



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

Chicago
April 30, 1990

To the Honorable, the Chief Justice
and Justices of the Supreme Court
of Illinois:

The annual report of the Attorney Registration and Disciplinary Commission for 1989 is submitted to the Court, to the members of the Bar of Illinois, and to the public in accordance with Supreme Court Rule 751.

During 1989 the Commission determined to change its accounting period from a fiscal year ending October 31 to a calendar year. The change has been approved by the Internal Revenue Service. As a result this report contains a statement of the activities of the Commission for calendar year 1989, an accounting and audit of the monies received and expended during the twelve month period which ended October 31, 1989, and an accounting and audit of the monies received and expended during November and December 1989.

Respectfully submitted,

James H. Bandy, Chairman
Lester Asher
Suzanne Barancik
John P. Clarke
David M. Hartigan
Frederick T. King, Sr.
Mary T. Robinson

I. DEVELOPMENTS DURING 1989

A. DEVELOPMENTS ARISING FROM BLUE RIBBON COMMITTEE REPORT

On October 13, 1989 the Court acted upon the report of its Blue Ribbon Committee To Study the Functions and Operations of the Attorney Registration and Disciplinary Commission.(BRC).

The Court expressed its support for the BRC conclusion that the Commission:

...clearly is one of the most sophisticated disciplinary systems in the United States, both in terms of administration, system architecture and legal expertise. (Introductory statement, p.3).

In response to the BRC report, the Court amended various disciplinary rules.

The Court provided for the inclusion of one non-lawyer on each three person panel of the Inquiry Board. (Rule 753(c)(1)). The Court directed the Commission to continue to take an active role in recruiting and educating the membership of the boards. The Commission has implemented the change as described in Section B below.

The Court determined that more information be made available to the profession and public regarding the disciplinary system. The Court decided to make public the proceedings before the Hearing and Review Boards. (Rule 766). The Court instructed the Administrator and the Commission to take appropriate steps to publicize the work of the Commission and to present educational programs to the bar regarding the disciplinary system and disciplinary case law affecting lawyers' professional responsibility. The educational program is described in Section IC. below. Developments in disciplinary law are described in Sections IF., IG. and IIA. below.

The Court developed new procedures to facilitate prompt and fair disposition of disciplinary matters. The Administrator and the respondent, with the approval of a board, may submit a proceeding to the Court as an agreed matter. (Rule 762(b)). The Court required that the Commission continue its practice of auditing, after the fact, a representative sample of decisions of the Administrator to close an investigation without referring it to the Inquiry Board. (Rule 751(e)(3)). The Court provided that prior discipline should not be disclosed to a hearing panel unless and until the panel were to make a finding of misconduct. (Rule 753(c)(5)). The Court provided immunity from civil suit to a person who communicates a complaint against an attorney to the Commission. (New Rule 775).

The Court adopted new rules to discourage the few attorneys who fail to cooperate in a disciplinary investigation and thereby cause an unnecessary burden on the disciplinary system.

The failure to appear at any hearing may be considered as a separate ground for discipline or denial of a petition. (Rule 753(f)). The Commission may recover the cost of obtain evidence which the attorney has failed to provide. (Ru. 773(b)(4),(5)).

B. RECRUITMENT AND TRAINING OF BOARD MEMBERS

On May 13, 1989, a seminar for Inquiry Board members on Commission procedure and substantive professional responsibility issues was presented. On October 14, 1989, a similar seminar was conducted for members of the Hearing Board. Videotapes of these seminars are available for review upon request. For information, please contact James J. Grogan, Chief Counsel, at (312) 346-0690.

In October 1989, the Commission announced the opportunity for service by non-lawyers on the Inquiry Board. Many qualified individuals applied.

The Commission conducted personal interviews of applicants and appointed 23 non-lawyers to serve on the Inquiry Board. The new members are highly qualified and of a diverse background.

On January 20, 1990 and January 27, 1990, training seminars were conducted for the newly appointed lay members of the Inquiry Board. The board members participated in a va program highlighting the admission and discipline of lawyers in Illinois with an emphasis on Inquiry Board procedures.

C. EDUCATIONAL PROGRAM

The Commission has responded to the Court's direction to conduct educational programs to inform the bar of the structure and operations of the disciplinary system and about recent developments in disciplinary case law.

During 1989, Commission representatives spoke at numerous state and local bar association functions concerning Commission activities. Counsel participated in many statewide continuing legal education programs on professional responsibility and lectured at DePaul University College of Law, I.I.T. Chicago-Kent College of Law, Loyola University of Chicago School of Law, The John Marshall Law School, Northwestern University and Southern Illinois University. In-house training on substantive professional responsibility issues was provided to a number of law firms.

Commission counsel are available to speak to bar associations, law schools, law firms, professional organizations and public groups on the topics of professional responsibility, lawyer discipline and the new Illinois Rules of Professional Conduct. There is no charge for this service. Any person interested obtaining a speaker should contact James J. Grogan, Chief Counsel, at the Commission's Chicago office at (312)346-0690.

D. STAFF DEVELOPMENT

During 1989, the Commission and the Administrator expanded the staff in order to handle the increasing caseload. The Commission presently employs 23 counsel.

Commission attorneys, investigators and paralegals receive regular skills training and are encouraged to attend continuing education programs which are relevant to their employment. Recently hired staff counsel attend weekly professional responsibility seminars.

E. LITIGATION RELATING TO THE NATURE OF COMMISSION FUNDS

On May 18, 1989, the Appellate Court affirmed the judgment that the Auditor General of Illinois is not entitled to audit the funds of the Commission and State Board of Law Examiners. *Chicago Bar Ass'n. v. Cronson*, 183 Ill.App. 3d 710, 539 N.E.2d 327 (1st Dist. 1989), *appeal denied*, 127 Ill.2d 613, 545 N.E.2d 106 (1989), *cert. denied*, ___ U.S. ___, 110 S.Ct. 867 (1990).

F. ADOPTION OF ILLINOIS RULES OF PROFESSIONAL CONDUCT

On February 8, 1990, the Illinois Rules of Professional Conduct were adopted by the Supreme Court. Effective August 1, 1990, the rules replace the Illinois Code of Professional Responsibility adopted by the Court on June 3, 1980. The rules generally follow the format of the Model Rules of Professional Conduct adopted in 1983 by the American Bar Association.

G. ADOPTION OF RULES RELATED TO REQUIRED RECORDS, RECEIVERSHIPS, DUTIES OF DISCIPLINED ATTORNEYS, AND ADMISSION ON FOREIGN LICENSE

The Court adopted Rule 769, which imposes upon all attorneys the duty to maintain records which identify the name and last known address of each of the attorney's clients and which reflect whether the representation of the client is ongoing or concluded, together with financial records relating to the attorney's practice for a period of not less than ten years.

New Rule 776 provides for the appointment of a receiver to perform certain duties in situations where an attorney is unable to discharge his or her duties to clients due to disability, disappearance or death, and no other responsible party is known to exist. The receiver is responsible for taking whatever action is indicated to protect the interests of the absent or deceased attorney, the clients, or other affected parties.

The Court deleted the provisions of former Rule 764 which forth the duties imposed on certain disciplined attorneys and adopted a substantially revised rule which sets forth additional duties and imposed duties on attorneys who would not have been

subject to the provisions of the earlier version of the rule.

On April 3, 1989, the Court adopted Rule 705, effective immediately. Rule 705 allows persons licensed to practice law in the highest court in any other state or territory of the United States, or the District of Columbia, to apply for admission to the bar in Illinois without academic qualification examination under certain circumstances.

II. REPORT ON DISCIPLINARY MATTERS

A. DEVELOPMENTS IN DISCIPLINARY CASE LAW

During 1989, the Supreme Court imposed disbarment, suspension, censure or probation upon 132 attorneys. Of those, 18 resulted in the filing of written opinions by the Court. In addition, the Court considered 6 petitions for reinstatement. Two were allowed. Four were not allowed. Three reinstatement cases resulted in written opinions. The Court considered a variety of professional responsibility issues.

1. Advertising and Commercial Speech

The Court censured an attorney for deceptive commercial speech. *In re Peel*, 126 Ill.2d 397, 534 N.E.2d 980 (1989), *cert. granted sub nom., Peel v. Attorney Registration and Disciplinary Commission*, ___ U.S. ___, 109 S.Ct. 3240 (1989). Beginning in 1983, Respondent placed the statement "Certified Civil Trial Specialist by the National Board of Trial Advocacy" on the professional letterhead which he used during the ordinary course of his law practice. Rule 2-105(a)(3) of the Illinois Code of Professional Responsibility, however, prohibits lawyers from holding themselves out to be either certified or a specialist. Such claims are deceptive because they lead the public to believe that the lawyer is specially certified or licensed to practice in a certain area of law. Lawyers are permitted to describe the types of legal matters in which they will accept employment or may state that they concentrate or limit their practice to one or more particular fields of law.

On July 3, 1989, the United States Supreme Court granted certiorari and on January 17, 1990 oral argument was presented. 58 U.S.L.W. 3477-3478 (U.S. Jan 30, 1990). The case is under advisement.

2. Conflict of Interest

The Court suspended an attorney for two years for entering into business transactions with clients and for engaging in conduct involving overreaching. *In re Imming*, 131 Ill.2d 239, 545 N.E.2d 715 (1989). Respondent was the president and sole shareholder of a corporation. From 1977 through 1981, Respondent obtained funds for the corporation by obtaining loans from several of his clients. The loans, many of them from widows,

were evidenced by unsecured promissory notes issued by the corporation and personally guaranteed by Respondent. Respondent neither advised the clients to seek the advice of independent counsel nor disclosed the perilous financial status of the corporation or himself. Eventually, the corporation and Respondent defaulted on making repayment of the loans. The Court emphasized that lawyers who profit from transactions during the course of a fiduciary relationship have presumptively engaged in conduct involving undue influence.

3. Excessive Fees

On December 27, 1989, the Court suspended an attorney for one year for collecting an excessive fee. *In re Gerard*, 132 Ill.2d 507, 548 N.E.2d 1051 (1989). The Court held that collecting an excessive fee can constitute fraud subjecting a lawyer to discipline. The lawyer entered into a contingent fee contract with an 84 year old hospitalized woman. Respondent agreed to collect a one-third fee for "recovering the assets" of the elderly client. Respondent "recovered" approximately \$450,000 held in a total of 23 certificates of deposit registered in the client's name at various financial institutions. Respondent re-registered the certificates in the name of a trust he established. Respondent then redeemed certain of the certificates in the amount of \$159,648.60 as his fee. At no time were any adverse claims made by third persons and no litigation was necessary to recover the proceeds. The Court held:

We would have thought it was general knowledge among the members of the bar that a contingent fee is to be collected only if an attorney successfully champions the legal rights and claims of his client, with the result that the client is compensated through a settlement with, or judgment against, those who denied his claims.

The Court noted that, where a contingent fee agreement is entered into based upon a mistake of fact and no real contingency exists, a lawyer owes an obligation to the client to reform the agreement.

4. Neglect

The Court suspended an attorney for one year for neglect of four different client matters. *In re Samuels*, 126 Ill.2d 509, 535 N.E.2d 808 (1989). The attorney argued that suspension was unwarranted because he represented 14,000 other clients in the same six-year period. In addition, Respondent justified his neglect because the clients were unable to pay him more money for better legal services. The Court rejected his claims and criticized Respondent for advocating a "cut-rate version" of ethical rules. The Court noted that Respondent's lack of cooperation in the disciplinary proceeding aggravated his misconduct.

In another case, the Court disbarred an attorney for a consistent pattern of neglecting client affairs and for deliberately

and repeatedly lying to clients regarding the status of legal matters. *In re Behnke*, 127 Ill.2d 322, 537 N.E.2d 326 (1989).

5. Criminal Activity

In *In re Ettinger*, 128 Ill.2d 351, 538 N.E.2d 1152 (1989), the Court suspended an attorney for two years for participation in a conspiracy to pay money to a police officer so that criminal charges would be dismissed against the attorney's client. The Court ruled that tape recordings made by a police officer were admissible despite the Illinois eavesdropping statute because the legislature has no authority to regulate the admission of evidence in attorney disciplinary cases. Further, the Court rejected Respondent's claim that his acquittal in the criminal case constituted a bar to disciplinary prosecution.

6. Bench-Bar Relations

During 1989, numerous opinions were filed imposing sanctions for violations of Rule 7-110(a) of the Illinois Code of Professional Responsibility. That rule prohibits lawyers from giving or lending items of value to judges unless the gifts or loans would be permitted by the Illinois Code of Judicial Conduct.

In *In re Neistein*, 132 Ill.2d 104, 547 N.E.2d 198 (1989), *cert. denied sub nom., Neistein v. Attorney Registration and Disciplinary Commission*, ___ U.S.L.W. ___ (U.S. Apr. 23, 1990) (No. 89-1406), the Court suspended two law partners for thirty months for arranging a \$10,000 loan for a judge before whom firm lawyers appeared. When the judge defaulted on the obligation, Respondents made payments on the judge's behalf. The judge never repaid the lawyers. In *In re Rothenberg*, 127 Ill.2d 139, 535 N.E.2d 849 (1989), an attorney was suspended for one year for regularly loaning money to a judge who would occasionally appoint the lawyer to serve as a guardian ad litem.

In *In re Lunardi*, 127 Ill.2d 413, 537 N.E.2d 767 (1989), a lawyer was suspended for two years, due in part to the lawyer's \$1,100 loan to a judge. During the course of the debtor-creditor relationship, Respondent represented a client before the judge and no revelation of the relationship was made to the opposing party. In *In re Weinstein*, 131 Ill.2d 261, 545 N.E.2d 725 (1989), the Court censured a lawyer who made loans to a judge where there were mitigating circumstances.

Suspension from the practice of law is appropriate where lawyers deviate from ethical campaign financing practice. In *In re Lane*, 127 Ill.2d 90, 535 N.E.2d 866 (1989), a lawyer gave \$2,500 to a judge by way of a cashier's check made payable to cash. The lawyer claimed the money was a campaign contribution loan. The lawyer and members of his firm regularly appeared before the judge. The \$2,500 was never repaid and Respondent never revealed his debtor-creditor relationship to any party or opposing counsel. The Court emphasized that attorney contributions must be made to a judicial campaign rather than to a candidate personally in order to eliminate appearance of improper influence. See also, *In re Lidov*, 129 Ill.2d 424, 544 N.E.2d 294 (1989) (six month suspension for

\$4,000 cash loan from lawyer to judge for campaign purposes where mitigating factors present); *In re Chatz*, 131 Ill.2d 499, 46 N.E.2d 613 (1989) (one year suspension appropriate for a lawyer's \$5,000 personal loan to a judge for campaign purposes where Respondent never disclosed debtor-creditor relationship to anyone despite firm appearances before the judge).

7. Management of Client Property and Funds

The Court disciplined several attorneys for failing to properly protect the property and funds of clients. In *In re Johnson*, No. 67740 (Ill. Dec. 21, 1989), a lawyer was suspended for six months, in part, for depositing the proceeds of a client's personal injury settlement into a bank account of a foreign consulate. The lawyer served as counsel to the consulate. Respondent deposited client funds into the account so that they would be beyond the reach of his client's creditors. The Supreme Court found Respondent's activities did violate the rule governing client fund management because he exposed client funds to extraordinary dangers, not the least of which was the ever-changing nature of international relations. Respondent was also charged with forging co-counsel's endorsement on a settlement draft. The Court declined to find misconduct, holding that, where two or more attorneys are jointly retained on a contingent fee basis to prosecute a claim on behalf of a client, the attorneys' relationship may be characterized as a joint venture. Thus, it is not forgery for one attorney to endorse, in the name of the joint venturers, a settlement draft in order to facilitate prompt deposit of funds into a client trust account.

In other written opinions, sanctions for fiscal improprieties ranged from suspension of one to three years depending on the facts of each case and the nature of mitigating and aggravating evidence. See e.g., *In re Uhler*, 126 Ill.2d 532, 535 N.E.2d 825 (1989) (three year suspension); *In re Joyce*, 133 Ill.2d 16, 549 N.E.2d 232 (1989) (two year suspension); *In re Altman*, 128 Ill.2d 206, 538 N.E.2d 1105 (1989) (two year suspension); and *In re Kitsos*, 127 Ill.2d 1, 535 N.E.2d 792 (1989) (one year suspension).

8. Reinstatement

In 1989, the Court issued three opinions arising from petitions for reinstatement pursuant to Supreme Court Rule 767. In each instance, the Court denied reinstatement.

Between 1976 and 1979, a lawyer paid bribes to a Deputy Commissioner and an employee of the Board of Appeals of Cook County. He was convicted in federal court of mail fraud and racketeering because of that activity and disbarred in 1983. In 1986, he filed a petition for reinstatement. The Court denied his petition. *In re Alexander*, 128 Ill.2d 524, 539 N.E.2d 1260 (1989). The Court determined that the serious nature of his misconduct precluded reinstatement at that time. The Court further determined that Petitioner had failed to make restitution to the citizens of Cook County because he had received an improper benefit and his actions resulted in a loss of tax revenue to Cook County.

In *In re Polito*, 132 Ill.2d 294, 547 N.E.2d 465 (1989), the Court denied reinstatement to a lawyer who had been disbarred in 1984 for, among other conduct, converting client funds and issuing checks drawn on bank accounts known to have insufficient funds. Petitioner was denied reinstatement due to his failure to be candid to various employers after the order of discipline and his admission that, between the mid-1970's and early 1980's, he hustled clients and paid bribes to sheriffs and clerks outside various Circuit Court of Cook County courtrooms.

In 1978, the Court suspended an attorney for one year and until further order for commingling and conversion of client funds and for failing to refund a fee to a client when under an obligation to do so. The Court denied him reinstatement in 1989 because petitioner had failed to demonstrate rehabilitation. *In re Livingston*, 133 Ill.2d 140, 549 N.E.2d 342 (1989). The Court noted that Petitioner had failed to make restitution of the converted funds and had not been candid before the Hearing Board. In addition, the Court found that Petitioner had held himself out as an attorney during the period of suspension.

B. STATUS OF PROCEEDINGS RELATED TO "OPERATION GREYLORD"

As of December 31, 1989, 76 attorneys or judges convicted or implicated during the course of federal "Operation Greylord" proceedings had been disciplined by the Supreme Court. Out of this number, 59 were disbarred. Six additional matters were under advisement before the Supreme Court. Three cases relating to alleged misconduct discovered during the course of federal proceedings were pending before the Hearing Board.

C. THE CASELOAD REPORT

During 1989, while the number of charges filed continued to increase dramatically, the Commission further reduced its pending caseload. Charts 1 through 10 account for the investigations conducted by the Administrator and the Inquiry Board and the disciplinary and reinstatement matters in the Hearing and Review Boards and in the Supreme Court. Charts 11 and 12 indicate the classification of investigations at the time of docketing as to area of law involved and principal violation alleged. Chart 13 reflects the reasons for the termination of investigations.

Chart 1 - Trend of Investigations

During 1989, the number of investigations docketed increased by 877, a 17.7 percent increase. 922 investigations were docketed as a result of a report of misconduct from a member of the profession.

Pending Jan 01 89	Docketed During 1989	Terminated During 1989	Pending Dec 31 89
3,251	5,822	6,352	2,721

As of December 31, 1989, 2,322 attorneys were the subject of an investigation. The difference between the number of investigations pending and attorneys under investigation is due to the fact that some attorneys are the subject of more than one investigation.

Chart 2: Description of Charges Terminated

Closed by Administrator: No misconduct stated	818
Closed by Administrator after investigation	5,552
Closed by Inquiry	1,266
Complaint voted by Inquiry	343
Total charges terminated	7,979

The number of charges terminated is greater than the number of investigations terminated because some investigations contain charges against more than one attorney.

Chart 3 - Trend of Matters in Hearing Board

During 1989, the number of matters filed before the Hearing Board increased by 14 over 1988, a 18.6 percent increase.

Trend of Matters in the Hearing Board During 1989

Pending Jan 01 89	Filed During 1989	Terminated During 1989	Pending Dec 31 89
73	89	79	83

The difference between the number of complaints voted by the Inquiry Board and the number of matters filed before the Hearing Board is due principally to the consolidation of multiple charges against an attorney in one complaint before the Hearing Board.

Chart 4 - Disposition of Hearing Board Reports

Recommendation for discipline submitted to Court as agreed matter	31
Reprimand administered	7
Closed as the attorney consented to discipline or transferred to inactive status	16
Recommendation submitted to Review Board as contested matter	23
Awaiting exceptions	2
Total	79

Chart 5- Trend of Matters in the Review Board

The Review Board maintained its docket in a current status during 1989. The matters filed before the Review Board during 1989 constitute those Hearing Board reports to which the administrator, respondent or both parties filed exceptions.

Pending Jan 01 89	Filed During 1989	Terminated During 1989	Pending Dec 31 89
9	23	26	6

Chart 6 - Trend of Attorney Related Matters in the Supreme Court

During 1989, the Supreme Court again handled a record number of matters arising from the Commission.

Pending Jan 01 89	Filed During 1989	Terminated During 1989	Pending Dec 31 89
139	791	779	151

Chart 7 - Description of Cases Terminated By the Supreme Court

Supreme Court Rule Number	Description	Number
753, 761, 762, 763 & 774	Disciplinary Cases	130
754	Failure to comply with subpoena or court order	51
756	Failure to register	2
757 & 770	Transfer to inactive status	541
759 & 767	Reinstatement and restoration	26
772	Probation terminated, revoked, ordered	8
	Other	21
Total		779

Chart 8 - Disciplinary Action by Supreme Court

Disbarred	60
Suspended	48
Censured	18
Probation	6
Total	132

Chart 9 - Non-Disciplinary Action By Supreme Court

Transferred to Inactive Status	
- allowed	538
- not allowed	3
Petitions for Reinstatement	
- allowed	2
- not allowed	4
Petitions for Restoration	
- allowed	18
- not allowed	2
Total	567

Chart 10 - A Comparison

Chart 10 presents, in summary fashion, a comparison of certain key factors over the past ten years. It demonstrates the growth of lawyer population, and the workload of the boards, the Court and the staff.

Period	Number of Registered Attorneys	Investigations Docketed	Charges Concluded By				Matters Filed with			Staff Size	
			Closure By Administrator	Closure By Administrator After full Investigation	Closure By Inquiry After full Investigation	Complaint Voted	Hearing Board	Review Board	Supreme Court	Attorneys	Investigators
			No Misconduct Alleged								
1979	35,509	1,765	N/A	943	609	62	34	22	55	6	5
1980	37,100	2,098	N/A	1,095	660	130	62	29	58	7	5
1981	39,280	1,924	N/A	1,098	608	130	49	38	104	8	5
1982	41,274	2,285	N/A	1,384	723	116	50	27	90	9	5
1983	43,116	2,388	N/A	1,340	855	134	69	40	150	9	5
1984	45,171	2,721	N/A	1,182	1,021	179	49	28	139	9	5
1985	47,400	3,935	N/A	1,730	1,239	184	68	27	211	15	8
1986	49,177	4,535	223	2,846	1,094	219	120	49	228	18	9
1987	50,635	4,886	765	4,542	1,275	229	103	40	364	19	9
1988	52,611	4,945	910	4,369	1,167	214	75	32	390	18	9
1989	54,866	5,822	818	5,552	1,266	343	89	23	791	23	10

N/A = Not available

Chart 12 Classification of Certain Investigations Docketed in 1989 By Violation Alleged

Chart 11 Classification of Certain Investigations Docketed in 1989 by Area of Law Involved

	NUMBER
Domestic Relations	974
Tort(Personal Injury/Property Damage)	887
Criminal and Quasi Criminal	635
Real Estate /Including Landlord-Tenant	465
Contract	278
Probate	267
Other	185
Labor Relations	170
Bankruptcy	158
No Case	144
Corporate Matters	136
Immigration	39
Local Government Problems	38
Tax	34
Civil Rights	26
Adoption	13
Mental Health	8
Patent and Trademark	7

	NUMBER
Neglect	1,366
Conduct Involving Dishonesty or Fraud	732
Failure to Communicate with Client	589
Improper Handling of Funds of Others	405
Excessive Fee	202
Incompetence	161
Relationship with Client Disclosing Confidential Information...Improper Withdrawal...Abandonment	
Failure to protect Interest of Client	131
Conduct Prejudicial to the Administration of Justice	127
Failure to Treat Others with Courtesy	87
Conduct which tends to Bring Legal Profession into Disrepute	80
Practicing Law in Jurisdiction Where Not Authorized	74
Employment Where Interest of Another Client May Impair Judgement	69
Solicitation	65
Failure to Register	55
Aiding the Unauthorized Practice of Law	52
Criminal Conduct	50
Greylord Related	44
Improper Communication Adverse Party	41
Improper Trial Conduct	35

Chart 13

**Classification of Investigations
Concluded by Reason During 1989**

	NUMBER
Insufficient Evidence to Substantiate Charge	2,482
Communication or Information Provided	626
Filed Before Hearing Board	584
Acknowledged Error; Corrective Action	415
Closed for Further Review	264
Correspondence Contradicts Charge	247
Fee Dispute: Refer to Committee	228
Filed in the Supreme Court	194
Client Expectation Unrealistic	169
Fee Dispute: Not Referred to Committee	138
Isolated Mistake; Consult Attorney	129
Accounting Provided; Funds Not Converted	107
Claim Pending before Tribunal	94
Distributions Made; Funds Not Converted	77
Closed by Other Discipline	66
Public Record Contradicts Charge	66
Advertisement Not Misleading	54
Submission Complies With Rules	48
Funds Not Available to Attorney	48

III. FINANCIAL REPORT

A. Change to Calendar Year

On September 8, 1989, the Commission determined to change its financial year from a fiscal year ending October 31 to a calendar year. As a result, this report contains an accounting for fiscal 1989 and the two month interim period necessary to accomplish the change to a calendar year.

B. Fiscal 1989

The Commission approved the fiscal 1989 budget on February 16, 1989. The budget provided funds to expand the staff by two secretaries, three counsel, an investigator, and a paralegal.

The budget included a carryover from 1988 as the result of delay in delivery of a new computer system. The Hewlett Packard Model 3000/935 computer was installed and running in February 1989.

The Commission managed its operations within the projections contained in the fiscal 1989 budget. A schedule comparing revenues and expenditures budgeted with actual revenues and expenditures is as follows.

**ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION
ACCOUNTING OF MONIES RECEIVED AND EXPENDED
FOR THE YEAR ENDED OCTOBER 31, 1989**

OPERATING FUND

	BUDGET AMOUNT	ACTUAL AMOUNT	VARIANCE
REVENUE			
Total Fees	\$5,965,170	\$5,998,983	(\$33,813)
Costs Recovered	\$50,000	\$83,375	(\$33,375)
Interest	\$200,000	\$333,374	(\$133,374)
Other	\$0	\$1,383	(\$1,383)
Total Revenues	\$6,215,170	\$6,417,115	(\$201,945)
Budget 1987			
Not Delivered Computer	\$210,000	\$210,000	\$0
Total Revenue and Computer	\$6,425,170	\$6,627,115	(\$201,945)

EXPENDITURES

Salaries and related Expenses	\$3,696,700	\$3,060,926	\$635,774
Travel Expenses	\$104,340	\$89,082	\$15,258
Continuing Education Expenses	\$70,524	\$57,225	\$13,299
General Office Expenses	\$730,050	\$674,265	\$55,785
Computer Assets and Expenses	\$335,000	\$300,928	\$34,072
Other Assets	\$326,745	\$206,358	\$120,387
Other Expenses	\$254,435	\$270,016	(\$15,581)
Total Expenditures	\$5,517,794	\$4,658,800	\$858,994
Excess of Revenue Over Expenditures	\$907,376	\$1,968,315	(\$1,060,939)

BRACKETED ITEMS INDICATE ACTUAL REVENUE OR EXPENSES OVER BUDGET

C. Registration

The 1989 Master Roll of Attorneys contained the names of 54,866 attorneys. The registration categories of those attorneys are contained in the audited financial statements in Appendix 2.

The distribution throughout the state of those attorneys who reside, practice, or are employed in Illinois is contained in Appendix 1.

D. Audited Financial Statements

The Commission engaged the services of Alexander X. Kuhn & Co., Certified Public Accountants, to conduct an independent annual audit as required by Rule 751(e)(7). The audited financial statements for fiscal year ended October 31, 1989 and for the two months ended December 31, 1989 are attached as Appendices 2 and 3.

E. Interim Budget

A schedule comparing budgeted revenues and expenditures for the months of November and December 1989 is as follows:

ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION
ACCOUNTING OF MONIES RECEIVED AND EXPENDED
FOR TWO MONTHS ENDED DECEMBER 31, 1989

OPERATING FUND

	BUDGET AMOUNT	ACTUAL AMOUNT	VARIANCE
REVENUE			
Total Fees	\$986,311	\$986,311	\$0
Costs Recovered	\$20,907	\$20,907	\$0
Interest	\$58,539	\$58,539	\$0
Other	\$0	\$17	(\$17)
Total Revenue	<u>\$1,065,757</u>	<u>\$1,065,774</u>	<u>(\$17)</u>
EXPENDITURES			
Salaries and related Expenses	\$696,850	\$611,644	\$85,206
Travel Expenses	\$24,468	\$21,871	\$2,597
Continuing Education Expenses	\$10,583	\$8,263	\$2,320
General Office Expenses	\$157,586	\$163,750	(\$6,164)
Computer Assets and Expenses	\$59,850	\$58,288	\$1,562
Other Assets	\$49,767	\$45,283	\$4,484
Other Expenses	\$42,000	\$35,330	\$6,670
Total Expenditures	<u>\$1,041,104</u>	<u>\$944,429</u>	<u>\$96,675</u>
Excess of Revenue over Expenditures	<u>\$24,653</u>	<u>\$121,345</u>	<u>(\$96,692)</u>

BRACKETED ITEMS INDICATE ACTUAL REVENUE OR EXPENSES OVER BUDGET

F. Administrator's Staff

As of December 31, 1989 the full time staff of Administrator's office consisted of:

Administrator
Deputy Administrator

Legal Services
Chief Counsel
Senior Counsel in Charge
Senior Counsel..2
Counsel..19
Paralegal..9
Senior Investigator..3
Investigator..7
Investigative Assistant
Senior Secretary..2
Secretary..16

Record Keeping
Clerk
Deputy Clerk..2
Docket Clerk..2
Assistant Clerk

Administrative Services
Director Administrative Services
Manager Administrative Services
Manager Computer Services
Manager Personnel
Administrative Assistant ..3
Registrar
Deputy Registrar..2
Assistant Registrar
Accountant
Bursar
Collection Officer
Manager Secretarial Services
Receptionist..4
Senior Office Aide..2
Office Aide..2

IV. EVALUATION AND RECOMMENDATIONS

The Commission has acted to implement the directions of the Court in its response to the report of the Blue Ribbon Committee. Those activities are set forth in Section IA., IB. and IC. above at page 2.

During 1989, the Commission improved its efficiency in handling the caseload. While 5,822 investigations docketed represented a 17.7 percent increase over 1988, the Administrator, his staff and the members of the Inquiry Board concluded 6,352 investigations during the year, reducing the caseload by 530 investigations. The Commission continues to manage diligently the caseload at all levels within the Commission. During 1989 the Commission and Administrator implemented a program of providing full written explanations to complaining witnesses of the reasons for the dismissal of their charges. While the practice consumes substantial resources, the Commission and Administrator believe that the explanation may improve the public perception of the profession by assisting a complaining witness in understanding why a formal complaint was not warranted.

The Commissioners, together with the Administrator and his staff, also examined rules related to disciplinary proceedings. They concluded that various amendments were necessary to improve the efficiency in handling the caseload. A summary of the proposals are attached as Appendix 4.

APPENDIX 1

DISTRIBUTION OF IN-STATE REGISTERED ATTORNEYS

BY JUDICIAL DISTRICTS AND CIRCUITS OF ILLINOIS

	1985	1986	1987	1988	1989
FIRST DISTRICT					
Cook County	26916	27739	29872	30710	31839
SECOND DISTRICT					
15th Circuit	181	170	175	174	164
16th Circuit	697	722	778	806	802
17th Circuit	479	493	509	533	553
18th Circuit	1697	1803	1972	2075	2084
19th Circuit	1227	1311	1438	1556	1620
TOTAL	4281	4499	4872	5144	5223
THIRD DISTRICT					
9th Circuit	206	204	209	201	200
10th Circuit	657	665	684	691	716
12th Circuit	518	513	538	561	561
13th Circuit	275	278	292	285	284
14th Circuit	444	443	453	447	452
TOTAL	2100	2103	2176	2185	2213
FOURTH DISTRICT					
5th Circuit	273	273	281	278	280
6th Circuit	671	681	709	693	714
7th Circuit	909	930	983	991	1011
8th Circuit	185	179	177	178	179
11th Circuit	389	394	402	414	412
TOTAL	2427	2457	2552	2554	2596
FIFTH DISTRICT					
1st Circuit	302	304	320	318	317
2nd Circuit	291	297	315	300	298
3rd Circuit	384	403	435	454	478
4th Circuit	256	247	262	257	249
20th Circuit	563	595	652	677	695
TOTAL	1796	1846	1984	2006	2037

BY COUNTY OF PRINCIPAL OFFICE AS OCTOBER 31, 1989

COUNTY OF PRINCIPAL OFFICE	NUMBER OF ATTORNEYS	COUNTY OF PRINCIPAL OFFICE	NUMBER OF ATTORNEYS
Adams	102	Lee	32
Alexander	10	Livingston	52
Bond	12	Logan	31
Boone	28	Macon	220
Brown	9	Macoupin	41
Bureau	49	Madison	466
Calhoun	4	Marion	50
Carroll	13	Marshall	18
Cass	12	Mason	15
Champaign	416	Massac	21
Christian	44	Mc Donough	44
Clark	18	Mc Henry	309
Clay	18	Mc Lean	290
Clinton	21	Menard	12
Coles	86	Mercer	11
Cook	31839	Monroe	34
Crawford	22	Montgomery	36
Cumberland	7	Morgan	49
De Kalb	122	Moultrie	17
De Witt	19	Ogle	41
Douglas	21	Peoria	579
Du Page	2084	Perry	21
Edgar	31	Piatt	21
Edwards	6	Pike	14
Effingham	36	Pope	2
Fayette	16	Pulaski	8
Ford	20	Putnam	7
Franklin	49	Randolph	28
Fulton	41	Richland	25
Gallatin	11	Rock Island	322
Greene	14	Saline	34
Grundy	47	Sangamon	883
Hamilton	13	Schuyler	11
Hancock	19	Scott	8
Hardin	6	Shelby	19
Henderson	5	St. Clair	597
Henry	52	Stark	12
Iroquois	27	Stephenson	55
Jackson	151	Tazewell	100
Jasper	9	Union	14
Jefferson	95	Vermilion	138
Jersey	16	Wabash	22
Jo Daviess	23	Warren	27
Johnson	8	Washington	15
Kane	658	Wayne	15
Kankakee	112	White	16
Kendall	22	Whiteside	67
Knox	64	Will	422
Lake	1311	Williamson	69
La Salle	188	Winnebago	525
Lawrence	18	Woodford	19

Alexander K. Fuhn & Co.

CERTIFIED PUBLIC ACCOUNTANTS

MEMBERS
ILLINOIS C.P.A. SOCIETY
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

SUITE 714
ONE OAKBROOK TERRACE
22nd STREET at BUTTERFIELD ROAD
OAKBROOK TERRACE, ILLINOIS 60181
TELEPHONE 953-1900
AREA CODE 312

To the Commissioners and Administrator of the
Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois
203 North Wabash Avenue
Chicago, Illinois 60601

We have audited the accompanying Balance Sheet of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of October 31, 1989 and the related Statements of Fund Balance, Revenue and Expenditures and Cash Flows for the year then ended. These financial statements are the responsibility of the Commission. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of October 31, 1989, and the results of its operation and its cash flows for the year then ended in conformity with generally accepted accounting principles.

Respectfully Submitted,

Alexander K. Fuhn & Co.

Certified Public Accountants

Dated: January 31, 1990
Oakbrook Terrace, Illinois

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS

BALANCE SHEET

October 31, 1989

<u>ASSETS</u>	<u>GENERAL OPERATING FUND</u>	<u>DEFERRED FEES AND INVESTMENT FUND</u>	<u>PHYSICAL ASSET AND REPLACEMENT FUND</u>	<u>GROUP LEGAL SERVICE REGISTRATION FEE FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>	<u>COMBINED FUNDS</u>
<u>CURRENT ASSETS</u>						
Cash On Hand and In Bank						
Illinois National Bank of Springfield	89,408.08					89,408.08
First National Bank of Springfield	1,500.00					1,500.00
NBD Chicago Bank	1,646.86					1,646.86
Petty Cash	300.00					300.00
Accounts Receivable - Other Than Fees	5,696.12					5,696.12
Investments (Cost)	1,996,263.74	986,340.92	308,403.51	40,855.34	292,607.31	3,624,470.82
Prepaid Expenses	34,596.99					34,596.99
Total Current Assets	<u>2,129,411.79</u>	<u>986,340.92</u>	<u>308,403.51</u>	<u>40,855.34</u>	<u>292,607.31</u>	<u>3,757,618.87</u>
<u>FIXED ASSETS</u>						
Computer and Related Equipment			444,748.17			444,748.17
Office Furniture & Equipment			734,491.55			734,491.55
Library			56,885.28			56,885.28
Leasehold Improvements			73,540.30			73,540.30
Total			1,309,665.30			1,309,665.30
Less: Accumulated Depreciation			551,893.51			551,893.51
Net Fixed Assets			<u>757,771.79</u>			<u>757,771.79</u>
<u>TOTAL ASSETS</u>	<u>2,129,411.79</u>	<u>986,340.92</u>	<u>1,066,175.30</u>	<u>40,855.34</u>	<u>292,607.31</u>	<u>4,515,390.66</u>
<u>LIABILITIES AND FUND BALANCES</u>						
<u>CURRENT LIABILITIES</u>						
Accounts Payable	51,091.62				3,661.88	54,753.50
Notes Payable	36,093.97					36,093.97
Deferred Fees (NOTE J)		986,340.92				986,340.92
Reinstatement Deposits	8,250.00					8,250.00
Group Legal Service Registration Fees				40,855.34		40,855.34
Total Current Liabilities	<u>95,435.59</u>	<u>986,340.92</u>		<u>40,855.34</u>	<u>3,661.88</u>	<u>1,126,293.73</u>
<u>FUND BALANCES</u>						
Operating Fund	2,033,976.20					2,033,976.20
Other Fund Balances			1,066,175.30		288,945.43	1,355,120.73
Total Fund Balances	<u>2,033,976.20</u>		<u>1,066,175.30</u>		<u>288,945.43</u>	<u>3,389,096.93</u>
<u>TOTAL LIABILITIES AND FUND BALANCES</u>	<u>2,129,411.79</u>	<u>986,340.92</u>	<u>1,066,175.30</u>	<u>40,855.34</u>	<u>292,607.31</u>	<u>4,515,390.66</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

EXHIBIT II

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS

STATEMENT OF FUND BALANCE

October 31, 1989

	<u>OPERATING FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>
<u>BALANCE</u> , November 1, 1988	1,359,097.34	189,243.98
<u>ADD</u> , Excess of Revenue Over Expenditures (Exhibit III)	1,741,054.16	99,701.45
<u>BALANCE</u> , October 31, 1989	<u>3,100,151.50</u>	<u>288,945.43</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

EXHIBIT III

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
STATEMENT OF REVENUE AND EXPENDITURES
Year Ended October 31, 1989

	<u>OPERATING FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>
<u>REVENUE</u>		
Attorney Registration Fees and Charges Earned	5,681,326.66	
Income on Investments	333,373.80	18,333.99
Miscellaneous Income	1,383.35	
Contributions from Operating Fund		89,937.05
Increase in Market Value of Investments		4,644.35
Disciplinary Costs Collected	<u>81,374.89</u>	
Total Revenues	<u>6,099,458.70</u>	<u>112,915.39</u>
<u>EXPENDITURES</u>		
Salaries and Related Expenses	3,057,046.45	
Travel Expenses	88,825.77	
Library and Continuing Education	52,776.46	
General Expenses	655,740.58	
Computer Expenses	84,157.31	
Depreciation Expense	147,340.97	
Outside Professional and Investigative Expenses	270,033.12	
Disability and Hospitalization Insurance Premium		13,213.94
Disposition of Obsolete Assets	<u>2,483.88</u>	
Total Expenditures	<u>4,358,404.54</u>	<u>13,213.94</u>
<u>EXCESS OF REVENUE OVER EXPENDITURES</u>	<u>1,741,054.16</u>	<u>99,701.45</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
ATTORNEY REGISTRATION FEES AND CHARGES COLLECTED
Year Ended October 31, 1989

<u>CATEGORIES</u>	<u>NUMBER</u>	<u>AMOUNT</u>
<u>INITIALLY ADMITTED TO THE BAR</u>		
Oath Not Administered		735.00
Between 01-01-88 and 12-31-89	2,771	
Between 01-01-86 and 12-31-87	4,383	306,815.00
Before 01-01-86	37,845	5,313,795.00
Active Military Duty	205	
Birthday Before 12-31-13	2,214	
Neither Practice, Nor Reside, Nor Are Employed in Illinois	<u>7,448</u>	<u>276,701.00</u>
<u>TOTAL ATTORNEYS ACTIVE AND CURRENTLY REGISTERED</u>	54,866	5,898,046.00
<u>REMOVED FROM MASTER ROLL (ARREARS, DECEASED, INACTIVE AND DISCIPLINED ATTORNEYS)</u>	686	19,999.50
<u>PRIOR YEARS REGISTRATION FEES AND DELINQUENT CHARGES COLLECTED</u>		<u>80,937.00</u>
<u>TOTAL REGISTRATION FEES AND DELINQUENT CHARGES</u>		5,998,982.50
<u>DEFERRED FEES (Note J)</u>		
October 31, 1988	668,685.08	
October 31, 1989	<u>(986,340.92)</u>	<u>(317,655.84)</u>
<u>EARNED FEES AND CHARGES (To Exhibit III)</u>		<u>5,681,326.66</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

EXHIBIT IV

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
STATEMENT OF CASH FLOWS
Year Ended October 31, 1989

	<u>OPERATING FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>
<u>CASH FLOWS FROM OPERATING ACTIVITIES:</u>		
Excess of Revenue Over Expenditures	1,741,054.16	99,701.45
Adjustments to reconcile Excess of Revenue Over Expenditures to Net Cash Provided by Operations:		
Depreciation	147,340.97	
Disposal Of Assets	2,483.88	
Accounts Receivable	(3,452.64)	
Prepaid Expenses	4,009.96	881.75
Accounts Payable	(18,416.28)	3,661.88
Deferred Fees	317,655.84	
Reinstatement Deposits	<u>(1,250.00)</u>	
Net Cash Provided By Operating Activities	<u>2,189,425.89</u>	<u>104,245.08</u>
<u>CASH FLOWS FROM INVESTING ACTIVITIES:</u>		
Acquisition of Capital Assets:		
Computer and Related Equipment	(216,223.74)	
Office Furniture and Equipment	(43,722.28)	
Library	(4,508.72)	
Leasehold Improvements	<u>(790.00)</u>	
Net Cash Provided (Used) By Investing Activities	<u>(265,244.74)</u>	
<u>CASH FLOWS FROM FINANCING ACTIVITIES:</u>		
Reduction of Notes Payable	<u>(54,104.61)</u>	
Net Cash Used By Financing Activities	<u>(54,104.61)</u>	
<u>NET INCREASE IN CASH AND CASH EQUIVALENTS</u>	<u>1,870,076.54</u>	<u>104,245.08</u>
<u>CASH AND CASH EQUIVALENTS 11/01/88</u>	<u>1,513,786.57</u>	<u>188,362.23</u>
<u>CASH AND CASH EQUIVALENTS 10/31/89</u>	<u>3,383,863.11</u>	<u>292,607.31</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
NOTES TO THE FINANCIAL STATEMENTS
October 31, 1989

A. GENERAL PURPOSE DESCRIPTION

The Commission was appointed by the Illinois Supreme Court under rules 751 through 756 of the Court effective February 1, 1973, and subsequent additional rules and amendments. The purpose of the Commission and the Office of the Administrator is to maintain the Master Roll of Attorneys and to investigate and prosecute claims against Illinois attorneys whose conduct might tend to defeat the administration of justice or bring the court or the legal profession into disrepute.

On April 21, 1977, the Illinois Supreme court adopted rule 730 effective May 1, 1977. The rule requires the registration of group legal service plans in which an attorney participates. The plans must be registered with the Attorney Registration and Disciplinary Commission on or before July 1st each year.

On August 9, 1983, the Illinois Supreme Court adopted rule 773, effective October 1, 1983. The rule provided that an Attorney-respondent could be responsible for paying the costs incurred in proceedings which led to the imposition of disciplinary sanction.

On October 13, 1989, Rule 773 was amended effective immediately. Attorney-respondents have a duty to pay costs involved in the enforcement of certain Supreme Court rules, costs incurred to compel witness testimony where the lawyer has not cooperated with Commission proceedings, and costs incurred to obtain records from a financial institution when the institution's production followed a lawyer's failure to provide records.

On October 20, 1989, the Supreme Court adopted rule 769, effective November 1, 1989. It is now the duty of every attorney to retain all financial records related to the attorney's practice for a period of not less than ten years.

B. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The books and other financial records of the Commission are recorded on an accrued basis. The accounting year of the Commission is October 31, as established by a resolution by the

B. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Commissioners dated March 12, 1983. The Commission is currently awaiting approval from the Internal Revenue Service to change the accounting year to December 31.

The Commission adopted Statement of Financial Accounting Standards No. 95 (SFAS 95), "Statement of Cash Flows" in fiscal 1988. In accordance with SFAS 95, the Commission has classified all investments as cash equivalents.

Property, plant and equipment are stated at cost. Depreciation and amortization are provided over the estimated useful lives of the assets or asset groups principally on the straight-line method for financial reporting purposes. Generally, upon disposal of assets, cost less any proceeds from sale is charged or credited to accumulated depreciation and gains or losses are then included in current income. Leasehold improvements are amortized over the lease period.

C. INVESTMENTS

All investment transactions are handled by the Trust Department of the Illinois National Bank of Springfield and are held in safekeeping at the bank. Generally investments are carried at cost. The investments representing the Medicare Replacement Reserve Trust are carried at market.

D. COLLECTION OF FEES

The Commission is funded by an annual registration fee assessed Illinois attorneys. The annual fee is sent directly to a lock box located at the U.S. Post Office in Springfield, Illinois. The lock box is under the sole supervision of Illinois National Bank of Springfield. The contents of the lock box are accounted for solely by the bank and all receipts are deposited to the Commission's account. An accounting for these funds is sent regularly to the Commission's registration department for processing and comparison with the registration and billing records. The system is test checked by our auditors and the lock box system is also checked by the internal auditors of the bank and the National Bank Examiners.

E. LEASE AND MAINTENANCE COMMITMENTS

The Commission leases premises and equipment under various capital and operating lease agreements. The aggregate of lease payments under capital lease agreements was \$54,104.61, including interest of \$3,796.88. The aggregate of lease payments under operating lease agreements was \$321,840.21. Certain automobile operating leases are subject to excess mileage payments at the end of the lease, and purchase options are available but not exercised. There are no renewal terms associated with the premises operating leases. The future minimum lease payments for the Chicago office are subject to an expansion clause in the lease. The future minimum lease payments as presented here are calculated on the current square footage occupied, due to the uncertainty of the availability of additional space in the future. The future minimum lease payments for the Springfield office are subject to possible escalation based on the operating expenses of the building.

Future minimum lease payments relating to capital and operating lease agreements are:

	Capital Leases	Operating Leases	
		Premises	Autos
2 months ended 12-31-89	9,017.48	63,964.30	2,431.92
1990	27,076.49	391,607.00	20,874.00
1991		385,467.00	16,895.58
1992		403,632.00	
1993		422,709.00	
1994		442,737.00	
Totals	36,093.97	2,110,116.30	40,201.50

Various rental and maintenance agreements on computer software, hardware and office equipment amounts to approximately \$65,000.00 annually.

F. TAXABLE STATUS

On January 29, 1976, the Internal Revenue Service officially recognized the commission as a tax exempt organization under section 501(c)(6) of the Internal Revenue Code. Under the Letter of Determination the Commission is exempt from Federal Income tax. However, it is required to annually file form 990 (an information return) with the Internal Revenue Service. The Internal Revenue Service has examined the return for the year ended December 31, 1978, and made no changes.

G. PHYSICAL ASSET REPLACEMENT FUND

Annually, Commission funds have been budgeted and set aside for the replacement of fixed assets. To determine the amount to be funded, the total cost of fixed assets at the end of the fiscal year is reduced by the funds accumulated in the Physical Asset Replacement Fund investment trust. This balance is then projected over 10 years. The annual projection is then budgeted and set aside in the following year.

An appropriate cap for the Physical Asset Replacement Fund is being considered.

H. MEDICARE REPLACEMENT RESERVE TRUST

On August 9, 1985 the Commission formed a Trust to replace the medicare coverage lost by its employees when the Social Security Administration ruled the Commission was ineligible for benefits. The Federal Unemployment Insurance refunds were used to fund the trust and the Commission has determined to contribute an additional 4% of compensation for each eligible participant.

I. GROUP LEGAL SERVICE REGISTRATION FEE FUND

All registration fees received for group legal service plans have been segregated from all other funds of the Commission. Presently these funds are invested in a trust account at the Illinois National Bank, Springfield, Illinois.

J. DEFERRED FEES

The annual registration fee covers a period from January 1, to December 31. Since the Commission's fiscal year ends October 31, two months fees are deferred at that date.

K. EMPLOYEES' RETIREMENT PLAN AND TRUST

On October 15, 1977, the Commission established a Retirement Plan and Trust for the benefit of all qualified employees. The Plan and Trust was effective January 1, 1977 and required both employee and Commission contributions.

Effective January 1, 1985 the Plan was amended and restated to improve retirement benefits in light of the decision of the Social Security Administration that employees of the Commission are not covered by social security benefits.

The amended and restated Retirement Plan was filed with the Internal Revenue Service and the Commission was notified by a Favorable Determination Letter that the Plan was approved.

Effective January 1, 1987 the Plan was again amended and restated to qualify under the Tax Reform Act of 1986.

The amended and restated Retirement Plan was filed with the Internal Revenue Service and the Commission was notified by a Favorable Determination Letter that the Plan was approved.

The Internal Revenue Service has examined the Retirement Plan Return Form 5500-C for the year ended December 31, 1985 and has accepted the return as filed.

L. LITIGATION

Periodically the Commission, staff, or members of the various boards are involved in proceedings other than disciplinary proceedings. Some of these matters challenge the authority of the Commission or seek injunctive relief or damages allegedly caused by disciplinary decisions. Other proceedings are brought by the Commission to obtain access to grand jury material for use in a disciplinary matter. Other suits relate to minor matters, including employment related claims and contract disputes.

The following non-disciplinary cases are noteworthy:

1. LITIGATION AS TO THE NATURE OF DISCIPLINARY FUNDS

Chicago Bar Association et. al. v. Cronson, 183 Ill. APP.3d 710, 539 N.E.2d 327 (1989). On May 18, 1989, the Appellate Court of Illinois, First Judicial District, affirmed a decision of the Circuit Court of Cook County holding that the Auditor General of Illinois was not entitled to audit the funds of the Commission and the State Board of Law Examiners.

On June 1, 1989, the Auditor General filed in the Supreme Court of Illinois, a petition for leave to appeal, along with a verified motion to recuse and appoint substitute justices. On July 27, 1989, the Court denied the petition and motion. A petition for rehearing was subsequently filed and denied.

On November 27, 1989, the Auditor General filed a petition for writ certiorari to the Illinois Supreme Court with the United States Supreme Court. On January 22, 1990, the United States Supreme Court denied the petition.

2. OTHER NOTEWORTHY LITIGATION

On December 20, 1989, a complaint for declaratory judgment was filed in the United States District Court, Southern District of Illinois, Benton Division, against the Commission and Administrator, Morris B. Chapman and Associates, Ltd., et al. v. Attorney Registration and Disciplinary Commission, et al., 89-4290. Plaintiffs assert that rule 5-103 of the Illinois Code of Professional Responsibility, which prohibits lawyer loans or advances to clients beyond litigation expenses, violates the First, Fifth, Seventh and Fourteen Amendments of the United States Constitution and unlawfully interferes with interstate commerce and violates Federal Employers Liability Act guidelines.

Alexander X. Fuhn & Co.

CERTIFIED PUBLIC ACCOUNTANTS

MEMBERS
ILLINOIS CPA SOCIETY
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

SUITE 714
ONE OAKBROOK TERRACE
22nd STREET or BUTTERFIELD ROAD
OAKBROOK TERRACE, ILLINOIS 60181
TELEPHONE 953-1900
AREA CODE 312

To the Commissioners and Administrator of the
Attorney Registration and Disciplinary Commission
of the Supreme Court of Illinois
203 North Wabash Avenue
Chicago, Illinois 60601

We have audited the accompanying Balance Sheet of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 1989 and the related Statements of Fund Balance, Revenue and Expenditures and Cash Flows for the two months then ended. These financial statements are the responsibility of the Commission. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 1989, and results of its operation and its cash flows for the two months then ended in conformity with generally accepted accounting principles.

Respectfully submitted,

Alexander X. Fuhn & Co.

Certified Public Accountants

Dated: March 7, 1990
Oakbrook Terrace, Illinois

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION

EXHIBIT I

OF THE SUPREME COURT OF ILLINOIS

BALANCE SHEET

December 31, 1989

ASSETS	GENERAL OPERATING FUND	DEFERRED FEES AND INVESTMENT FUND	PHYSICAL ASSET AND REPLACEMENT FUND	GROUP LEGAL SERVICE REGISTRATION FEE FUND	MEDICARE REPLACEMENT RESERVE TRUST	COMBINED FUNDS
CURRENT ASSETS						
Cash On Hand and In Bank						
Illinois National Bank of Springfield	377,456.03					377,456.03
First National Bank of Springfield	1,500.00					1,500.00
NBD Chicago Bank	1,500.00					1,500.00
Petty Cash	300.00					300.00
Accounts Receivable - Other Than Fees	7,183.34					7,183.34
Investments (Cost)	1,860,641.28	4,217,701.00	312,327.15	41,614.23	307,202.95	6,739,486.61
Prepaid Expenses	<u>44,032.57</u>					<u>44,032.57</u>
Total Current Assets	<u>2,292,613.22</u>	<u>4,217,701.00</u>	<u>312,327.15</u>	<u>41,614.23</u>	<u>307,202.95</u>	<u>7,171,458.55</u>
FIXED ASSETS						
Computer and Related Equipment			484,236.52			484,236.52
Office Furniture & Equipment			765,199.41			765,199.41
Library			57,624.83			57,624.83
Leasehold Improvements			<u>78,411.30</u>			<u>78,411.30</u>
Total			1,385,472.06			1,385,472.06
Less: Accumulated Depreciation			<u>582,575.82</u>			<u>582,575.82</u>
Net Fixed Assets			<u>802,896.24</u>			<u>802,896.24</u>
TOTAL ASSETS	<u>2,292,613.22</u>	<u>4,217,701.00</u>	<u>1,115,223.39</u>	<u>41,614.23</u>	<u>307,202.95</u>	<u>7,974,354.79</u>
LIABILITIES AND FUND BALANCES						
CURRENT LIABILITIES						
Accounts Payable	87,028.11					87,028.11
Notes Payable	27,076.36				844.58	27,076.36
Deferred Fees (NOTE J)		4,217,701.00				4,217,701.00
Reinstatement Deposits	7,250.00					7,250.00
Group Legal Service Registration Fees				<u>41,614.23</u>		<u>41,614.23</u>
Total Current Liabilities	<u>121,354.47</u>	<u>4,217,701.00</u>		<u>41,614.23</u>	<u>844.58</u>	<u>4,381,514.28</u>
FUND BALANCES						
Operating Fund	2,171,258.75					2,171,258.75
Other Fund Balances			<u>1,115,223.39</u>		<u>306,358.37</u>	<u>1,421,581.76</u>
Total Fund Balances	<u>2,171,258.75</u>		<u>1,115,223.39</u>		<u>306,358.37</u>	<u>3,592,840.51</u>
TOTAL LIABILITIES AND FUND BALANCES	<u>2,292,613.22</u>	<u>4,217,701.00</u>	<u>1,115,223.39</u>	<u>41,614.23</u>	<u>307,202.95</u>	<u>7,974,354.79</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

EXHIBIT II

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION

OF THE SUPREME COURT OF ILLINOIS

STATEMENT OF FUND BALANCE

December 31, 1989

	OPERATING FUND	MEDICARE REPLACEMENT RESERVE TRUST
BALANCE, November 1, 1989	3,100,151.50	288,945.43
ADD, Excess of Revenue Over Expenditures (Exhibit III)	<u>186,330.64</u>	<u>17,412.94</u>
BALANCE, December 31, 1989	<u>3,286,482.14</u>	<u>306,358.37</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

EXHIBIT III

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
STATEMENT OF REVENUE AND EXPENDITURES

Two Months Ended December 31, 1989

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS
NOTES TO THE FINANCIAL STATEMENTS

December 31, 1989

	<u>OPERATING FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>
<u>REVENUE</u>		
Attorney Registration Fees and Charges Earned	986,310.92	
Income on Investments	58,539.26	4,037.71
Miscellaneous Income	17.20	
Contributions from Operating Fund		17,895.11
Decrease in Market Value of Investments		(3,675.30)
Disciplinary Costs Collected	<u>20,907.42</u>	
Total Revenues	<u>1,065,774.80</u>	<u>18,257.52</u>
<u>EXPENDITURES</u>		
Salaries and Related Expenses	609,460.21	
Travel Expenses	16,679.56	
Library and Continuing Education	7,523.79	
General Expenses	160,281.69	
Computer Expenses	18,799.69	
Depreciation Expense	31,369.12	
Outside Professional and Investigative Expenses	35,330.10	
Disability and Hospitalization Insurance Premium		<u>844.58</u>
Total Expenditures	<u>879,444.16</u>	<u>844.58</u>
<u>EXCESS OF REVENUE OVER EXPENDITURES</u>	<u>186,330.64</u>	<u>17,412.94</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

A. GENERAL PURPOSE DESCRIPTION

The Commission was appointed by the Illinois Supreme Court under rules 751 through 756 of the Court effective February 1, 1973, and subsequent additional rules and amendments. The purpose of the Commission and the Office of the Administrator is to maintain the Master Roll of Attorneys and to investigate and prosecute claims against Illinois attorneys whose conduct might tend to defeat the administration of justice or bring the court or the legal profession into disrepute.

On April 21, 1977, the Illinois Supreme court adopted rule 730 effective May 1, 1977. The rule requires the registration of group legal service plans in which an attorney participates. The plans must be registered with the Attorney Registration and Disciplinary Commission on or before July 1st each year.

On August 9, 1983, the Illinois Supreme Court adopted rule 773, effective October 1, 1983. The rule provided that an Attorney-respondent could be responsible for paying the costs incurred in proceedings which led to the imposition of disciplinary sanction.

On October 13, 1989, Rule 773 was amended effective immediately. Attorney-respondents have a duty to pay costs involved in the enforcement of certain Supreme Court rules, costs incurred to compel witness testimony where the lawyer has not cooperated with Commission proceedings, and costs incurred to obtain records from a financial institution when the institution's production followed a lawyer's failure to provide records.

On October 20, 1989, the Supreme Court adopted rule 769, effective November 1, 1989. It is now the duty of every attorney to retain all financial records related to the attorney's practice for a period of not less than ten years.

B. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The books and other financial records of the Commission are recorded on an accrued basis. The accounting year of the Commission is October 31, as established by a resolution by the Commissioners dated March 12, 1983. The Commission is currently awaiting approval from the Internal Revenue Service to change the accounting year to December 31.

The Commission adopted Statement of Financial Accounting Standards No. 95 (SFAS 95), "Statement of Cash Flows" in fiscal 1988. In accordance with SFAS 95, the Commission has classified all investments as cash equivalents.

Property, plant and equipment are stated at cost. Depreciation and amortization are provided over the estimated useful lives of the assets or asset groups principally on the straight-line method for financial reporting purposes. Generally, upon disposal of assets, cost less any proceeds from sale is charged or credited to accumulated depreciation and gains or losses are then included in current income. Leasehold improvements are amortized over the lease period.

C. INVESTMENTS

All investment transactions are handled by the Trust Department of the Illinois National Bank of Springfield and are held in safekeeping at the bank. Investments are carried at cost, which approximates market.

D. COLLECTION OF FEES

The Commission is funded by an annual registration fee assessed Illinois attorneys. The annual fee is sent directly to a lock box located at the U.S. Post Office in Springfield, Illinois. The lock box is under the sole supervision of Illinois National Bank of Springfield. The contents of the lock box are accounted for solely by the bank and all receipts are deposited to the Commission's account. An accounting for these funds is sent regularly to the Commission's registration department for processing and comparison with the registration and billing records. The system is test checked by our auditors and the lock box system is also checked by the internal auditors of the bank and the National Bank Examiners.

E. LEASE AND MAINTENANCE COMMITMENTS

The Commission leases premises and equipment under various capital and operating leases agreements. The aggregate of lease payments under capital lease agreements was \$9,017.61, including interest of \$254.37. The aggregate of lease payments under operating lease agreements was \$55,380.30. Certain automobile operating leases are subject to excess mileage payments at the end of the lease, and purchase options are available but not exercised. There are no renewal terms associated with the premises operating leases. The future minimum lease payments for the Chicago office are subject to an expansion clause in the lease. The future minimum lease payments as presented here are calculated on the current square footage occupied, due to the uncertainty of the availability of additional space in the future. The future minimum lease payments for the Springfield office are subject to possible escalation based on the operating expenses of the building.

EXHIBIT IV

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS

STATEMENT OF CASH FLOWS

Two Months Ended December 31, 1989

	<u>OPERATING FUND</u>	<u>MEDICARE REPLACEMENT RESERVE TRUST</u>
<u>CASH FLOWS FROM OPERATING ACTIVITIES</u>		
Excess of Revenue Over Expenditures	186,330.64	17,412.94
Adjustments to reconcile Excess of Revenue Over Expenditures to Net Cash Provided by Operations:		
Depreciation	31,369.12	
Accounts Receivable	(1,487.22)	
Prepaid Expenses	(9,435.58)	
Accounts Payable	35,936.49	(2,817.30)
Deferred Fees	3,231,360.08	
Reinstatement Deposits	<u>(1,000.00)</u>	
Net Cash Provided By Operating Activities	<u>3,473,073.53</u>	<u>14,595.64</u>
<u>CASH FLOWS FROM INVESTING ACTIVITIES</u>		
Acquisition of Capital Assets:		
Computer and Related Equipment	(39,488.35)	
Office Furniture and Equipment	(31,394.67)	
Library	(739.55)	
Leasehold Improvements	<u>(4,871.00)</u>	
Net Cash Provided (Used) By Investing Activities	<u>(76,493.57)</u>	
<u>CASH FLOWS FROM FINANCING ACTIVITIES</u>		
Reduction of Notes Payable	<u>(9,017.61)</u>	
Net Cash Used By Financing Activities	<u>(9,017.61)</u>	
<u>NET INCREASE IN CASH AND CASH EQUIVALENTS</u>	<u>3,387,562.35</u>	<u>14,595.64</u>
<u>CASH AND CASH EQUIVALENTS 11/01/89</u>	<u>3,383,863.11</u>	<u>292,607.31</u>
<u>CASH AND CASH EQUIVALENTS 12/31/89</u>	<u>6,771,425.46</u>	<u>307,202.95</u>

The accompanying Letter of Opinion and Notes to Financial Statements are an integral part of this Statement.

Future minimum lease payments relating to capital and operating lease agreements are:

	Capital Leases	Operating Leases	
		Premises	Autos
1990	27,076.49	391,607.00	20,874.00
1991		385,467.00	16,895.58
1992		403,632.00	
1993		422,709.00	
1994		442,737.00	
Totals	27,076.49	2,046,152.00	37,769.58
	=====	=====	=====

Various rental and maintenance agreements on computer software, hardware and office equipment amounts to approximately \$65,000.00 annually.

F. TAXABLE STATUS

On January 29, 1976, the Internal Revenue Service officially recognized the commission as a tax exempt organization under section 501(c)(6) of the Internal Revenue Code. Under the Letter of Determination the Commission is exempt from Federal Income tax. However, it is required to annually file form 990 (an information return) with the Internal Revenue Service. The Internal Revenue Service has examined the return for the year ended December 31, 1978, and made no changes.

G. PHYSICAL ASSET REPLACEMENT FUND

Annually, Commission funds have been budgeted and set aside for the replacement of fixed assets. To determine the amount to be funded, the total cost of fixed assets at the end of the fiscal year is reduced by the funds accumulated in the Physical Asset Replacement Fund investment trust. This balance is then projected over 10 years. The annual projection is then budgeted and set aside in the following year.

An appropriate cap for the Physical Asset Replacement Fund is being considered.

H. MEDICARE REPLACEMENT RESERVE TRUST

On August 9, 1985 the Commission formed a Trust to replace the medicare coverage lost by its employees when the Social Security Administration ruled the Commission was ineligible for benefits. The Federal Unemployment Insurance refunds were used to fund the trust and the Commission has determined to contribute an additional 4% of compensation for each eligible participant.

I. GROUP LEGAL SERVICE REGISTRATION FEE FUND

All registration fees received for group legal service plans have been segregated from all other funds of the Commission. Presently these funds are invested in a trust account at the Illinois National Bank, Springfield, Illinois.

J. DEFERRED FEES

The annual registration fee covers a period from January 1, to December 31. Fees Collected in November and December 1989 represent 1990 fees.

K. EMPLOYEES' RETIREMENT PLAN AND TRUST

On October 15, 1977, the Commission established a Retirement Plan and Trust for the benefit of all qualified employees. The Plan and Trust was effective January 1, 1977 and required both employee and Commission contributions.

Effective January 1, 1985 the Plan was amended and restated to improve retirement benefits in light of the decision of the Social Security Administration that employees of the Commission are not covered by social security benefits.

The amended and restated Retirement Plan was filed with the Internal Revenue Service and the Commission was notified by a Favorable Determination Letter that the Plan was approved.

Effective January 1, 1987 the Plan was again amended and restated to qualify under the Tax Reform Act of 1986.

The amended and restated Retirement Plan was filed with the Internal Revenue Service and the Commission was notified by a Favorable Determination Letter that the Plan was approved.

The Internal Revenue Service has examined the Retirement Plan Return Form 5500-C for the year ended December 31, 1985 and has accepted the return as filed.

The Commission contribution for the Two months ended December 31, 1989 was \$79,838.11.

L. LITIGATION

Periodically the Commission, staff, or members of the various boards are involved in proceedings other than disciplinary proceedings. Some of these matters challenge the authority of the Commission or seek injunctive relief or damages allegedly caused by disciplinary decisions. Other proceedings are brought by the Commission to obtain access to grand jury material for use in a disciplinary matter. Other suits relate to minor matters, including employment related claims and contract disputes.

The following non-disciplinary cases are noteworthy:

1. LITIGATION AS TO THE NATURE OF DISCIPLINARY FUNDS

Chicago Bar Association et. al. v. Cronson, 183 Ill. App.3d 710, 539 N.E.2d 327 (1989). On May 18, 1989, the Appellate Court of Illinois, First Judicial District, affirmed a decision of the Circuit Court of Cook County holding that the Auditor General of Illinois was not entitled to audit the funds of the Commission and the State Board of Law Examiners.

On June 1, 1989, the Auditor General filed in the Supreme Court of Illinois, a petition for leave to appeal, along with a verified motion to recuse and appoint substitute justices. On July 27, 1989, the Court denied the petition and motion. A petition for rehearing was subsequently filed and denied.

On November 27, 1989, the Auditor General filed a petition for writ certiorari to the Illinois Supreme Court with the United States Supreme Court. On January 22, 1990, the United States Supreme Court denied the petition.

2. OTHER NOTEWORTHY LITIGATION

On December 20, 1989, a complaint for declaratory judgment was filed in the United States District Court, Southern District of Illinois, Benton Division, against the Commission and Administrator, Morris B. Chapman and Associates, Ltd. et al. v. Attorney Registration and Disciplinary Commission et al., 89-4290. Plaintiffs assert that rule 5-103 of the Illinois Code of Professional Responsibility, which prohibits lawyer loans or advances to clients beyond litigation expenses, violates the First, Fifth, Seventh and Fourteen Amendments of the United States Constitution and unlawfully interferes with interstate commerce and violates Federal Employers Liability Act guidelines.