

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 2011 to June 2012, which represents the Board's and Office's fiscal year. The majority of the statistical information, however, is based upon calendar year 2011.

### **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 partial term if applicable). Somewhat uniquely, only one Board member completed a second term of service on the Board this past year, public member Geri Krueger of Glenwood. Ms. Krueger served on the Executive Committee for several years and was a member of the Supreme Court Advisory Committee to Review the Lawyer Discipline System in 2007-08. She also acted as the Board's personnel liaison to the Director's Office. Ms. Terri Wheeler, a law firm marketing consultant, was named to replace Ms. Krueger on the Board.

Sheridan Hawley was appointed to the district court bench in March 2012. She resigned her position on the Board shortly thereafter. Ms. Hawley was in the final year of her second term and was an experienced Panel Chair. Richard Lareau will take over as Chair of Ms. Hawley's Panel. As of the date of this report, the Court had not named a replacement.

The Board has a five-member Executive Committee, charged with oversight of the Director's Office. Ms. Krueger's position on the Executive Committee was filled when Board Chair Judith Rush appointed Daniel Wexler as the new member. The remaining members of the Executive Committee are Ms. Rush, Board Vice Chair Michael Unger, Christopher Cain and Marne Gibbs Hicke, who took over as personnel liaison. The Board members who act as Panel Chairs for probable cause determinations are now: Robert Bauer, William Donohue, Richard Kyle, Richard Lareau, Stuart

Williams and Nancy Berg. All are experienced Board members. Mr. Williams continues to chair the Board's Opinion Committee; Mr. Donohue remains as chair of the Board's Rules Committee. A complete listing with short biographical information of all Board members is attached at A. 1 – A. 2.

The Board also undertook a new initiative to review the district ethics committee (DEC) system. An ad hoc committee was established, chaired by Kenneth Engel. The committee has spoken and met with DEC Chairs, and held a symposium in April 2012 in St. Cloud at which many DEC Chairs were present (with others participating by conference call) to discuss recruiting, training and timeliness. The recruitment, training and effective use of public members is a particular focus in light of the fact that some DEC's do not have 20 percent or more public members. Targeting this issue will be a priority for the committee. The Committee is expected to complete its review and make recommendations as to how the Board and the Office can assist and support the DEC's in their important work.

#### **Federal Litigation.**

The Eighth Circuit Court of Appeals issued an en banc opinion on March 27, 2012, in which it upheld the constitutionality of several provisions of the Minnesota Code of Judicial Conduct. These sections had been challenged by attorney Gregory Wersal. The board members in their official capacity are named as defendants in the litigation along with members of the Board on Judicial Standards. The federal district court for the District of Minnesota had upheld the provisions, but an 8th Circuit panel initially reversed. En banc review was granted with oral argument held in January 2011. Recently, Mr. Wersal filed a request for review by the United States Supreme Court.

#### **Complaint Statistics.**

The number of complaints received in 2011 was 1337, a minor decrease from the previous year's total of 1365. Even this relatively small decrease allowed the Director's

Office to reduce both the total number of open files and year-old files. Tables outlining these and related statistics are at A. 3 – A. 7.

Complaint totals for the first four months of 2012 project to a year-end total of approximately 1370, a slight increase over previous years. Nevertheless, monthly file closings have been consistently greater than openings, such that it is hoped open file levels will end below 600. Year-old files have been reduced below 190; closing these older matters remains a major target for file handling.

The Board's Executive Committee, in addition to monitoring overall file numbers, reviews 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 files over one year old, and is working to assist the Director's Office to ensure files are being handled as expeditiously as possible.

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

On October 7, 2011, the Board and Director's Office hosted their annual professional responsibility seminar for DEC members and others interested in the lawyer discipline system at the Ramada Plaza Hotel in Minneapolis. Presentations included sessions on the value of short suspensions vs. probation, determining when rude and obnoxious behavior is a disciplinary issue and an entertaining presentation on some of the Internet scams that are attempting (sometimes successfully) to scam attorneys to pay substantial sums of money to phony clients. In addition, there was the annual session on current developments and break-out sessions on district ethics committee investigations and probation.

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 Kathleen Clarke Anderson and Mary Medved, both former public members of the Lawyers Board who now are again giving of their volunteer time as public members of the Client Security Board.

## **Public Discipline Decisions.**

Twenty-six attorneys were publicly disciplined in calendar year 2011, the same number as in the previous year, but still below the average number for most recent years.<sup>1</sup> Only two attorneys were disbarred in 2011, Trent C. Jones and Jay G. Swokowski. A criminal conviction involving dishonesty and misappropriation along with a lengthy disciplinary history were the bases for these two disbarments this past year.

Twenty-two attorneys have already been publicly disciplined through mid-June of this year, including six additional disbarments: Joseph A. Rymanowski, Erin Marie Wolff, Steven P. Lundeen, Richard A. Sand, Deno W. Berndt and William A. Jacobs. Another 35 public matters were pending as of June 11, 2012, which indicates that a substantially larger number of public disciplines will be issued in 2012.

In addition to the disciplined lawyers, there were also 20 attorneys reinstated to the practice of law in 2011, most following short suspensions. The Court generally expects that reinstatements be given expedited priority to ensure that an attorney's suspension does not unfairly get extended.

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

### **A. Budget.**

#### **1. FY'12 and FY'13 Budgets.**

Expenditures for the fiscal year ending June 30, 2012, are projected to be \$2,828,419. The FY'13 budget which begins July 1, 2012, and runs through June 30, 2013, projects anticipated expenditures of \$3,420,898. 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, due to the judiciary's continued budget situation, State Court Administration has directed that, for the fourth year, the FY'13 payroll budget again include no salary increases for employees. The Board nevertheless has requested the Court to authorize merit increases or stability

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

payments for OLPR staff. Increases for health insurance have also been budgeted. Budget numbers reflect no need for a fee increase in the foreseeable future.

The FY'13 budget, once again, includes significant funds carried forward to rebuild the Attorney Disciplinary Record System (ADRS). Due to other projects including the OLPR Web site, software upgrades and the DEC Intranet, the ADRS project was again postponed.

**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 January, 2012, Assistant Director Kevin Slator was promoted to a Senior Assistant Director.

In April 2012, Law clerk Erica Nguyen resigned to pursue her career in tax law. The office is currently interviewing to fill the law clerk position.

**C. Web Site.**

The OLPR Web site contains a significant amount of useful information regarding every facet of the discipline system and services provided by the Director's office. It also provides complainants the opportunity to file complaints online. Attached at A. 11 is 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 2011, the Director's Office received 240 complainant appeals, compared to 234 such appeals in 2010. There were 238 complainant appeal determinations made by Board members in 2011 as follows:

		<u>%</u>
Approve Director's disposition	226	95
Direct further investigation	12	5
Instruct Director to issue an admonition	0	0
Instruct Director to issue charges	0	0

A total of 40 clerical hours were spent in 2011 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.**

An important component of the attorney disciplinary system is disciplinary probations. There are two types of probations: public and private.

Public probations are imposed by order of the Minnesota Supreme Court. In 2011, there were 34 new probations. Of those, 20 were public. While this represents a decrease from 2010 in the total number of new probations (when there were 40), it represents an increase in the percentage of probations that are public (35% of new probations in 2010 were public versus 59% of new probations in 2011). Of those 20 public probations in 2011, 15 were for attorneys reinstated to the practice of law.

Private probations are the result of a stipulation between the Director and the attorney, subject to the approval of the Lawyers Board Chair. The Director will enter into a private probation when the Director concludes that the lawyer's conduct was unprofessional, but potentially too serious to justify an admonition (which is only appropriate for misconduct that is isolated and non-serious), but not serious enough to warrant public discipline. Of the 34 new probations opened in 2011, 14 were private.

Regardless of whether the probation is public or private, in some instances, lawyers are not able to successfully comply with terms of their probations. If the non-compliance issues are serious enough the Director will seek to have the probation terminated. In other instances, where the lawyer is having problems with compliance

but continues to work with the Director's Office, the probation may be extended. In 2011, the Director extended one probation and revoked another.

The type of attorney misconduct that leads to discipline and therefore to probation, often involves the attorney's failure to provide competent and diligent representation to clients, or failing to adequately communicate. Of the 117 probation files open during some part of 2011, many involved a violation of the rules concerning competence, diligence or communication. The next most common form of misconduct giving rise to a probation is failure to follow the requirements regarding the handling 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 illnesses.

Whether public or private, probations frequently include requirements designed to address the causes of the underlying misconduct. Since about two-thirds of the probation files open in 2011 involved underlying misconduct involving the attorney's failure to provide competent and diligent representation to clients, or failing to adequately communicate with clients, those probations included requirements that lawyers maintain case lists documenting the nature of the file, upcoming deadlines, communications with clients, and next anticipated action on the file.

Another element common to most probations is that there is another lawyer involved to help supervise compliance with the probation. Six of the new probations in 2011 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 probation supervisor. However, even in cases where there is not a supervisor, it does not mean that the case 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, of the 19 new probations without a supervisor, the lawyers in 9 of those probations were required to submit their trust account books and records to the Director for audit. Three of the probationers were

required to provide the Director with evidence of their continued mental health treatment. Three probationers were required to provide proof of tax filing and payment. Three probationers were required to submit to random urinalysis.

In 2011, 13 of the new probations resulted, at least in part, from the lawyer improperly maintaining his or her trust account. Those lawyers 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. If, over the course of the probation the probationer fails to bring his or her books and records into compliance with the Rules, the Director may seek an extension of probation or a revocation of the probation and further discipline.

In 2011, the Director opened seven new probations in which mental health 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.

Chemical dependency may be addressed in a probation by requiring attendance at a twelve-step program or other abstinence-based program, such as Alcoholics Anonymous (AA) or Narcotics Anonymous. Frequently, therapy with a mental health professional is required in addition to AA attendance. 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.

The terms of the probation 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, 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 2011, the Director opened three probations, closed three probations and revoked one probation requiring UAs. Currently, there are three probationers participating in the Director’s random UA program. Two other current probationer’s participation in the Director’s UA program is required only if they return to the practice of law.

Of the probationers whose probations opened in 2011 (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 4 probationers who were in practice less than 5 years, the majority of the probationers had practiced from 15 to more than 40 years. One probationer had practiced 38 years, another 45 years and another 59 years.

**DISABILITY RELATED PROBATIONS**

Psychological Disorders – existing files on 1/1/11	13	
New files opened during 2011	<u>3</u>	
Total Psychological Disorder Related Files		16
Chemical Dependency <sup>2</sup> – existing files on 1/1/11	7	
New files opened during 2011	<u>4</u>	
Total Chemical Dependency Related Files		<u>11</u>
<b>Total Disability Related Probations</b>		<b>27</b>

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<sup>2</sup> Probations involving AA attendance and/or Random UAs.

### 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

**Probation Supervisors.** During 2011, 26 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 (2 solo practitioners, 1 lawyer from a small firm, and 1 lawyer from a 50-member firm) responded to the Director's survey in 2011.

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

The supervisors volunteered between one and eight hours per month reviewing client inventories and client files, speaking with probationers (either in-person or by phone), and reporting their observations quarterly to the Director. The primary focus of most probations is maintaining and documenting client communications, calendar and docket control systems, file organization, law office management skills, and winding up and closing a law practice. 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. After one probationer overdrew his trust account, the probationer's supervisor reviewed the probationer's trust account books and records and suggested procedures to avoid future overdrafts. Another supervisor counseled his probationer on how to handle "ultra-litigious attorneys."

All of the supervisors surveyed in 2011 were pleased with the probation system. All supervisors, with the exception of one who was retiring, 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 found their probationers to be cooperative and responsive to their suggestions. One supervisor would have liked his probationer's office to be located closer geographically to facilitate easier and possibly more frequent in-person contact. Another expressed confidence that his probationer will practice in a "fully professional manner" going forward.

All of the supervisors surveyed were pleased with the support received from the Director's Office. None of the surveyed supervisors suggested any improvements to the probation system.

## PROBATION STATISTICS

### TOTAL PROBATION FILES OPEN DURING 2011

Public Supervised Probation Files (27%)	32	
Public Unsupervised Probation Files (20%)	<u>23</u>	
Total Public Probation Files (47%)		55
Private Supervised Probation Files (15%)	18	
Private Unsupervised Probation Files (38%)	<u>44</u>	
Total Private Probation Files (53%)		<u>62</u>
<b>Total Probation Files Open During 2011</b>		<b>117</b>

### TOTAL PROBATION FILES

Total probation files as of 1/1/11		76
Probation files opened during 2011		33
Public probation extended during 2011		1
Probation files closed during 2011		<u>(34)</u>
<b>Total Open Probation files as of 12/31/11</b>		<b>76</b>

### PROBATIONS OPENED IN 2011

#### Public Probation Files

##### Court-ordered Probation Files

Supervised	2	
Unsupervised	<u>3</u>	
		5

#### Reinstatements

Supervised	10	
Unsupervised	<u>5</u>	
		<u>15</u>
<b>Total Public Probation Files</b>		<b>20</b>

#### Private Probation Files

Supervised	3	
Unsupervised	<u>11</u>	
Total Private Probation Files		<u>14</u>
<b>Total New Probation Files in 2011</b>		<b>34</b>

**PROBATIONS OPENED IN 2011 INVOLVING:**

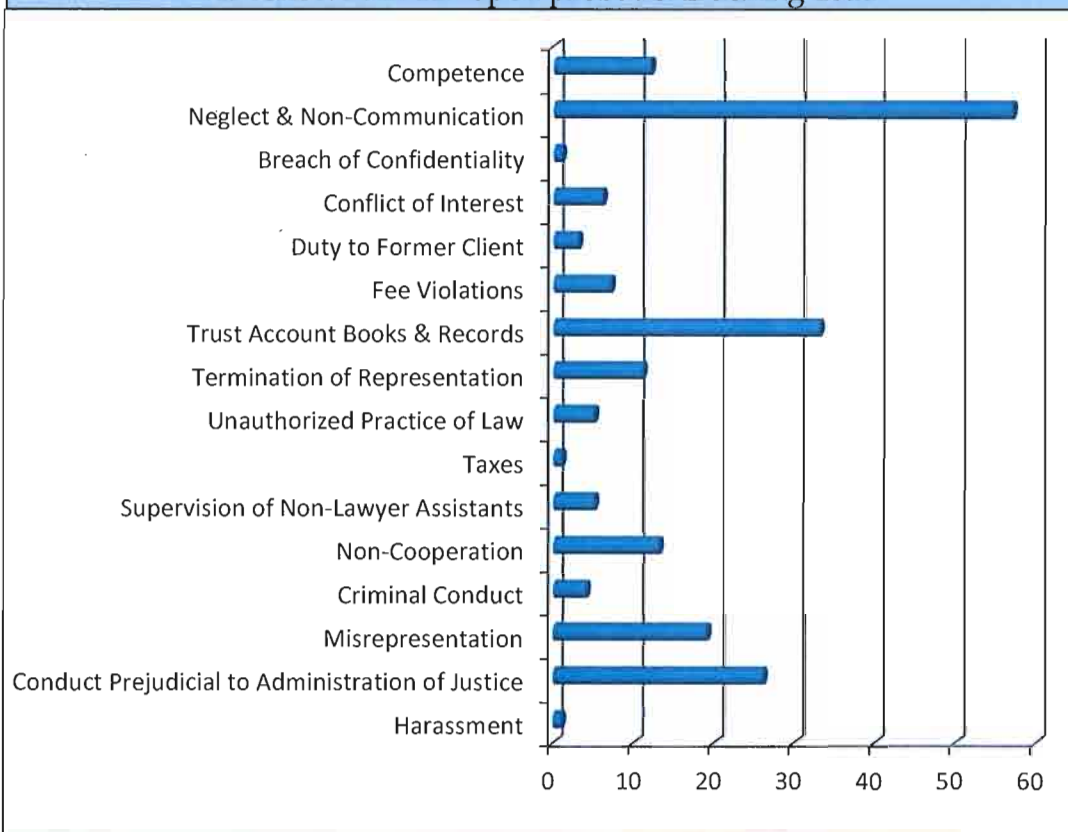
Client Related Violations	7
Non-Client Related Violations	15
Both Client & Non-Client Violations	<u>12</u>
<b>Total New Probation Files in 2011</b>	<b>34</b>

**PROBATION FILES CLOSED IN 2011**

Probations Successfully Completed	32
Probation Revocations	1
Probations Extensions	<u>1</u>
<b>Total Probation Files Closed in 2011</b>	<b>34</b>

## AREAS OF MISCONDUCT

As reflected in 117 open probations during 2011<sup>4</sup>



Competence (Violation of Rules 1.1 and 1.2, MRPC)	16
Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC)	79
Breach of Confidentiality (Violation of Rule 1.6, MRPC)	2
Conflict of Interest (Violation of Rules 1.7 and 1.8, MRPC)	9
Duty to Former Client (Violation of Rules 1.9, MRPC)	2
Fee Violations (Violation of Rule 1.5, MRPC)	11
Trust Account Books and Records (Violation of Rule 1.15, MRPC)	52
Termination of Representation (Violation of Rule 1.16)	17
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)	21
Criminal Conduct (Violation of Rule 8.4(b), MRPC)	14
Misrepresentation (Violation of Rule 8.4(c), MRPC)	29
Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC)	46
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 2011 Senior Assistant Director Craig Klausing and 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 decreased slightly in 2011. In 2011 the Director's Office received 2,215 requests for advisory opinions, compared to 2,258 in 2010. This represents a 2 percent decrease over last year. *See A. 12.*

Attorneys submitted 254 advisory opinion requests via the email link on the OLPR Web site in 2011, compared to 279 requests received in 2010. 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. 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 2011:

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

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

\*\* Percentage amount corrected.

In 2011 the Director's Office expended 359 assistant director hours in issuing advisory opinions. This compares with 358 hours in 2010. Dissolution/Custody was the most frequently inquired about area of law. Client Confidentiality 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 2011 (72) was identical to the number reported in 2010 (72). The total number of overdraft inquiries closed<sup>6</sup> by the Director in 2011 (75) was also comparable to the number closed in 2010 (77). The percentage of total closings that did not involve conversion to a disciplinary investigation in 2011 (61 or 81%) was likewise comparable to 2010 (63 or 82%).

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<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.

At the end of 2011, 14 overdraft inquiry files remained open. The Director's staff's overall time requirements for processing overdrafts in 2011 was 216.25 hours.

Overdrafts Reported by Banks

2011	72
2010	72

Closed Inquiries During 2011

• Closed Without Need for Disciplinary Investigation	61
• Inquiry Converted to Disciplinary Investigation	14
Total Trust Account Inquiries Closed	<u>75</u>

Public Discipline Decisions Related to Trust Account Overdraft Inquiry

Thirteen disciplinary matters arising from a trust account overdraft inquiry were resolved in 2011. Only two such matters resulted in public discipline:

*In re Fairbairn*, 802 N.W.2d 734 (Minn. 2011) (suspension);

*In re Fitzpatrick*, unpublished (Minn. 2011) (public reprimand/probation).

The other 11 disciplinary matters were resolved as follows:

Private probation:	6
Admonition:	2
Dismissal:	3

In 46 (or 75%) 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 comparable to the percentage of inquiries in which such guidance was given in 2010 (46 or 73%). 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 commingling.

In 2011 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	13
Bank error	9
Service or check charges	9
Late deposit	7
Mathematical/clerical error	6
Third party check bounced	5
Reporting error	4
Deposit to wrong account	3
Improper/lacking endorsements	2
Bank hold on funds drawn	2
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 2011, overdraft inquiries were converted into disciplinary investigations for the following reasons:

<u>Reason for Investigation</u>	
Shortages	7
Response fails to explain OD	4
Commingling	3
Other	1
<b>Total</b>	<u>15</u>

### Time Requirements

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

	<u>1/10-12/10</u>	<u>1/11-12/11</u>
Attorney	113.75	84.25 hrs
Paralegal and other staff	<u>168.25</u>	<u>132.00 hrs</u>
<b>Total</b>	<b>282.00</b>	<b>216.25 hrs</b>

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

In 2011 judgments were entered in 27 disciplinary matters totaling \$28,134.45.<sup>7</sup> The Director's Office collected a total of \$28,853.32 from judgments entered during or prior to 2011.

A comparison of the 2011 statistics and 2010 statistics is presented below:

	<b>2010</b>	<b>2011</b>
Number of judgments entered:	22	27
Dollar value of judgments entered:	\$25,108.85	\$28,134.45
Total amount collected:	\$18,108.85	\$28,853.32
Portion attributable to current year's judgment:	\$9,361.95	\$19,237.76
Portion attributable to judgments of prior years:	\$8,746.90	\$9,615.56

Seventeen out of the 27 judgments entered in 2011 were paid in full during the 2011 calendar year. Two additional judgments are being paid in monthly installments pursuant to signed payment agreements, and one judgment was paid in early 2012.

The total amount collected in 2011 exceeded the amount of the total amount of judgments entered in 2011, thereby reducing the total amount of all outstanding judgments.

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<sup>7</sup> The total amount of all outstanding judgments as of January 1, 2012, was \$327,974.14.

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 2011.

	<u># of Requests</u>	<u># of Attorneys</u>	<u>Discipline Imposed</u>	<u>Open Files</u>
A. National Conference of Bar Examiners	153	153	2	1
B. Individual Attorneys	331	331	22	3
C. Local Referral Services				
1. RCBA	19	55	0	0
2. Hennepin County	3	227	7	1
D. Governor's Office	16	45	3	0
E. Other State Discipline Counsels/State Bars or Federal Jurisdiction	49	49	3	0
F. F.B.I.	13	15	1	0
G. MSBA: Specialist Certification Program	20	196	17	3
H. Miscellaneous Requests	26	95	8	1
<b>TOTAL</b>	<b>630</b>	<b>1166</b>	<b>63</b>	<b>9</b>
(2010 Totals)	(693)	(1168)	(59)	(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. 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 took on one new trusteeship this year. On March 20, 2012, the Director was appointed trustee of the client files of Deno Walter Berndt who was disbarred by the Supreme Court on March 22, 2012. The Director's Office took possession of and inventoried approximately 900 files and is currently in the process of returning the files to former clients.

As reported in last year's annual report, the Director was appointed trustee of the trust account of deceased attorney Richard Diamond. The Director, after review, disbursed the funds in the trust account and was discharged as trustee on March 8, 2012.

On October 11, 2011, the Director was discharged as trustee over the closed files of Centro Legal, Inc. The files remain in a storage facility until October 2013.

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

- Thornton P. Anderson trusteeship – 4 files which are eligible for expunction April 27, 2013;
- 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; and
- Albert A. Garcia trusteeship – 442 files which are eligible for expunction January 1, 2014.

Extra storage space has been secured 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 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 2010-2011 there were 163 new professional firm filings. Fees collected from professional firm filings are included in the Board's annual budget. As of April 30, 2012, the Director's Office received \$62,825.00 from 2223 professional firm filings. There were 99 new professional firm filings for the reporting year. The Director's Office received \$66,700.00 during fiscal year 2011.

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 14.5 hours. The total non-attorney work time was 302 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.

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 2011, the Director's Office followed DEC recommendations in 82 percent of investigated matters. Many of the matters in which the recommendation was not followed in fact involved situations in which the Director's Office sought discipline as recommended, but sought increased discipline, usually 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 2011 the monthly average number of files under DEC consideration was 133, fluctuating between a low of 120 and a high of 148. The year-to-date average for 2012 is 127 as of April 30.

Rule 7(c), RLPR, provides a 90-day goal for completing the DEC portion of investigations. For the calendar year 2011, the DEC's completed 393 investigations, taking an average of 4.2 months to complete each investigation. The Hennepin DEC was assigned 164 of these investigations, taking an average of 4 months per investigation.

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 2011, 144 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 15 matters referred to an IRC panel before being sent back to the Director's Office, which took an average of 5.5 months to complete. Five matters were withdrawn.

For calendar year 2011, of the completed DEC investigations, there resulted the following dispositions:

Determination discipline not warranted	301
Admonition	42
Private probation	1

The annual seminar for DEC members, hosted by the Office and the Board, will be held this year on Friday, September 28, 2012. 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.

As noted earlier, the Board this past year established a committee to review the DEC process and make recommendations for improvement. One concern of that committee is the number of DEC's that do not 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 are not in full compliance, three of which have no public members. The committee is addressing how best to assist the DEC's in meeting this requirement.

On April 24, 2012, a symposium of DEC Chairs was held. There, members of the Board and a staff member from the Directors Office discussed a variety of DEC issues with an emphasis on improving the DEC process. Recruitment, training and investigation were discussed as well as the relationship between the DEC's and the

OLPR liaisons. As a result of the symposium a survey of current and former lay members of the DEC is being conducted to gather information that may aid in recruiting new lay members. Additionally, the Director has urged all of the liaisons to meet at least once a year with each DEC to exchange information and assist in the training of volunteers.

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.

The Office continues to integrate the SharePoint project to facilitate effective involvement of, and communication between, DEC members by making it easier for the 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 the Web site. Additionally, DEC members have access to a variety of resources through the Web site. Attorneys and support staff from the Director's Office have visited many DEC's to assist in training DEC members. The Director's Office anticipates completing SharePoint training and making the SharePoint Web site available to all DEC's before the end of 2012.

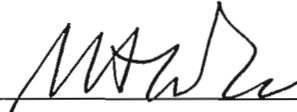
#### **IV. FY2013 GOALS AND OBJECTIVES.**

Continuing efforts to reduce the overall number of open files, despite the recent increases in complaints and continued demand for services, remains a major goal for the next year. The process of rebuilding the Office discipline record system is expected to finally be commenced. Oversight by the Executive Committee of their guidelines for timely case handling will remain important. Efforts by the Board to assist the DEC's

with recruitment and timely resolution of investigations will also be an important project this coming year.

Dated: July 11, 2012.

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).

**Robert B. Bauer, Apple Valley** - Attorney member. Term expires January 31, 2013. Serves on the LPRB Opinion Committee. Served on First District Ethics Committee for 3 years. Shareholder in the Apple Valley law firm of Dougherty, Molenda, Solfest, Hills & Bauer P.A. Areas of expertise: Civil litigation, real estate (a MSBA certified real property specialist), municipal and estate planning.

**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.

**Steve Bolluyt, Eagan** - Public member. Term expires January 31, 2013. Sergeant with Eagan Police Department, Investigative Division. Areas of expertise: criminal investigation, white collar/financial crime, and complex investigations.

**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, 2013. 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.

**Kenneth S. Engel, Minneapolis** - Attorney member. Term expires January 31, 2013. 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.

**Susan C. Goldstein, Minnetonka** - Public member. Term expires January 31, 2013. Serves on both the LPRB Rules Committee and Opinion Committee. Independent contract paralegal. Areas of expertise: Class action and complex litigation.

**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.

**Richard H. Kyle, Jr., Minneapolis** - Attorney member. MSBA nominee. Term expires January 31, 2014. Serves on 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.

**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.

**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.

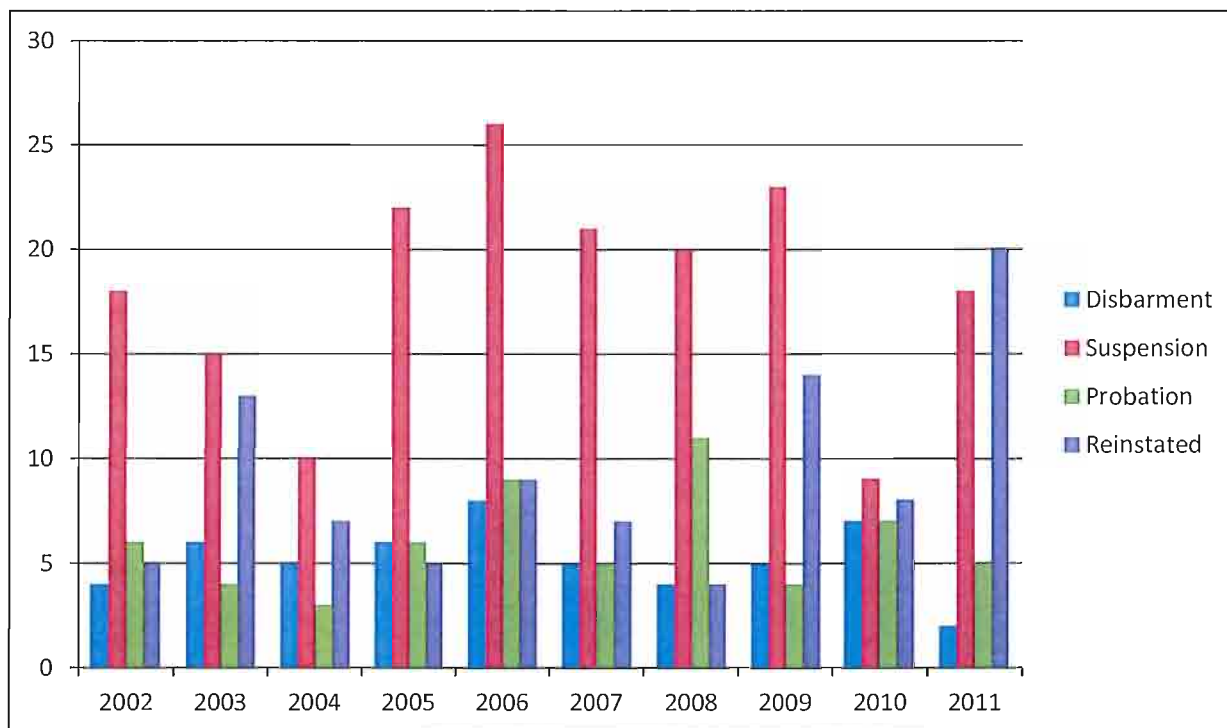
**Daniel R. Wexler, Maple Grove** - Public member. Term expires January 31, 2014. Serves on the LPRB Executive Committee. Project Coordinator at Ameriprise Financial in Minneapolis. Background in domestic and international casino marketing, customer service training, communications and event planning.

**Terrie S. Wheeler, Rush City** - Public member. Term expires January 31, 2015. Served on Hennepin County District Ethics Committee for two 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.

**Stuart T. Williams, Minneapolis** - Attorney member. MSBA nominee. Term expires January 31, 2013. Chair of the LPRB Opinion Committee. Served on Hennepin County District Ethics Committee 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.

**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.

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 2001.



**TABLE I**  
**Supreme Court Dispositions and Reinstatements 2001-2011**  
**Number of Lawyers**

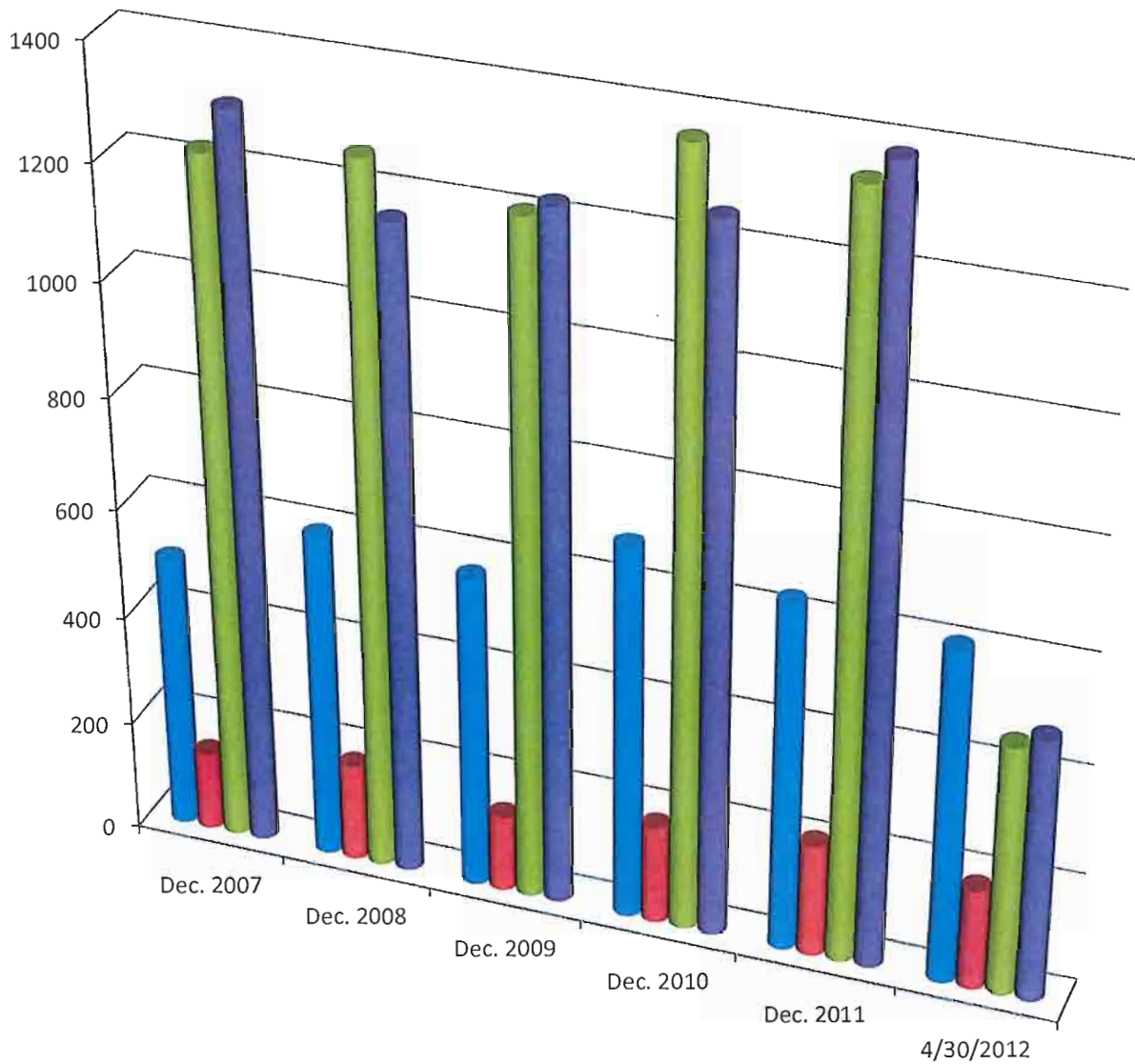
	Disbar.	Susp.	Probation	Reprimand	Dismissal	Reinstated	Reinstated Denied	Disability	SC AD/Aff	Other	Total
2002	4	18	6	1	1	5	0	4	0	1**	40
2003	6	15	4	-	-	13	1	3	-	-	42
2004	5	10	3	1	-	7	1	1	-	-	28
2005	6	22	6	1	-	5	-	2	-	-	42
2006	8	26	9	5	-	9	-	2	-	7***	66
2007	5	21	5	-	-	7	2	-	-	-	40
2008	4	20	11	2	-	4	2	2	-	-	45
2009	5	23	4	6	0	14	1	1	-	-	54
2010	7	9	7	3	1	8	2	4	-	-	41
2011	2	18	5	2	0	20	0	1	-	-	48

\* Supreme Court admonition reversed.

\*\* Supreme Court stay.

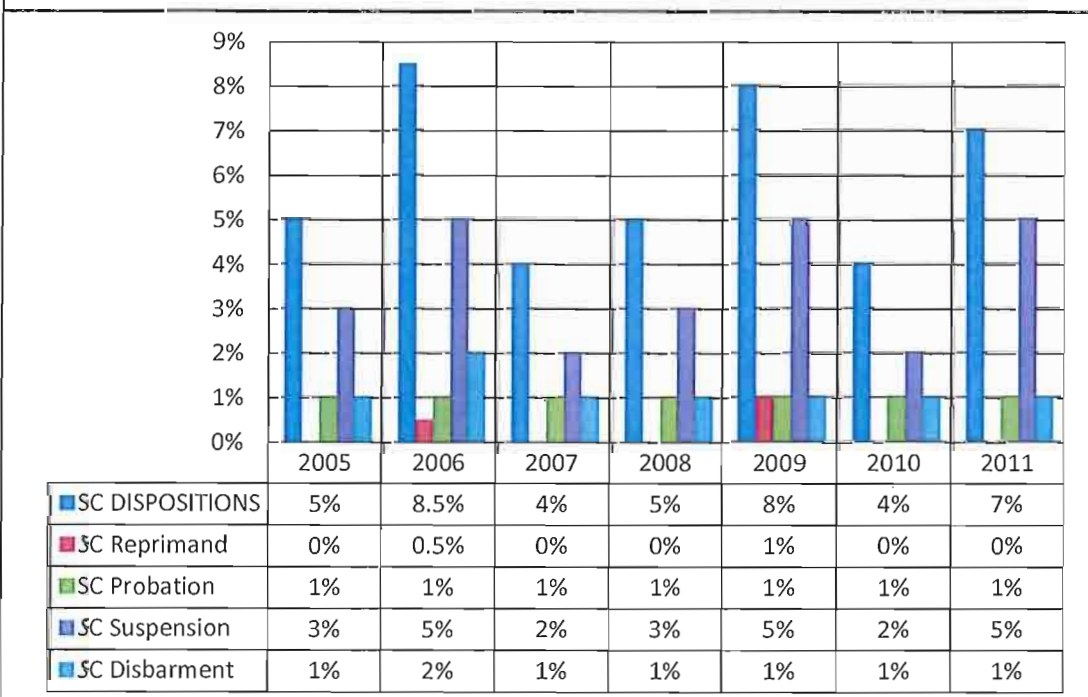
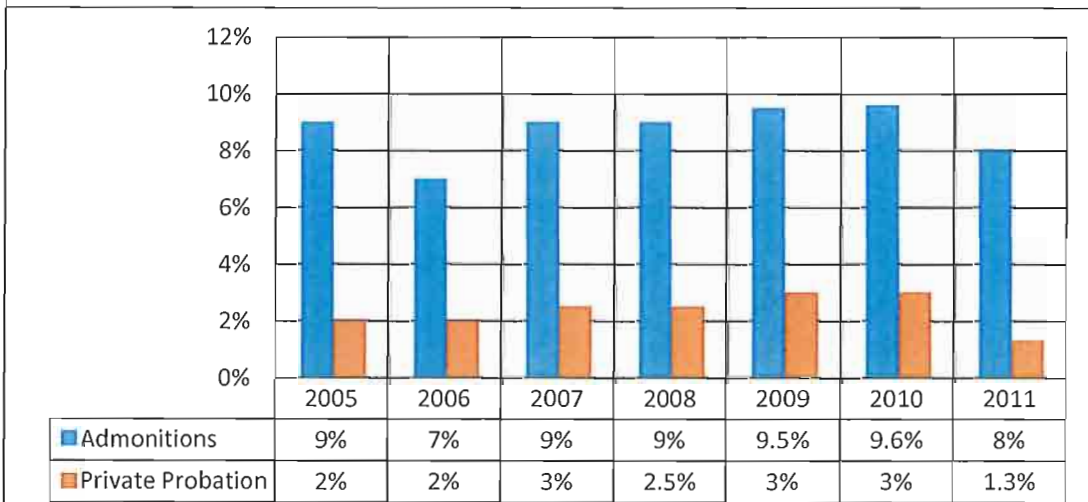
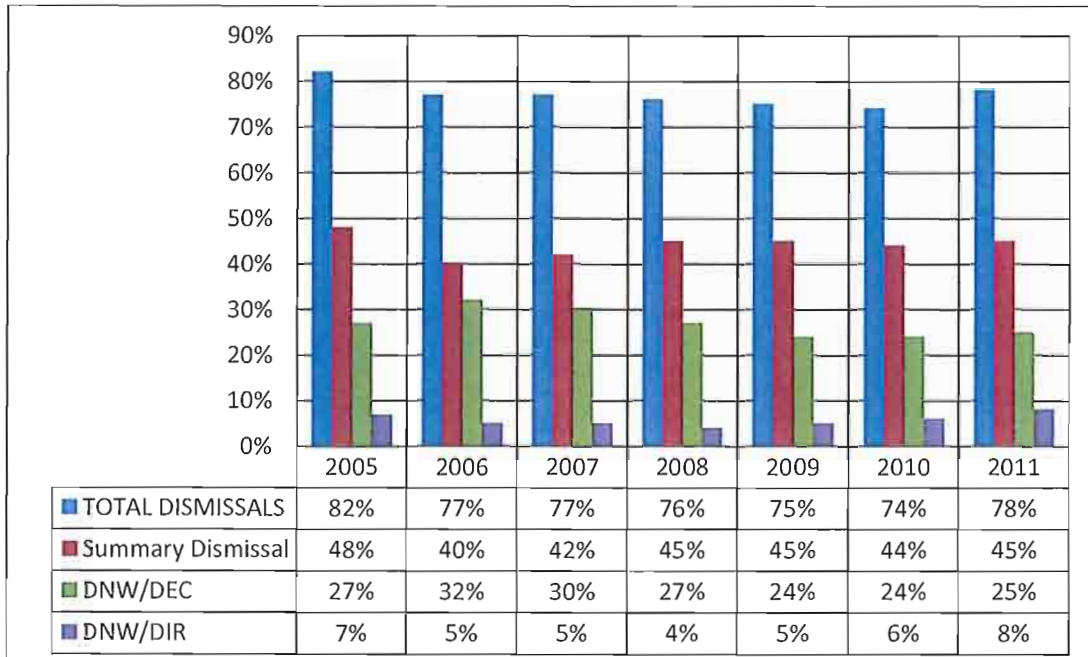
\*\*\* 4 Supreme Court stays, 2 reinstated to retired status, 1 conditional reinstatement pending.

**TABLE II**

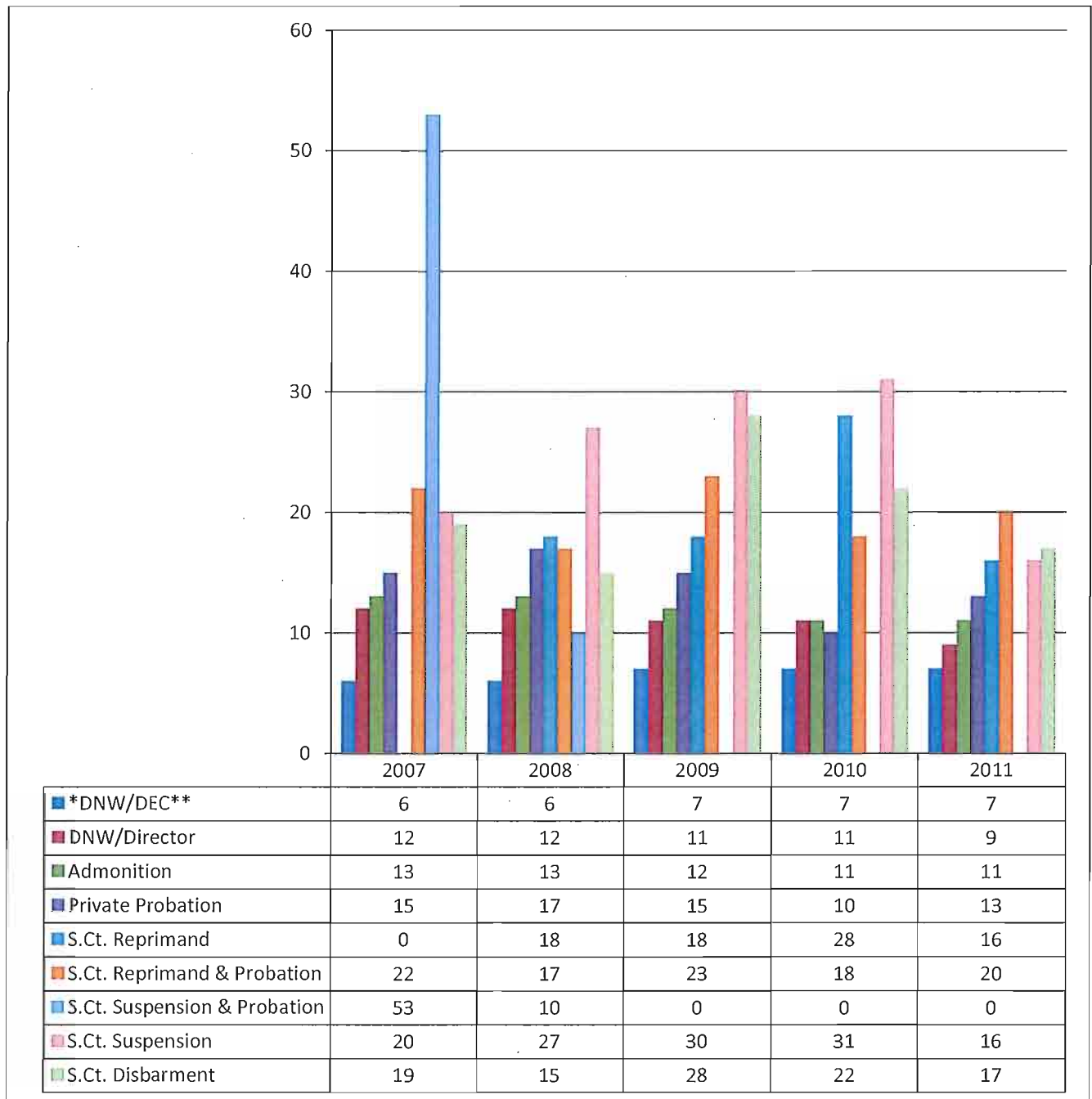


	Dec. 2007	Dec. 2008	Dec. 2009	Dec. 2010	Dec. 2011	4/30/2012
■ Total Open Files	500	595	572	682	634	607
■ Cases at Least One Year Old	143	177	139	179	206	184
■ Complaints Received YTD	1,226	1,258	1,206	1,365	1,341	456
■ Files Closed YTD	1,304	1,161	1,229	1,252	1,386	479

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



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



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

## 2011 OLPR Summary of Public Matters Decided

### 48 Decisions Involving 108 Files

Disbarment	9 files	2 attorneys	Reinstatement	5 files	5 attorneys
JONAS, TRENT CHRISTOPHER	A10-851	1	COHEN, AMOS SIMON	A10-2194	1
SWOKOWSKI, JAY GERARD	A10-1756	8	COLLINS, FRANCIS D	A11-805	1
<b>Suspension</b>	<b>66 files</b>	<b>18 attorneys</b>	DOYLE, STEPHEN P	A11-1490	1
BLASHACK, JASON LEO	A11-99	1	HOOKS WAYMAN, RICHARD ALAN	A11-786	1
BROOKS, WAYDE RUSSELL	A10-1394	1	WARPEHA, BENJAMIN ADAM	A11-1455	1
COLEMAN, RICHARD J	A09-1656	2	<b>Reinstatement &amp; Probation</b>	<b>15 files</b>	<b>15 attorneys</b>
DAVIS, WILLIE HERMAN JR.	A11-1089	1	BROOKS, WAYDE RUSSELL	A10-1394	1
DOYLE, STEPHEN P	A11-1490	1	DAVIS, WILLIE HERMAN JR.	A11-1089	1
FAIRBAIRN, JOM	A10-977	1	FARLEY, PATRICK JOSEPH	A11-425	1
FORSTROM, ERIC ARTHUR	A11-1896	1	FRIDAY, ROBERT CARL	A10-1887	1
GANT, JESSE III	A09-1998	1	HARRIS, CALANDRA FAYE	A09-1498	1
HATLING, JOHN ALLEN	A09-1846	1	HATLING, JOHN ALLEN	A09-1846	1
JAEGER, HUGH D PA	A11-182	2	HOTTINGER, JOHN C	A10-1071	1
LETOURNEAU, DENNIS R	A09-1861	1	LEINO, STANLEY JAMES	A07-1650	1
MCLEAN, NATHAN KENT	A10-1519	31	LYONS, THOMAS JOHN JR.	A11-758	1
MORRIS, ANDREW MACCORMACK	A11-565	1	ONORATO, STEPHANIE ANNE	A10-2243	1
O'BRIEN, JOSEPH D JR.	ADM05-80	1	OYEN, KRISTIAN LEE	A10-1028	1
RAMSAY, CHARLES ALAN	A11-912	1	RAMSAY, CHARLES ALAN	A11-912	1
TANCABEL, JOHN M	A10-1381	6	SCHAEFER, JAMES EARL	A10-2253	1
ULANOWSKI, LAWRENCE WALTER	A10-819	12	WINTER, BARTON CARL	A10-1645	1
WARPEHA, BENJAMIN ADAM	A11-1455	1	YANG, ETHAN SENG-SU	A09-1520	1
<b>Reprimand &amp; Probation</b>	<b>10 files</b>	<b>5 attorneys</b>			
APPLEBAUM, PAUL	A11-1584	1			
BAER, DAVID ERIC	A11-1156	1			
BROWN, JENNIE CATHERINE M	A11-1019	5			
FITZPATRICK, SHANNON M	A11-2071	1			
GILES, DANIEL L	A10-2183	2			
<b>Reprimand</b>	<b>2 files</b>	<b>2 attorneys</b>			
FUNDAUN, ARLIE MARTIN	A10-1515	1			
ROMER, NICHOLAS MARTIN	A11-1643	1			
<b>Disability Inactive Status</b>	<b>1 files</b>	<b>1 attorneys</b>			
KENNY, STANLEY MOUNT	A11-1609	1			

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2011 – June 2012**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
8/8/11	Employment Law Seminar	Minneapolis	MNCLE
8/10/11	Ethics 20/20 Ethics Panel	Minneapolis	Legal Marketing Assn.
9/14/11	MLM Ethics Seminar	St. Paul	Hamline Law School
9/15/11	Ethics for Employment Law Paralegals	Minneapolis	MPA
9/19/11	Ethics for Public Attorney	St. Cloud	MFSRC
9/19/11	Legal Ethics: Solutions to the Most Common Problems	Altoona, WI	NBI
9/23/11	Ethics	Lake Elmo	Jardin Logan law firm
9/28/11	MN Co. Atty. Assn. Webinar	St. Paul	MCAA
10/7/11	LPRB/OLPR PR Seminar	Minneapolis	LPRB/OLPR
10/12/11	Recent Developments	Excelsior	West Metro CLE
10/13/11	Ethics for Paralegals	Minneapolis	NFPA
10/14/11	HCBA Professionalism	Minneapolis	HCBA
10/21/11	Computers and the Internet: Ethical and Legal Issues	St. Paul	RCBA
10/28/11	Charging and Collecting Fees	Minneapolis	St. Thomas Law School
11/8/11	Ethics for Employment Lawyers	Minneapolis	NELA
11/10/11	Ethics for Bankruptcy Paralegals	Minneapolis	MPA
11/15/11	Ethical Considerations for New Lawyers: Professional Responsibility Begins Now	Minneapolis	HCBA
12/1/11	Attorney Discipline	Minneapolis	St. Thomas Law School
12/2/11	Ethics Program	Minneapolis	Hennepin Co. Atty. Off.
12/5/11	Ethics and Criminal Law	Minneapolis	MNCLE
12/9/11	ABA Op. 11-461	Minneapolis	HCBA
1/11/12	Representing Organizations	Minneapolis	MN School Boards Assn.
1/25/12	Real Estate Seminar	Minneapolis	MNCLE
1/27/12	Ethics Update	Minneapolis	University of Minnesota
2/8/12	Animal Law Seminar	Minneapolis	MSBA
2/9/12	Ethical Issues in IP	Minneapolis	Legal Corp. Inventor Asst.
2/14/12	Closing a Practice	Apple Valley	Dakota Co. Law Library
2/17/12	Trust Account Webinar	St. Paul	RCBA
2/17/12	Misdemeanor Defense Panel	Minneapolis	HCBA
2/17/12	Civil Litigation Issues	Duluth	MN Assn. Justice
2/21/12	E-Discovery	Minneapolis	Briggs & Morgan
2/21/12	Advising the Disadvantaged	Minneapolis	MNCLE
2/23/12	Trust Account Scams	Minneapolis	MN Mutual
2/24/12	IOLTA Seminar	St. Paul	William Mitchell
2/25/12	Public Defender Conference	Hinckley	Public Defenders
2/28/12	Mental Health	Minneapolis	MNCLE
2/28/12	Ethical Issues in Non-Traditional Family Representations	Minneapolis	MNCLE

**Office of Lawyers Professional Responsibility  
Speaking Engagements and Seminars July 2011 – June 2012**

<b>Date</b>	<b>Topic</b>	<b>Location</b>	<b>Organization</b>
3/2/12	Tort Law Ethics	St. Paul	MSBA
3/8/12	Money Issues	Minneapolis	St. Thomas Law School
3/22/12	St. Thomas Law School	Minneapolis	St. Thomas Law School
3/22/12	Solo Practitioners	Minneapolis	St. Thomas Law School
3/29/12	Ethical Dilemmas for Small Firm & Solo Practitioners	St. Paul	RCBA
3/29/12	MN Lawyer Seminar	Minneapolis	Minnesota Lawyer
4/5/12	Estate Planning for Non-Traditional Families	Minneapolis	MNCLE
4/10/12	MN Paralegals Assn.	Minneapolis	Gray Plant
4/12/12	Trust Account Scams	St. Paul	Hamline U.
4/12/12	Judicial Law Clerks & Ethics	Buffalo	Wright County Law Clerks
4/13/12	Navigating the Medicare Minefield: Ethics, Professionalism and Doing the Right Thing	Minneapolis	MNCLE
4/13/12	Law Firm Transitions	St. Paul	AILA
4/23/12	Public Interest Internship Class	Minneapolis	St. Thomas Law School
4/26/12	Estate Planning for Nontraditional Families Deskbook Authors	St. Paul	MNCLE
5/2/12	Conflicts of Interest	Minneapolis	MNCLE
5/3/12	Bassford Ethics Seminar	Minneapolis	Bassford Remele
5/7/12	Real World Ethics	Minneapolis	MNCLE
5/16/12	Inns of Court	St. Paul	Berger Inn of Court
5/21/12	Ethical Pitfalls for Public Lawyers	St. Paul	RCBA
5/23/12	Common Ethical Problems and How to Avoid Them	St. Paul	RCBA
5/31/12	Minnesota Association for Justice Car Crash Seminar	Minneapolis	MN Assn. Justice
6/5/12	Common Trends in Ethics	Minneapolis	MN Assn. Justice
6/13/12	CLE at the Speed of Laughter: Ethical Lapses: What Went Wrong and Why?	Minneapolis	Clarion Legal CLE
6/14/12	Ethics of Pro Bono	St. Cloud	CMLS
6/18/12	Ethics Summit	Minneapolis	MNCLE
6/19/12	Trust Account Scams	Duluth	MSBA
6/20/12	Ethics of Pro Bono	Willmar	CMLS
6/22/12	DWI Prosecutors	St. Paul	BCA
6/26/12	Ethics CLE	St. Paul	RCBA
6/27/12	Ethics Challenges for Small Firm Lawyers	Stillwater	Washington County Bar Association
6/28/12	Recent Discipline Cases Webinar	Minneapolis	MNCLE





## MINNESOTA Lawyers Professional Responsibility Board Office of Lawyers Professional Responsibility

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### What's New

["Communication is vital but can bring difficulties," MN Lawyer, June 4, 2012](#)

["Closing a practice, by the book," MN Lawyer, May 7, 2012](#)

["Disclosing Confidential Information," MN Bench and Bar, April 2012](#)

["Director's role in conducting disciplinary investigations," MN Lawyer, April 9, 2012](#)

["Transparency in Government," MN Bench and Bar, March 2012](#)

["How do you know your bookkeeper is keeping accurate trust account records," MN Lawyer, March 5, 2012](#)

["Summary of Admonitions," MN Bench and Bar, February 2012](#)

[2011 LPRB-OLPR ANNUAL REPORT](#)

### Quick Links

### Legal References

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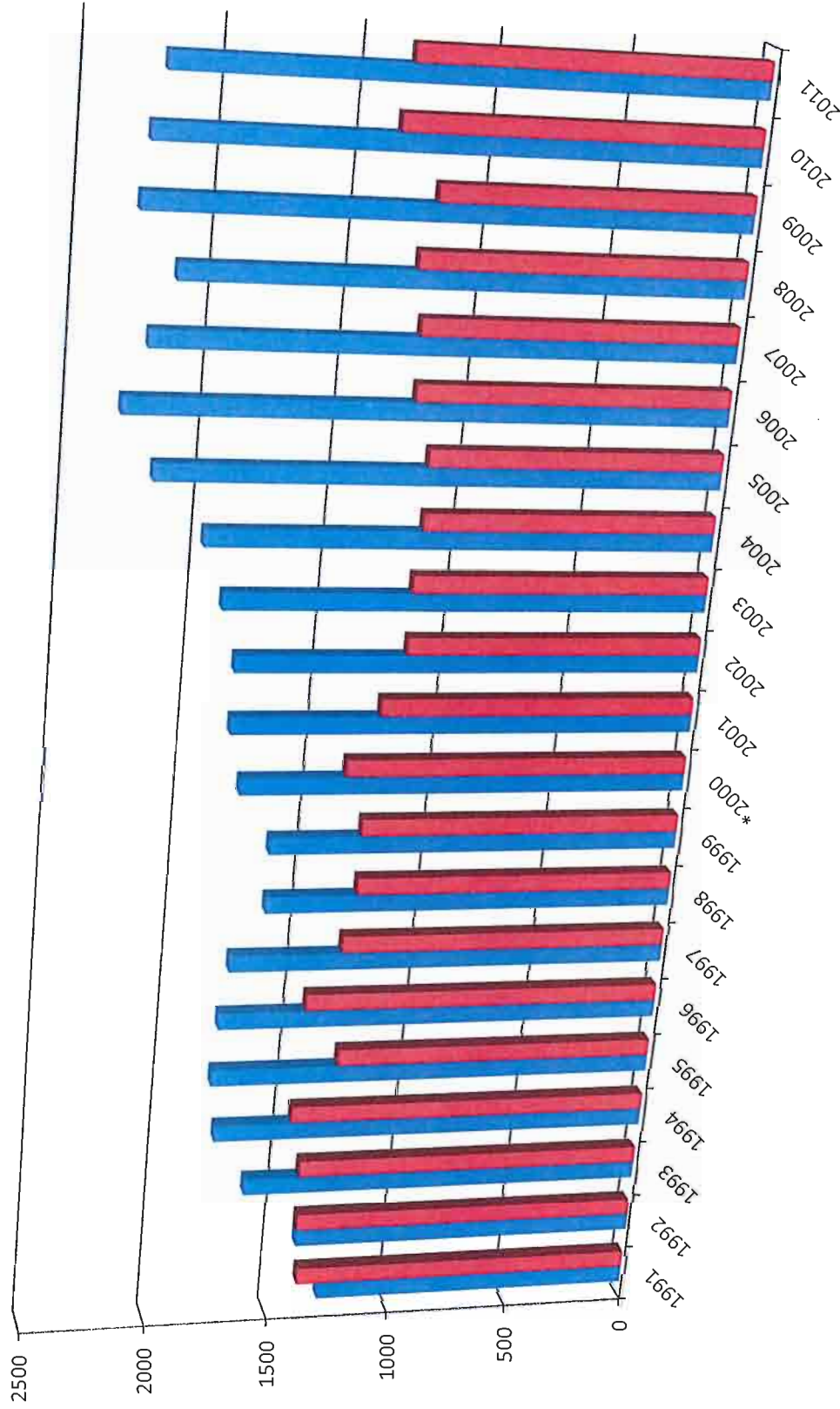
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and  
Number of Complaints Opened  
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\* 2000 total advisory opinions (AO) received was revised to reflect additional AO's not previously included.