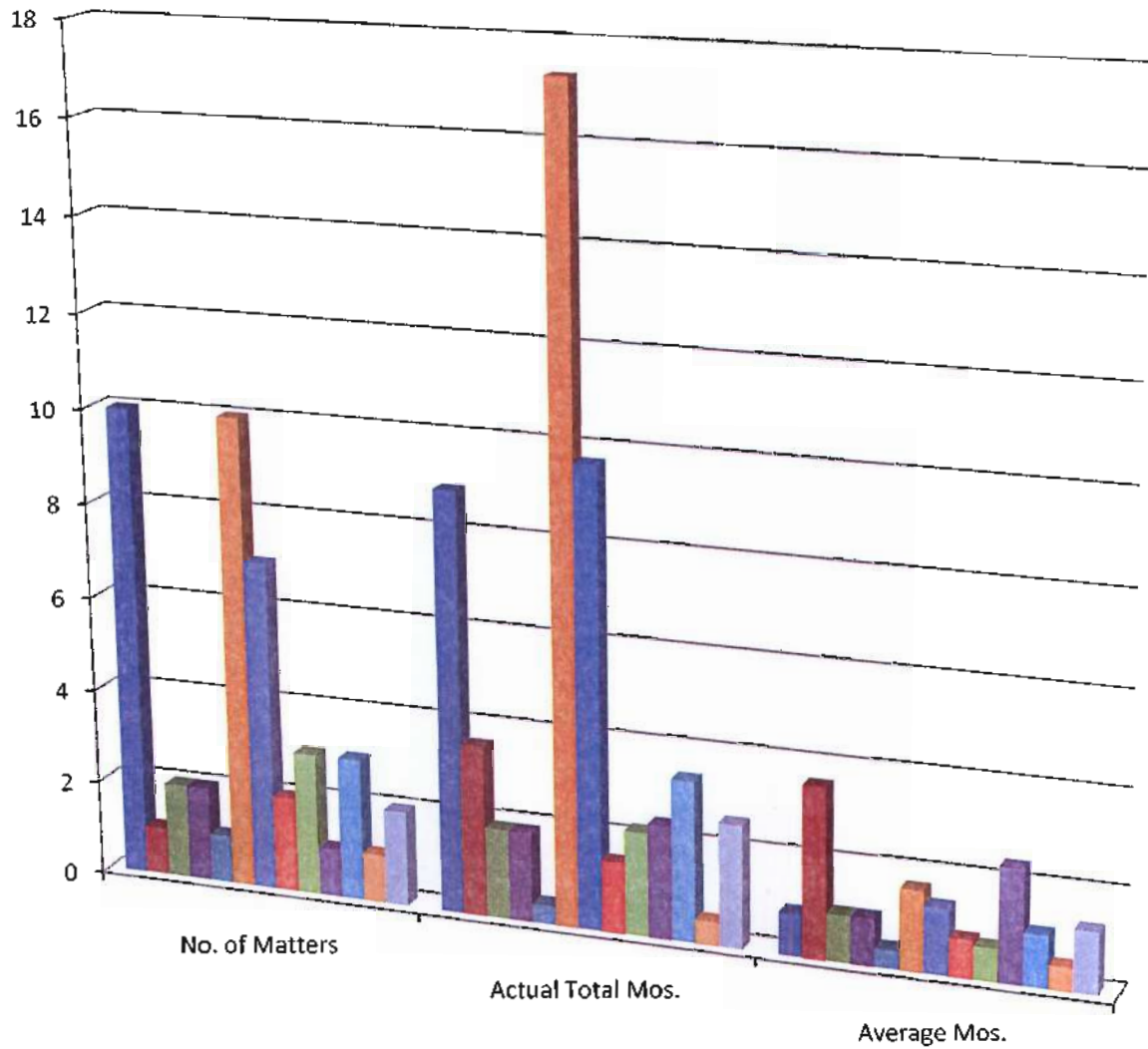


TABLE IV
Number of Months File was Open at Disposition



*Discipline Not Warranted
 **District Ethics Committee
 †Supreme Court

TABLE V
Average Time Cases Under Advisement by Supreme Court - 2008



	No. of Matters	Actual Total Mos.	Average Mos.
■ Reprimand & Probation (Stip)	10	8.9	0.9
■ Reprimand & Probation	1	3.6	3.6
■ Reprimand (Stip)	2	1.9	1
■ Suspension Stayed & Prob (Stip)	2	1.9	1
■ Suspension & Probation (Stip)	1	0.4	0.4
■ Suspension (Stip)	10	17.3	1.7
■ Suspension	7	9.7	1.4
■ Disability (Stip)	2	1.5	0.8
■ Disbarment (Stip)	3	2.2	0.7
■ Disbarment	1	2.4	2.4
■ Reinstatement & Prob	3	3.4	1.1
■ Reinstatement	1	0.5	0.5
■ Reinstatement Denied	2	2.6	1.3

TOTAL DECISIONS

45

Lawyers Professional Responsibility Board Members

Kent A. Gernander, Winona. – Attorney member; current LPRB Board Chair; term expires January 31, 2010; partner in the firm of Streater & Murphy, P.A.; former member and Chair of Third DEC. Areas of expertise: business and commercial law; nonprofit organizations; civil litigation.

Robert B. Bauer, Apple Valley – Attorney member; term expires 1/31/10; serves on the LPRB Opinion Committee; served on First DEC for 3 years. Attorney and shareholder in the Apple Valley law firm of Severson, Sheldon, Dougherty & Molenda, P.A. Areas of expertise: Civil litigation, real estate (a MSBA certified real property specialist), municipal and estate planning.

Nancy Zalusky Berg, Mpls. – Attorney member; MSBA nominee; term expires 1/31/12; serves on the LPRB Rules Committee. Served 18 years on the Hennepin County District Ethics Committee. Founder of Walling, Berg & Debele, P.A. Areas of expertise: Family and juvenile.

Cassandra K. Ward Brown, Mpls. – Attorney member; term expires 1/31/12; serves on the LPRB Rules Committee. Served on the Hennepin County District Ethics Committee for 6 years. Assistant General Counsel Minneapolis Public Schools. Areas of expertise: Civil litigation (employment; insurance; school).

Carol E. Cummins, Golden Valley. – Public member; term expires 1/31/12. Served on the 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.

William P. Donohue, Mpls – Attorney member; term expires 1/31/11; Chair of the LPRB Rules Committee. Served on Second DEC for 7 years. Deputy General Counsel and instructor at the University of Minnesota.

Joseph V. Ferguson III, Duluth. – Attorney member; term expires 1/31/11; serves on both the LPRB Executive Committee and Rules Committee. Served on Eleventh DEC for 12 years, including 6 years as Chair. Partner in the firm of Johnson, Killen & Seiler, P.A. Areas of expertise: business law/bankruptcy/admiralty.

Susan C. Goldstein, Wayzata – Public member; term expires 1/31/10; serves on both the LPRB Rules Committee and Opinion Committee. Areas of expertise: Class action and complex litigation.

Sherri D. Hawley, Mpls. – Attorney member; term expires 1/31/10; serves on the LPRB Opinion Committee. Solo practitioner. Areas of expertise: Juvenile law, family law, and appeals.

Marne Gibbs Hicke, Mpls – Public member; term expires 1/31/11. Served on 21st DEC for 7 years. Currently a Senior Paralegal at Barna, Guzy & Steffen, Ltd. in Coon Rapids.. Areas of expertise: Criminal law/prosecution.

Lynn J. Hummel, Detroit Lakes - Attorney member; term expires 1/31/10; served 9 years on Seventh DEC, 3 years as Chair. Areas of expertise: civil litigation, employment law, general practice, mediation.

Geri L. Krueger, Glenwood – Public member; term expires 1/31/12. Sole proprietor of Geri's Paralegal Service. Areas of expertise: Civil and family mediation, guardianship, conservatorship and probate.

Richard H. Kyle, Jr., Mpls – Attorney member; MSBA nominee; term expires 1/31/11; serves on the LPRB Opinion Committee. Served on Second DEC for 9 years. Shareholder in the law firm of Fredrikson & Byron in Minneapolis. Areas of expertise: White collar criminal defense.

Richard Lareau, Mpls. – Attorney member; MSBA nominee; term expires 1/31/12; serves on the LPRB Rules Committee. Served on the Hennepin County and Ramsey County District Ethics Committees for many years. Partner in the law firm of Oppenheimer, Wolff & Donnelly.

Ann E. Maas, Brooklyn Park - Public member; term expires 1/31/11; serves on both the LPRB Executive Committee and Rules Committee. Served on the Fourth DEC for 4 years. Self-employed as a mental health consultant. Areas of expertise: Health care evaluation, law office management, standards and compliance, performance improvement.

Daniel Malmgren, Marine on St. Croix. – Public member; term expires 1/31/12. Peace Officer, Lecturer and Adjunct Faculty member for several colleges. Areas of expertise: Data Practices, complaint investigation, employment law, criminal law.

Mary L. Medved, St. Paul – Public member; term expires 1/31/10; serves on LPRB Executive Committee. Serves as personnel liaison to Director's Office; served 2 terms (6 years) on the Second DEC. President, Medved Companies. Areas of expertise: Human Resource Generalist, Employment, Benefits, Compensation.

Vincent A. Thomas, Minneapolis – Attorney member; MSBA nominee; term expires 1/31/10; Lawyers Board Vice-Chair. Assistant Dean for Students and Multicultural Affairs and Adjunct Professor of Law, University of St. Thomas School of Law.

Debbie Toberman, Plymouth - Public member; term expires 1/31/11; serves on the LPRB Opinion Committee; served on the Fourth DEC for 12 years. Claim supervisor for Minnesota Lawyers Mutual Ins. Co. Area of expertise: Legal malpractice.

Michael W. Unger, Mpls – Attorney member; MSBA nominee; term expires 1/31/11; serves on the LPRB Opinion Committee. Served on Fourth DEC 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).

Daniel R. Wexler, Maple Grove – Public member; term expires 1/31/11. Currently employed as Project Coordinator at Ameriprise Financial in Minneapolis. Background in domestic and international casino marketing, customer service training, communications and event planning.

Stuart T. Williams, Mpls. – Attorney member; MSBA nominee; term expires 1/31/10; Chair of the LPRB Opinion Committee; served on the Fourth DEC for 7 years. Attorney and shareholder with the firm of Henson and Efron in Minneapolis. Areas of expertise: Commercial litigation, environmental law, and toxic torts.

Jan M. Zender, St. James – Attorney member; term expires 1/31/11; serves on the LPRB Rules Committee; served on the Sixth DEC for 6 years. Partner in law firm of Sunder, Olson, Bircher and Zender. Areas of expertise: Real estate and estate planning.

2008 OLPR Summary of Public Matters Decided

45 Decisions Involving 80 Files

Disbarment	14 files	4 attorneys	Reprimand & Probation	14 files	11 attorneys
BERG, JAMES L	A08-1214	7	BROMANDER, BRUCE C	A08-844	1
CASTRO, EUGENE	A07-2416	1	DAVISON, DONALD B	A08-754	1
DJONNE, TERRY LYNN	A08-380	1	GARCIA, ALBERT A JR.	A07-1819	2
REDBURN, DAVID TIMOTHY	A07-1590	5	GRAHAM, GEMMA E	A08-94	1
Suspension & Probation	1 files	1 attorneys	HULSTRAND, GEORGE E JR.	A08-1935	1
BEGESKE, MATTHEW K	A08-2013	1	JAMES, THOMAS B	A08-563	1
Suspension	32 files	17 attorneys	SANNES, JON K	A08-43	1
BLOCK, TIMOTHY MICHAEL	A07-1867	1	SELMER, SCOTT	A06-2254	2
DEDEFO, NURO BEDHASO	A07-573	2	SHELDON, DALE W	A08-810	1
FRALEY, DONALD J	A06-975	1	WILLIAMS, JACQUELINE LOUISE	A08-1712	2
GRONBECK, DAVID	A08-687	4	WILSON, PHILIP CHARLES	A08-493	1
HEINRICH, ROXANNE R	A06-2339	1	Reprimand	2 files	2 attorneys
HELLERUD, MARK R	A08-2055	1	FINK, FREDERICK AUGUST JR.	A08-1534	1
INGLIMO, MICHAEL ROBERT	A08-189	1	MCGUIRE, DOUGLAS F	A08-329	1
JOHNSON, SAMUEL STEVEN	A08-87	1	Disability Inactive Status	6 files	2 attorneys
KOPESKA, RONALD L	A07-2152	1	BRENNAN, DIANA LYNN	A08-894	1
MUSIELEWICZ, ALAN FRANCIS	A08-347	1	CARPENTER, WILLIAM SHAW	A08-1440	5
O'GARA, CAROL LYNN	A08-42	2	Reinstatement	1 files	1 attorneys
OVERBOE, DAVID A	A07-259	1	JOHNSON, SAMUEL STEVEN	A08-87	1
STRUNK, KENT FREDERICK	A07-1901	1	Reinstatement & Probation	3 files	3 attorneys
VAN SICKLE, DAVID MAX	A07-2418	6	GEGEN, NICHOLAS JAMES	A07-704	1
VARRIANO, RICHARD D	A07-354	4	KOPESKA, RONALD L	A07-2152	1
WOOD, GARY K	A07-213	3	UGGEN, STEVEN JOHN	A07-1067	1
YANG, SU	A08-455	1	Reinstatement Denied	2 files	2 attorneys
Suspension Stayed & Probation	5 files	2 attorneys	BIETER, THOMAS J	A06-1685	1
JENNINGS, LARRY MARTIN	A07-1614	1	MOSE, WILLIAM G	A07-437	1
KRAKER, DAVID L	A08-1435	4			



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Minnesota Ethics Articles

Even a "Flat" Fee Must be Reasonable

All attorney fees, no matter how labeled, must be reasonable. [more](#)

Reprinted from *Minnesota Lawyer* (June 1, 2009).

[Index to Minnesota Lawyer Ethics Articles](#)

New Rules Galore

Recently, the court promulgated a "flurry" of changes to the procedural Rules regarding lawyer discipline as well as the judicial Code and Rules. [more](#)

Reprinted from *Bench & Bar* (May/June 2009).

[Index to Bench & Bar Ethics Articles](#)

What's New

Supreme Court Promulgates Amendments to the Rules on Lawyers Professional Responsibility

Amendments to the Rules effective **July 1, 2009**.

[Click here for Order and redlined version of the Rules.](#)

Lawyers Professional Responsibility Board Proposed Opinion 20

Lawyers Professional Responsibility Board Panel Manual [Word Format](#) [Adobe Format](#)

In a recent report, the Supreme Court Advisory Committee to Review the Lawyer Discipline System recommended the Manual be updated to include current case law and other pertinent developments and that the Manual be posted on the Lawyers Board Web site for easy access by all concerned persons, as well as the public.

Roger Gilmore & Murray Shabsis named Lawyers Professional Responsibility

Volunteers of the Year 2008. [more](#)

2008 Annual Report -

Of the Lawyers Professional Responsibility Board and
Office of Lawyers Professional Responsibility [more](#)
[Link to prior Annual Reports](#)

**Lawyers Board amends section I.6 of Appendix 1
to the Minnesota Rules of Professional Conduct
regarding trust account books and records.**

[Link to redline version](#) [Link to Appendix 1](#)

**Report of the Supreme Court Advisory
Committee to Review the Lawyer Discipline
System**

Lawyer Ethics Articles by Subject and Rule

Use our **revised** Subject Matter Index and **new
Rule Index** to research our archive of ethics
articles from *Minnesota Bench & Bar* and *Minnesota Lawyer*. [more](#)

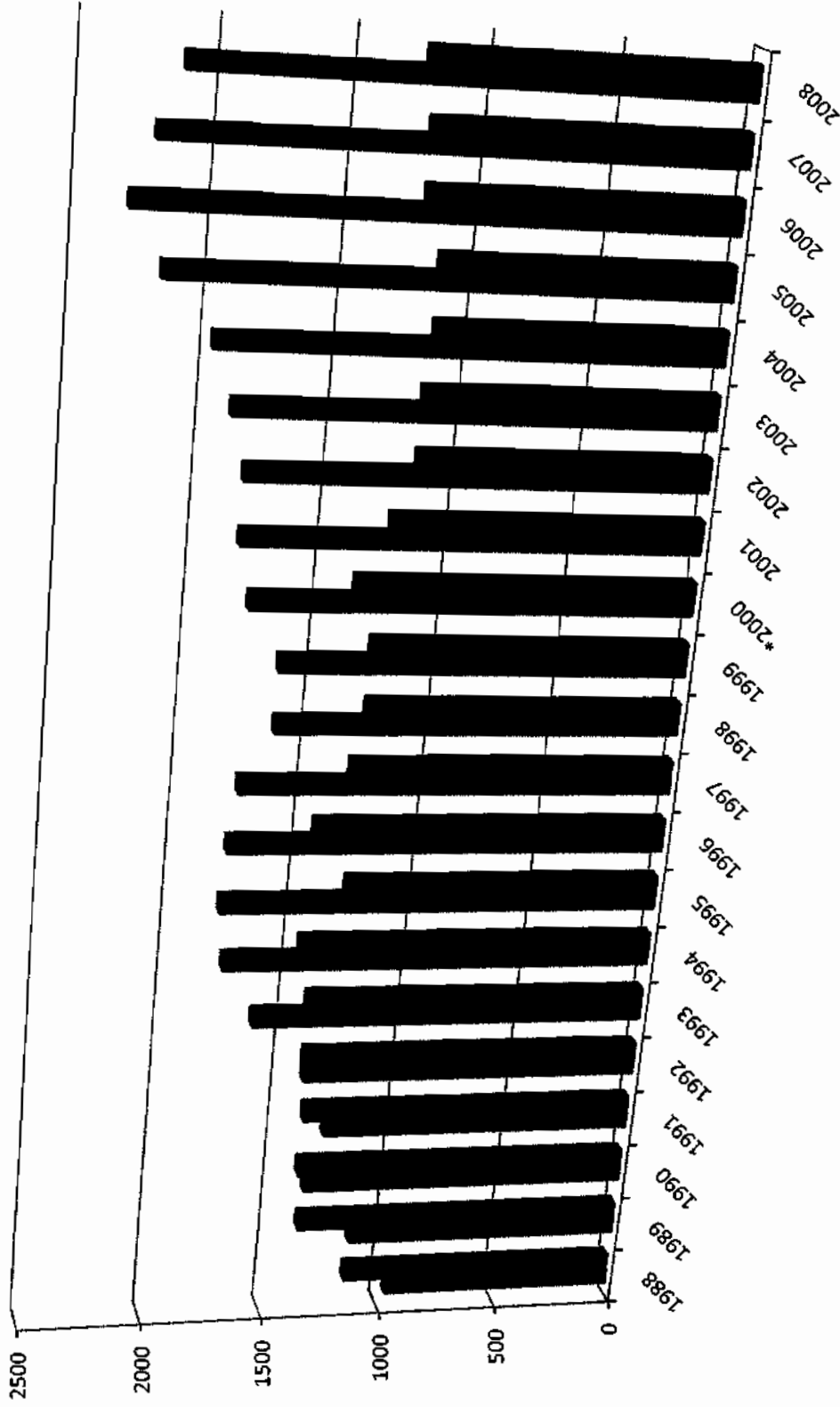
**For Attorneys Only: Advisory Opinion
Service Now Available On Line**

Minnesota attorneys may now submit electronic
requests for an advisory opinion to the Office
of Lawyers Professional Responsibility.
[Click here for details and request form.](#)

**Minnesota Lawyer Public Discipline
Search Now Available**

Click the link on the menu to the left entitled
"Lawyer Search: Public Discipline Record."
Enter a lawyer's last name. A list of lawyers
will appear showing whether or not they are
authorized to practice in Minnesota and
if they have public discipline. If they are
not authorized, it will state the reason.
Click on the lawyer you are inquiring about.
If the lawyer has public discipline, there
should be a link to the Supreme Court
order or opinion.

**Advisory Opinion Requests Received
and
Number of Complaints Opened
1988 - 2008**



	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	*2000	2001	2002	2003	2004	2005	2006	2007	2008
Advisory Opinions Received	968	1143	1355	1292	1398	1627	1765	1795	1783	1757	1632	1635	1770	1824	1825	1889	1974	2177	2307	2223	2135
Complaints Opened	1149	1365	1384	1380	1399	1405	1456	1290	1438	1314	1275	1278	1362	1246	1165	1168	1147	1150	1222	1226	1257

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

DEC INVESTIGATION SUMMARY**2008**

DEC	Number of Files	Average Investigation Duration (Months)
1	10	6.5
2	68	3.3
3	12	3.3
4	201	4.1
5	5	2.8
6	3	4.3
7	23	4.1
8	16	4.5
9	5	3.2
10	4	5
11	12	4.6
12	5	2.8
13	3	2.3
14	9	2.9
15	11	5.5
16	2	1
17	0	0
18	13	3.9
19	30	4.6
20	4	2.5
21	9	2.9
Totals	445	4
(non 4th)	(244)	(3.9)

**Office of Lawyers Professional Responsibility
Speaking Engagements and Seminars July 2008 – June 2009**

Date	Topic	Location	Organization
7/10/08		Stillwater	Washington Cty Law Clerks
8/27/08	Recent Discipline Decisions	WebCast	MCLE
9/11/08	Estate & Charitable Gift Planning	Minneapolis	
9/12/08		Minneapolis	HCBA
9/25/08	Housing Law Seminar	Minneapolis	VLN
10/15/08	Annual Workshop	Rochester	3 rd DEC
10/20/08	Solo Small Firm	Minneapolis	HCBA
10/22/08	Debtor/Creditor Seminar	Minneapolis	HCBA
10/23/08	Kyrgystan Judges	St. Paul	Supreme Court
10/27/08	Ethics & Equal Justice	Minneapolis	MCLE
11/13/08	DEC Meeting	Anoka	21 st DEC
11/18/09		Brooklyn Ctr	MN School of Business
11/21/08	ADR Ethics	Minneapolis	MTLA
12/12/08			1 st DEC
12/15/08		Minneapolis	Dorsey & Whitney
12/30/08	Ethics of Bias	Video	
1/26/09	Ethics	Minneapolis	MCLE
1/27/09	Hamline PR Class	St. Paul	Hamline Law School
2/3/09	“Raise the Bar” honor MLK	Minneapolis	U of M
2/6/09	Ethics Issues in Immigration Practice	Minneapolis	HCBA
2/10/09	Common Ethical Violations and How to Avoid Them	Eagan	Thomson/West
2/13/09	Cautionary Tales	Minneapolis	HCBA
2/20/09	Ethics – MDP Panel	Minneapolis	HCBA
2/24/09		Minneapolis	Arthur/Chapman
2/25/09	Personal Injury Seminar	Minneapolis	MTLA
3/6/09	Trust Accounts	Minneapolis	MTLA
3/7/09		Red Wing	Public Defenders Assn.
3/18/09	MPA Litigation Sectional		MPA
3/19/09	Avoiding Ethics Complaints	Hastings	1 st DEC
3/19/09	Trust Account Programs	Minneapolis	MCLE
3/26/09	Solo/Small Firm Section	St. Paul	RCBA
3/27/09	Civil Litigation Deskbook	Minneapolis	
4/1/09	ADR Ethics	Minneapolis	MCLE
4/3/09	Stearns County	St. Cloud	
4/12/09	Arbitration Ethics	Minneapolis	MCLE
4/15/09	Ethical Tips & Traps for Advertising Lawyers	Web	
4/24/09	Attorney General’s Office	St. Paul	

