



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION  
of the  
SUPREME COURT OF ILLINOIS

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Chicago  
April 26, 2000

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 1999 is submitted to the Court, to the members of the Bar of Illinois, and to the public in accordance with Supreme Court Rule 751.

The report is a statement of activities of the Commission for calendar year 1999 and an accounting and audit of the monies received and expended during the twelve-month period which ended December 31, 1999.

Respectfully submitted,

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Patricia C. Bobb  
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Michael J. Reagan  
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Mary Robinson, Administrator

## I. Registration Report

The 1999 Master Roll of Attorneys contained the names of 73,514 attorneys as of October 31, 1999, after which date the Commission began the 2000 registration process. Therefore, this total does not include the 1,749 attorneys who first took their oath of office in November or December 1999.

Chart A shows the overall increase in the number of lawyers holding an Illinois license since 1975. The annual increases have tapered off since 1995. In the years between 1975 and 1995, there were, on average, an additional 2000 lawyers each year. The average increase over the past four years has been about 1600 lawyers per year.

**Chart A: Illinois Attorney Population 1975-1999**

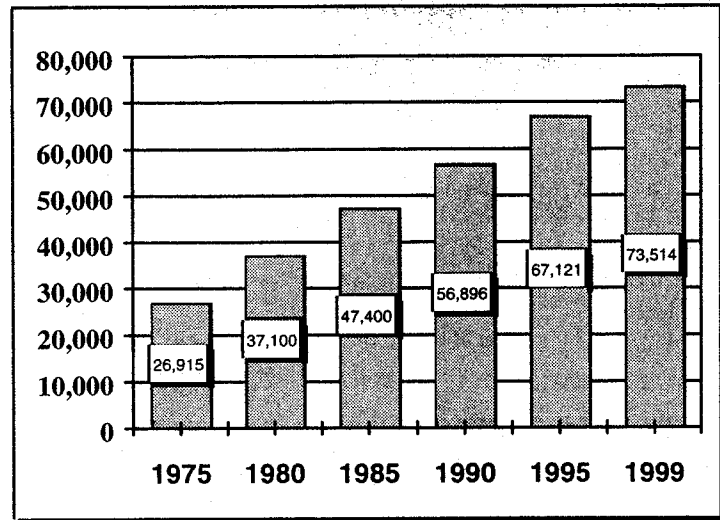
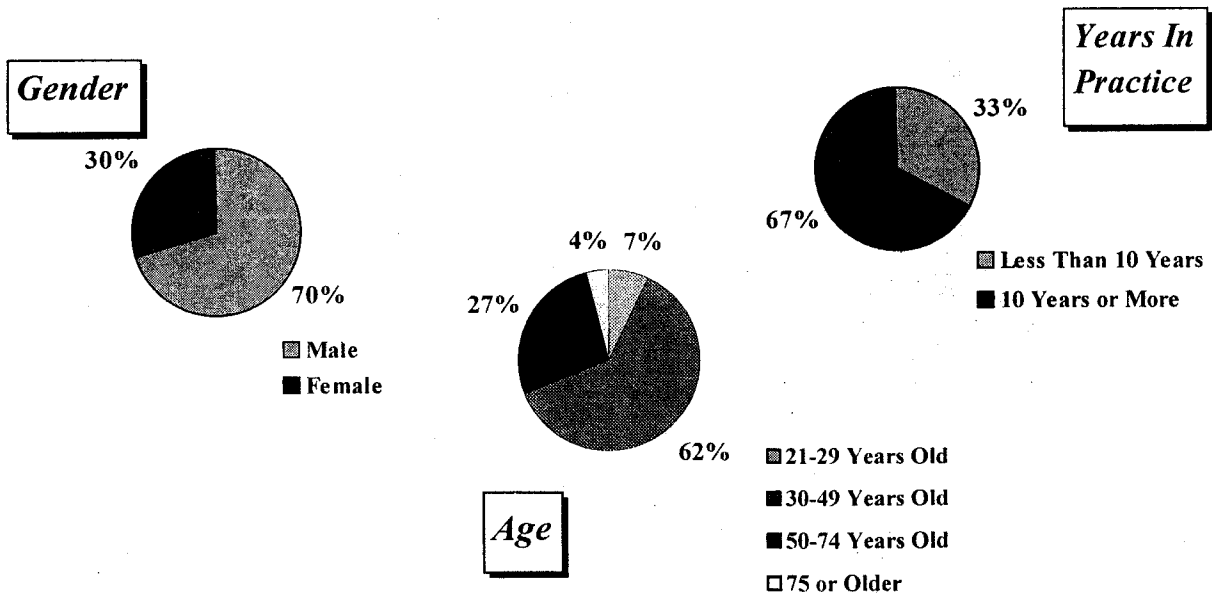


Chart B shows further demographic information for attorneys registered in 1999 and Chart C shows the breakdown by the registration categories set forth in Rule 756. The number of lawyers less than ten years in practice dropped to 33%, as compared to 37% in 1998. The smaller percentage of more recently admitted lawyers coincides with the decrease in the number of new lawyers added in the years since 1995, as noted above, and corresponds with the declining number of lawyers passing the Illinois bar, a decline which began with the July 1995 bar examination results.

**Chart B: Age, Gender and Years in Practice for Attorneys Registered in 1999**



**Chart C: Registration Categories for 1999**

<u>Category</u>	<u>Number of Attorneys</u>
Admitted between January 1, 1998 and October 31, 1999 .....	2,652
Admitted between January 1, 1996 and December 31, 1997 .....	4,477
Admitted before January 1, 1996 .....	52,359
Serving military duty .....	200
Serving as judge .....	992
Birthday before December 31, 1923 .....	2,430
Foreign legal consultant .....	3
Neither practice, nor reside, nor are employed in Illinois .....	10,401
Total attorneys active and currently registered .....	73,514
Removed from the Master Roll (Arrears, Deceased, Inactive and Disciplined Attorneys) .....	(993)

Charts D and E show the distribution by Judicial Circuit and by County of the 55,431 registered attorneys who report a principal business address in Illinois. In addition to the 10,401 attorneys who paid a reduced fee because they neither practiced, nor resided, nor were employed in the state, another 7,682 attorneys report a business address outside Illinois but register to be able to practice in Illinois. Those 18,083 attorneys are not included in Charts D and E. For the majority of counties, there was very little change in lawyer population over 1998. Fifty counties showed a modest increase (less than 2%) over last year, 36 counties showed a slight decrease, and 14 counties remained the same. In counties with 100 or more lawyers in 1999, the largest percentage increases were seen in Will (5%) and Madison (4%) counties. Kane, McHenry and McLean counties all showed a 3% increase over last year.

**Chart D: Registration by Judicial Districts for 1999**

	1995	1996	1997	1998	1999		1995	1996	1997	1998	1999
<b>First District</b>						<b>Fourth District</b>					
Cook County .....	36,158	37,302	38,017	37,971	38,732	5 <sup>th</sup> Circuit .....	270	266	271	275	274
<b>Second District</b>						6 <sup>th</sup> Circuit .....	807	806	814	849	840
15 <sup>th</sup> Circuit .....	191	193	203	204	200	7 <sup>th</sup> Circuit .....	1151	1169	1183	1205	1218
16 <sup>th</sup> Circuit .....	1045	1059	1066	1152	1169	8 <sup>th</sup> Circuit .....	189	193	194	194	194
17 <sup>th</sup> Circuit .....	671	676	696	706	709	11 <sup>th</sup> Circuit .....	482	500	521	531	541
18 <sup>th</sup> Circuit .....	3051	3111	3158	3421	3479	<b>Total</b> .....	<b>2899</b>	<b>2934</b>	<b>2983</b>	<b>3054</b>	<b>3067</b>
19 <sup>th</sup> Circuit .....	2491	2539	2680	3113	3127	<b>Fifth District</b>					
<b>Total</b> .....	<b>7449</b>	<b>7578</b>	<b>7803</b>	<b>8596</b>	<b>8684</b>	1 <sup>st</sup> Circuit .....	392	396	412	417	426
<b>Third District</b>						2 <sup>nd</sup> Circuit .....	291	296	299	301	295
9 <sup>th</sup> Circuit .....	207	210	204	207	210	3 <sup>rd</sup> Circuit .....	494	503	502	517	542
10 <sup>th</sup> Circuit .....	831	855	847	845	855	4 <sup>th</sup> Circuit .....	260	255	267	269	269
12 <sup>th</sup> Circuit .....	555	566	601	605	636	20 <sup>th</sup> Circuit .....	710	728	737	730	733
13 <sup>th</sup> Circuit .....	308	311	318	316	321	<b>Total</b> .....	<b>2147</b>	<b>2178</b>	<b>2217</b>	<b>2234</b>	<b>2265</b>
14 <sup>th</sup> Circuit .....	506	503	506	505	508	<b>Grand Total</b> .....	<b>51,212</b>	<b>52,589</b>	<b>53,652</b>	<b>54,484</b>	<b>55,431</b>
21 <sup>st</sup> Circuit .....	152	152	156	151	153						
<b>Total</b> .....	<b>2559</b>	<b>2597</b>	<b>2632</b>	<b>2629</b>	<b>2683</b>						

**Chart E: Registered Attorneys by County**

Principal Office	Number of Attorneys		Principal Office	Number of Attorneys		Principal Office	Number of Attorneys	
	1998	1999		1998	1999		1998	1999
Adams	114	113	Hardin	5	5	Morgan	51	53
Alexander	12	11	Henderson	8	6	Moultrie	17	15
Bond	13	12	Henry	50	47	Ogle	50	52
Boone	29	31	Iroquois	28	26	Peoria	693	704
Brown	9	10	Jackson	212	209	Perry	21	19
Bureau	41	41	Jasper	5	5	Piatt	22	24
Calhoun	4	4	Jefferson	99	105	Pike	10	11
Carroll	16	18	Jersey	19	19	Pope	3	4
Cass	12	13	Jo Daviess	37	33	Pulaski	8	9
Champaign	522	512	Johnson	11	13	Putnam	8	9
Christian	48	48	Kane	936	960	Randolph	26	27
Clark	15	16	Kankakee	123	127	Richland	25	24
Clay	17	18	Kendall	43	45	Rock Island	363	368
Clinton	25	26	Knox	65	69	Saline	38	37
Coles	100	103	Lake	2,659	2,658	Sangamon	1,069	1,081
Cook	37,971	38,732	LaSalle	206	213	Schuyler	13	13
Crawford	23	20	Lawrence	18	15	Scott	6	6
Cumberland	6	5	Lee	40	38	Shelby	18	18
DeKalb	173	164	Livingston	51	52	St. Clair	630	635
DeWitt	24	25	Logan	36	33	Stark	13	12
Douglas	20	23	Macon	245	241	Stephenson	64	59
Du Page	3,418	3,479	Macoupin	43	45	Tazewell	116	117
Edgar	32	33	Madison	508	530	Union	23	25
Edwards	4	5	Marion	52	54	Vermilion	122	117
Effingham	46	47	Marshall	14	13	Wabash	18	19
Fayette	19	17	Mason	17	16	Warren	25	23
Ford	17	17	Massac	18	18	Washington	16	16
Franklin	59	55	McDonough	45	49	Wayne	14	14
Fulton	43	42	McHenry	457	469	White	16	15
Gallatin	8	7	McLean	403	416	Whiteside	80	82
Greene	16	14	Menard	15	14	Will	607	636
Grundy	69	67	Mercer	13	11	Williamson	95	100
Hamilton	11	11	Monroe	35	36	Winnebago	675	678
Hancock	20	21	Montgomery	40	36	Woodford	24	23

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

**A. Investigations**

During 1999, the Commission docketed 5,877 investigations, 171 fewer investigations than 1998, a 3% decrease from 1998. Those 5,877 investigations involved charges against 3,935 different attorneys. This means that about 5% of all registered attorneys became the subject of an investigation in 1999, a slight decrease over the 6% reported over the past several years. Nearly a quarter of the 3,935 attorneys were the subject of more than one investigation, as shown in Chart 1.

**Chart 1**

Number of Investigations	Number of Attorneys
1	2,992
2	592
3	173
4	88
5 or more	90

Gender	Years in Practice
Female .....16%	Less than 10 years .....26%
Male .....84%	10 years or more ..... 74%

Charts 2 and 3 below report the classification of investigations docketed in 1999, based on an initial assessment of the nature of the misconduct alleged, if any, and the type of legal context in which the facts apparently arose. Chart 2 reflects that the most frequent areas of a grievance are: neglect of the client's cause, failure to communicate with the client, fraudulent or deceptive activity, excessive fees and failure to provide competent representation.

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

**Chart 2: Classification of Charges Docketed in 1999 by Violation Alleged**

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect.....	2,173	Failing to preserve client confidences or secrets.....	49
Failing to communicate with client, including failing to communicate the basis of a fee.....	1,332	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter.....	41
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal.....	878	Prosecutorial misconduct.....	39
Excessive or improper fees, including failing to refund unearned fees.....	836	Engaging in the unauthorized practice of law.....	36
Failure to provide competent representation.....	610	Aiding a nonlawyer in the unauthorized practice of law.....	31
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf.....	430	Failing to supervise subordinates.....	29
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks.....	397	Improper division of legal fees/partnership with nonlawyer.....	19
Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal.....	337	Failing to disclose client fraud to tribunal or third person.....	17
Conflict of Interest:.....	261	Sexual harassment/abuse or violation of law prohibiting discrimination.....	15
Rule 1.7: concurrent conflicts.....	159	Failing to pay tax obligation in bad faith.....	13
Rule 1.9: successive conflicts.....	37	False statements in bar admission or disciplinary matter.....	10
Rule 1.8(a)-(e): self-dealing conflicts.....	38	Improper <i>ex parte</i> communication with judge.....	9
Rule 1.8(f)-(h): improper agreement to limit liability/avoid disciplinary action.....	14	Incapacity due to chemical addiction or mental condition.....	7
Rule 1.10: imputed disqualification.....	8	Failing to report lawyer misconduct.....	7
Rule 1.11: successive government and private employment.....	5	Practice after failing to register.....	6
Failing to properly withdraw from representation, including failing to return client files or documents.....	249	Avoiding in bad faith the repayment of an educational loan guaranteed by a governmental entity.....	6
Conduct prejudicial to the administration of justice, including conduct which is the subject of a contempt finding or court sanction.....	245	Improper division of legal fees with another lawyer.....	5
Filing frivolous or non-meritorious claims or pleadings.....	221	Improper employment where lawyer may become witness.....	5
Criminal activity, including criminal convictions, counseling illegal conduct, public corruption.....	141	Failing to maintain a normal attorney-client relationship with disabled client.....	5
Improper commercial speech, including inappropriate written and oral solicitation.....	84	Improper extrajudicial statement.....	5
Improper communications with a party known to be represented by counsel or unrepresented party.....	56	Failing to comply with Rule 764.....	4
		Assisting a judge in conduct that violates the Judicial Code.....	3
		Failing to report lawyer's discipline in another jurisdiction.....	3
		Improper communications with or harassment of jurors.....	1
		Judicial candidate's violation of the Judicial Code.....	1
		No misconduct alleged.....	545

\* Totals exceed the number of charges docketed in 1999 because in many charges more than one type of misconduct is alleged.

**Chart 3: Classification of Charges Docketed in 1999 by Area of Law**

<i>Area of Law</i>	<i>Number</i>
Criminal/Quasi Criminal.....	1,036
Domestic Relations.....	946
Tort (Personal Injury/Property Damage).....	871
Real Estate/Landlord-Tenant.....	458
Probate.....	336
Workers' Compensation.....	248
Contract.....	216
Bankruptcy.....	163
Civil Rights.....	152
Debt Collection.....	135
Corporate Matters.....	102
Immigration.....	87
Criminal Conduct/Conviction.....	60
Local Government Problems.....	32
Tax.....	23
Social Security.....	17
Patent and Trademark.....	12
Adoption.....	12
Mental Health.....	4
Other.....	102
No area of law.....	167
Undeterminable.....	545

If an investigation fails to reveal sufficiently serious, provable misconduct, the Administrator will close the investigation. If an investigation produces evidence of serious misconduct, the case is referred to the Inquiry Board, unless the matter is filed directly with the Supreme Court because: 1) the misconduct was based upon a criminal conviction involving moral turpitude (Rule 761); 2) the respondent-attorney moved for disbarment prior to the referral to Inquiry (Rule 762(a)); or 3) the matter was based upon discipline imposed by another jurisdiction (Rule 763). The Inquiry Board operates in panels of three, composed of two attorneys and one nonlawyer, all appointed by the Commission. An Inquiry Board panel has authority to vote a formal complaint if it finds evidence to support a charge, to close an investigation if it does not so find, or place an attorney on supervision under the direction of the panel pursuant to Commission Rule 108. In cases referred to the Inquiry Board,

the Administrator cannot pursue formal charges without authorization by an Inquiry Board panel.

Comparatively few investigations result in the filing of formal charges. Charts 4 and 5 show the number of investigations docketed and terminated during 1999, and the type of action which terminated the investigations.

**Chart 4: Investigations Docketed**

<b>Year</b>	<b>Pending January 1<sup>st</sup></b>	<b>Docketed During Year</b>	<b>Concluded During Year</b>	<b>Pending December 31st</b>
1994	2,954	6,567	6,729	2,792
1995	2,792	6,505	6,845	2,452
1996	2,452	6,801	6,686	2,567
1997	2,567	6,293	6,643	2,217
1998	2,217	6,048	6,181	2,084
1999	2,084	5,877	5,773	2,188

**Chart 5: Action Concluding Investigations in 1999**

<b>Concluded by Administrator:</b>	
Closed after initial review.....	1,131
Closed after investigation.....	4,268
Filed at Supreme Court pursuant to Supreme Court Rules 761, 762(a), and 763.....	68
<b>Concluded by Inquiry:</b>	
Closed after panel review.....	69
Complaint or impairment petition voted.....	231
Closed upon completion of conditions of Rule 108 supervision.....	6
<b>Total.....</b>	<b>5,773</b>

## B. Hearing Board Matters

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

Chart 6 shows the activity before the Hearing Board in 1999. The number of disciplinary complaints filed in 1999 was 110.

### Chart 6: Matters Before the Hearing Board in 1999

Cases Pending on January 1, 1999 .....	131*
<b>New Cases Filed in 1999:</b>	
<i>Disciplinary Complaints Filed: **</i>	
> Rules 753, 761(d) .....	110
<i>Reinstatement Petitions Filed:</i>	
> Rule 767 .....	4
<i>Contested Restoration Petitions:</i>	
> Rule 759 .....	1
Remanded to Hearing after Rule 762(b) Petition Denied or Withdrawn .....	6
Remanded to Hearing by Review Board .....	2
<b>Total New Cases .....</b>	<b>123</b>
<b>Cases Concluded During 1999 .....</b>	<b>112</b>
<b>Cases Pending on December 31, 1999 .....</b>	<b>142</b>
* The 1998 Annual Report reported that 121 cases were pending at the end of 1998; however, the report had not counted cases that had been remanded to the Hearing Board and were pending at the end of year, which are reported here.	
** The number of cases filed at Hearing is significantly lower than the number of matters voted by Inquiry because multiple investigations against a particular attorney in which an Inquiry Board has voted a complaint are consolidated into a single complaint for purposes of filings at Hearing.	

Chart 7 shows the years in practice of the lawyers who were the subject of a formal complaint in 1999. The number of formal complaints filed against attorneys in practice for fewer than ten years remained high. Of the 110 disciplinary complaints filed in 1999, 18% were filed against lawyers in practice ten years or less.

**Chart 7**

<b>Number of Complaints filed in 1999.....110</b>		
<b>Respondent's</b>		
<b>Years in Practice</b>	<b>Number of Complaints</b>	<b>Percentage</b>
Less than 5 years .....	6	5%
Between 5 and 10 years .....	14	13%
10 or more years .....	90	82%

Charts 8 and 9 show the types of misconduct alleged in the 110 disciplinary complaints filed during 1999 and the areas of practice in which the alleged misconduct arose. In large part, the categories most frequently seen in formal complaints track the categories most frequently seen in the initial charges, as reported in Charts 2 and 3.

**Chart 8: Types of Misconduct Alleged in Complaints Filed Before Hearing Board in 1999**

<i>Type of Misconduct</i>	<i>Number of cases*</i>	<i>% of cases filed*</i>	<i>Type of Misconduct</i>	<i>Number of cases*</i>	<i>% of cases filed*</i>
Neglect/lack of diligence .....	41	37%	Improper withdrawal from employment without court approval or avoiding prejudice to client.....	6	5%
In most of the cases where neglect was charged, the neglect was accompanied by at least one of the following:			Pursuing or filing frivolous or non-meritorious claims or pleadings .....	5	5%
Misrepresentation to client.....	12		Practicing in jurisdiction not authorized.....	4	4%
Failure to return unearned fees....	19		Improper division of legal fees with nonlawyer.....	4	4%
Failure to communicate with client.....	36	32%	Failure to report conviction.....	4	4%
Improper handling of funds .....	33	30%	Aiding in unauthorized practice of law by a nonlawyer .....	3	3%
Fraudulent or deceptive activity.....	30	27%	Practice after suspension .....	3	3%
Conflict of interest .....	19	17%	Not abiding by client's decision or taking unauthorized action on client's behalf.....	3	3%
Arising from business transactions with client .....	11		Breach of client confidences or secrets .....	3	3%
Representing clients with conflicting interests.....	5		Failure to comply with Rule 764.....	2	2%
Arising from a representation inconsistent with the lawyer's own interests .....	2		Improper commercial speech, including inappropriate written or oral solicitation.....	2	2%
Arising from an improper sexual relationship with client.....	1		Improper settlement of client's claim against lawyer.....	2	2%
False statement or failure to respond in bar admission or disciplinary matter .....	18	16%	Practicing despite failure to register .....	2	2%
Criminal conduct by the lawyer .....	17	15%	Improper acceptance of employment where lawyer may become witness .....	1	1%
Falsifying evidence or making false statements to tribunal .....	16	14%	Failure to supervise subordinate employees....	1	1%
Misrepresentation to third persons.....	10	9%	Failure to maintain records required by Supreme Court Rule 769 .....	1	1%
Excessive or unauthorized fees.....	10	9%	Prosecutorial misconduct .....	1	1%
Failure to provide competent representation...	7	6%			

\*Totals exceed 110 cases and 100% because most complaints allege more than one type of misconduct.



**Chart 9: Area of Law Involved in Complaints Filed Before Hearing Board in 1999**

<u>Area of Law</u>	<u>Number of cases</u>	<u>% of cases filed*</u>	<u>Area of Law</u>	<u>Number of cases</u>	<u>% of cases filed*</u>
Tort.....	34	31%	Workers' Comp/Labor Relations.....	6	5%
Criminal Conduct by Lawyer.....	17	15%	Civil Rights.....	5	5%
Domestic Relations.....	17	15%	Debt Collection.....	3	3%
Contract.....	16	14%	Local Government.....	3	3%
Probate.....	15	14%	Bankruptcy.....	2	2%
Criminal.....	14	13%	Tax.....	2	2%
Real Estate.....	11	11%	Corporate Matters.....	1	1%
			Immigration.....	1	1%

\* Totals exceed 110 cases and 100% since many complaints allege several counts of misconduct arising in different areas of practice.

Chart 10 shows the type of action by which the Hearing Board concluded 112 cases during 1999.

**Chart 10: Actions Taken by Hearing Board in Matters Terminated in 1999**

<b>A. Disciplinary Cases: Rules 753 &amp; 761(d)</b>	
Case closed by death of respondent.....	1
Administrator's motion for leave to dismiss granted.....	1
Recommendation of discipline.....	47
Cases closed by administration of a reprimand to respondent.....	5
Cases closed by filing of petition for disbarment on consent.....	10
Cases closed by filing of petition for other discipline on consent.....	39
Recommendation of dismissal or discharge.....	4
<b>Total Disciplinary Cases.....</b>	<b>107</b>
<b>B. Reinstatement Petitions: Rule 767</b>	
Recommended petition be allowed.....	1
Recommended dismissed.....	1
Petition withdrawn before hearing.....	1
<b>Total Reinstatement Cases.....</b>	<b>3</b>
<b>C. Restoration Cases: Rule 759</b>	
Restored to active status with conditions.....	1
Petition denied.....	1
<b>Total Restoration Cases.....</b>	<b>2</b>
<b>Total Matters Terminated.....</b>	<b>112</b>

**C. Review Board Matters**

Once the Hearing Board files its report in a case, either party may file exceptions before the Review Board, which serves as an appellate tribunal. Chart 11 shows activity at the Review Board during 1999.

**Chart 11: Matters Before the Review Board in 1999**

Cases pending on January 1, 1999.....	21
<b>Cases filed during 1999:</b>	
Exceptions filed by Administrator.....	8
Exceptions filed by Respondent.....	17
Exceptions filed by both.....	3
<b>Total.....</b>	<b>28</b>
<b>Cases decided in 1999:</b>	
Hearing Board affirmed.....	7
Hearing Board reversed as to findings or sanction.....	12
Notice of exceptions stricken.....	2
Case remanded to Hearing Board.....	2
Case closed by respondent's death.....	1
<b>Total.....</b>	<b>24</b>
Cases pending on December 31, 1999.....	25

#### D. Supreme Court: Disciplinary Action

Only the Supreme Court has authority to sanction attorneys for misconduct, except for a Board reprimand which can be imposed in a disciplinary case without order of the Court by either the Hearing or Review Board.

In 1999, the Hearing Board administered 5 reprimands (see Chart 10). The Review Board imposed no sanctions. Other than Board reprimands, the Hearing Board and Review Board reports are recommendations to the Supreme Court.

During 1999, the Court sanctioned 116 attorneys. Chart 12 reflects the nature of the orders entered.

**Chart 12: Disciplinary Sanctions Ordered by the Supreme Court in 1999**

Disbarment .....	32
Suspension .....	50 *
Probation .....	17
Censure .....	14
Reprimand .....	3
Total .....	116

\*In addition to the 50 suspensions ordered as final sanctions in cases, the Court also ordered 12 interim suspension during 1999, as reported in charts 16F and 16I.

Of the 116 sanctions entered by the Supreme Court, 55, or 47% were entered pursuant to consent petitions. Eighteen of the 32 disbarments were by consent petition. The 17 probation orders entered by the Court continue the trend towards increased use of probation since 1993, when the Court in *In re Jordan*, 157 Ill.2d 266, 623 N.E.2d 1372 (1993), expanded the availability of probation from situations where the lawyer's misconduct was causally related to a disability to non-disability cases.

Charts 13 and 14 provide demographic information on the 116 attorneys sanctioned by the Supreme Court during 1999, as well as the 5 attorneys who were reprimanded by the Hearing Board in 1999. As was true in prior years, the vast majority of attorneys sanctioned during 1999 have practiced more than 10 years, are over 30 years old and are male. However, 16 attorneys or 13% practiced less than 10 years, and of those 16 lawyers, half were either disbarred or suspended for a period of time and until further order of the Court. Of the lawyers disciplined in 1999, the earliest admittance date was 1955 and the latest was 1997. Chart 15 (at page 13) tracks the type of misconduct that led to the sanction orders entered in 1999.

**Chart 13: Attorneys Disciplined in 1999**

<b>Years in Practice:</b>	
Less than 10 years .....	13%
10 years or more .....	87%
<b>Age:</b>	
30 - 49 years old .....	48%
50-74 years old .....	52%
<b>Gender:</b>	
Female .....	7%
Male .....	93%

**Chart 14: County of Practice**

County	Number Disciplined	County	Number Disciplined
Cook.....	57	Jefferson .....	1
Out-of-State .....	18	St. Clair.....	1
DuPage.....	18	Coles.....	1
Lake.....	7	McHenry.....	1
Will.....	5	Lee.....	1
Peoria.....	2	Macon.....	1
Kane.....	2	Morgan.....	1
Madison.....	1	DeKalb.....	1
Williamson.....	1	Rock Island.....	1
McLean.....	1		

During 1999, the Court issued opinions in three disciplinary cases: *In re Chase Ingersoll*, 186 Ill.2d 163, 237 Ill.Dec. 760, 710 N.E.2d 390 (1999), *In re Linda Lee Spak*, 188 Ill.2d 53, 241 Ill.Dec. 618, 719 N.E.2d 747 (1999) and *In re George Howard*, 188 Ill.2d 423, 242 Ill.Dec. 595, 721 N.E.2d 1126 (1999).

In *Ingersoll*, which was summarized in the 1998 Annual Report, the Court issued an opinion on March 18, 1999, disbaring the respondent, a Peoria lawyer who was licensed in 1994, for misconduct which included filing false court pleadings, commingling personal funds with client funds, and failing to preserve client confidences or secrets.

In *Spak*, the Court issued an opinion on September 30, 1999, censuring the respondent for converting funds collected on behalf of a trust and for failing to reduce a contingent fee agreement to writing in violation of Rule 1.5(c) of the Illinois Rules of Professional Conduct. The Court found that respondent converted the trust's funds when, after taking her contingent fee, she disbursed the full amount collected to her client based upon the client's representation that the client was the sole trustee, where the client was not, in fact, a trustee, and was only one of two beneficiaries. Regarding the Rule 1.5(c) violation, the Court found that respondent's failure to secure a written contingent fee agreement was sanctionable even though the client acknowledged the terms of the contingent fee arrangement in writing before the respondent took her fee. The Court held that the writing requirement of Rule 1.5(c) contains no exception, and to allow an attorney to wait to reduce a contingent fee to writing until after the work is done and the attorney is in possession of the proceeds of litigation could leave a client with the unenviable choice of agreeing with his attorney's recollection of the fee agreement, or delaying receipt of the proceeds pending resolution of a fee dispute.

In *Howard*, filed December 2, 1999, the Court affirmed the Hearing Board's findings that respondent made a misrepresentation concerning a past suspension in a petition to practice *pro hac vice* in another jurisdiction, neglected a criminal appeal, engaged in the practice of law while under a prior suspension entered by the Court in 1995, and failed to promptly refund unearned fees. The Court rejected respondent's argument that his conduct in accepting fees and giving legal advice to three clients during a five-

month period while he was suspended was not clearly prohibited as the practice of law. Citing significant mitigating circumstances, the Court, in a four-to-three decision, suspended respondent for two years for the violations noted above. The dissenting justices would have disbarred him.

The Court had two disciplinary cases pending on the general docket at the conclusion of 1999: *In re Fred Allen Richman*, No. 87562, 97 RT 3003 and *In re William Nelson Twohey*, No. 87565, 95 SH 872.

On March 23, 2000, the Court issued an opinion in *In re William Nelson Twohey*, \_\_\_ Ill.2d \_\_\_, 2000 WL 298590 (Mar. 23, 2000). The Court suspended the respondent for six months for engaging in a prohibited conflict of interest when he advised a client to loan funds to a corporation, which was also respondent's client, without fully informing the client of respondent's adverse interests or advising his client to obtain independent legal advice. The company failed and the client's loans were not repaid. The two dissenting opinions would have required a longer period of suspension and one dissent would have additionally imposed a requirement of restitution.

On September 23, 1999, the Court heard arguments in *In re Fred Allen Richman*, No. 87562, 97 RT 3003, on Richman's petition for reinstatement. Petitioner was disbarred on consent in May 1990, based upon his conviction in federal district court on two counts of wire fraud and eight counts of mail fraud. The convictions arose out a scheme to defraud an insurance company in two personal injury claims. In 1997, petitioner filed for reinstatement and the Hearing Board and Review Board both recommended his reinstatement.

The Court also has pending on the general docket one non-disciplinary case, *In re David Eugene Eckberg*, No. 88589, 96 CH 904. In *Eckberg*, the Court heard oral arguments on January 13, 2000, on the respondent's objections to the Review Board's recommendation that, pursuant to Rule 758, conditions be imposed upon respondent's practice of law.

**Chart 15: Misconduct Committed by the 121 Lawyers Sanctioned in 1999\***

<u>Types of Misconduct</u>	<u>Number of Cases in Which Type of Misconduct Was Sanctioned</u>			
	<u>Disbarment</u>	<u>Suspension**</u>	<u>Censure</u>	<u>Reprimand***</u>
<b>Total Number of Cases:</b>	<b>32</b>	<b>67</b>	<b>14</b>	<b>8</b>
Improper management of client or third party funds, including commingling and conversion .....	20	16	1	0
Neglect or lack of diligence .....	12	35	5	2
Fraudulent or deceptive activity .....	16	14	1	2
Criminal conduct by the lawyer .....	9	10	2	1
Failing to communicate with client, including failing to communicate basis of a fee .....	8	27	2	0
Failure to provide competent representation .....	3	2	0	0
Fee violations, including failing to refund unearned fees .....	8	18	4	2
Failure to cooperate with or false statement to the ARDC .....	4	14	0	1
Improper fee division with nonlawyer .....	1	3	0	0
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf .....	0	3	0	1
Improper withdrawal, including failure to return file .....	3	8	1	2
Aiding in the unauthorized practice of law by a nonlawyer .....	2	1	0	0
Conflict of interest (concurrent conflicts) .....	0	2	2	0
Conflict of interest (successive conflicts) .....	0	2	1	0
Conflict of interest (improper sexual relationship with client) .....	0	1	0	0
Conflict of interest (improper business transaction with client) .....	1	2	2	1
Conflict of interest (improper agreement with client to limit lawyer's liability or avoid disciplinary action) .....	2	1	0	0
Breach of client confidences or secrets .....	1	2	0	0
Filing frivolous or non-meritorious claims or pleadings .....	1	2	0	0
Misrepresentation to a tribunal .....	2	7	0	0
Misrepresentation to clients to cover up neglect .....	2	14	2	0
Practice after failure to register .....	0	5	0	0
Practice after suspension .....	0	3	0	0
Unauthorized practice in another jurisdiction .....	0	1	1	0
Improper solicitation or advertising .....	2	1	0	0
Improper communication with a represented party .....	0	0	1	1
Prosecutorial misconduct .....	0	1	0	0

\* Totals exceed 121 cases because in most cases more than one type of misconduct was found.  
 \*\* Includes suspensions stayed by probation.  
 \*\*\* Includes five Hearing Board reprimands.

Disciplinary cases reach the Court in several ways. Chart 16 reflects the actions taken by the Supreme Court in disciplinary matters in varying procedural contexts in which those matters are presented.

**Chart 16: Orders Entered by Supreme Court in Disciplinary Cases in 1999**

<b>A. <u>Motions for disbarment on consent: Rule 762(a)</u></b>		<b>F. <u>Petitions for interim suspension due to conviction of a crime: Rule 761(b)</u></b>	
Allowed .....	18	Rule enforced and lawyer suspended .....	3
Denied.....	0	Petition for rule denied.....	0
Total .....	18	Rule discharged by imposition of final order of discipline .....	4
		Total.....	7
<b>B. <u>Petitions for discipline on consent: Rule 762(b)</u></b>		<b>G. <u>Petitions for reciprocal discipline: Rule 763</u></b>	
Allowed:		Allowed.....	16
Suspended.....	21	Denied .....	1
Suspension stayed in part, probation ordered.....	6	Total.....	17
Suspension stayed in its entirety, probation ordered.....	3		
Censured .....	9		
Total .....	39		
Denied.....	6		
Total .....	45		
<b>C. <u>Petitions for leave to file exceptions to report and recommendation of Review Board: Rule 753(e)(1) and 761</u></b>		<b>H. <u>Petitions for reinstatement: Rule 767</u></b>	
Allowed, briefs and oral arguments ordered.....	5	Referred to Hearing Board .....	0
Allowed, and different sanctions imposed without briefs.....	3	Allowed after hearing.....	2
Denied, and sanctions recommended by Review Board imposed.....	6	Allowed (reciprocal) .....	1
Total .....	14	Denied after hearing.....	0
		Withdrawn before hearing.....	1
		Dismissed before hearing.....	1
		Denied after hearing.....	0
		Total.....	5
<b>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u></b>		<b>I. <u>Petitions for interim suspension: Rule 774</u></b>	
Allowed .....	3	Rule enforced and lawyer suspended .....	9
Denied.....	0	Petition for rule denied.....	0
Total .....	3	Withdrawn.....	1
		Total.....	10
<b>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u></b>		<b>J. <u>Probation revoked: Rule 772(c)</u></b>	
Allowed .....	29	Probation revoked; respondent suspended .....	2
Denied and more discipline imposed .....	1	Total.....	2
Denied and less discipline imposed .....	1		
Total .....	31		

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

In addition to activity in disciplinary cases, the Supreme Court entertains pleadings in non-disciplinary matters that affect an attorney's status. Chart 17 reflects the orders entered in such cases during 1999. The numbers of motions for transfer to inactive status under Rule 770 and motions for restoration to active status under Rule 759 are out of proportion with prior years due to rule amendments announced by the Court in June 1999, effective November 1, 1999, eliminating Rule 770 and allowing transfers to and from inactive status without Court order. (See discussion of rule amendments at page 17.)

**Chart 17: Non-Disciplinary Actions by the Supreme Court**

<b>A. Rule 770</b>	
Voluntary motions for transfer to inactive status:	
Allowed.....	251
Denied.....	0
<i>Total</i> .....	<u>251</u>
<b>B. Rule 759</b>	
Petition for restoration to active status:	
Allowed.....	236
Withdrawn.....	1
Referred to Hearing Board.....	1
<i>Total</i> .....	<u>238</u>
<b>C. Rules 757 and 758</b>	
Petitions for involuntary transfer to inactive status due to mental disability or substance addiction:	
Allowed.....	2
Denied.....	0
<i>Total</i> .....	<u>2</u>
<b>D. Rule 752</b>	
Petition by complainant to require Administrator to further investigation charges or expedite proceedings:	
Allowed.....	0
Denied.....	19
<i>Total</i> .....	<u>19</u>
<b>E. Rule 383</b>	
Motion for supervisory order:	
Allowed.....	1
Denied.....	0
<i>Total</i> .....	<u>1</u>

**Chart 18: A Comparison 1987-1999**

	<b>Number of Registered Attorneys</b>	<b>Investigations Docketed<sup>1</sup></b>	<b>Closure By Administrator No Misconduct Alleged</b>	<b>Closure By Administrator After Investigation</b>	<b>Closure By Inquiry After Investigation</b>	<b>Complaint Voted By Inquiry Board</b>
1987.....	50,635.....	5,748.....	765.....	4,542.....	1,275.....	229.....
1988.....	52,611.....	5,817.....	910.....	4,369.....	1,167.....	214.....
1989.....	54,866.....	6,849.....	818.....	5,552.....	1,266.....	343.....
1990.....	56,896.....	7,634.....	1,023.....	5,254.....	1,410.....	349.....
1991.....	58,953.....	7,022.....	608.....	5,701.....	839.....	325.....
1992.....	61,107.....	7,338.....	889.....	5,210.....	473.....	277.....
1993.....	63,328.....	6,345.....	974.....	5,422.....	137.....	241.....
1994.....	65,163.....	6,567.....	1,224.....	5,125.....	133.....	247.....
1995.....	67,121.....	6,505.....	1,359.....	5,134.....	73.....	277.....
1996.....	68,819.....	6,801.....	1,364.....	4,946.....	76.....	300.....
1997.....	70,415.....	6,293.....	1,202.....	5,018.....	81.....	342.....
1998.....	72,149.....	6,048.....	1,352.....	4,414.....	58.....	272.....
1999.....	73,514.....	5,877.....	1,131.....	4,268.....	69.....	231.....

1 Before 1992, complaints that named several lawyers were docketed as a single investigation. Since 1992, a separate investigation is docketed for each lawyer named in the complaint. The figures reported for 1987-1991 are estimates of the number of investigations that would have been counted had there been a separate file docketed for each lawyer named.

	<b>Matters Filed With Hearing Board</b>	<b>Matters Filed With Review Board</b>	<b>Matters Filed With Supreme Court<sup>2</sup></b>	<b>Sanctions Ordered By Court</b>
1987.....	103.....	40.....	463.....	103.....
1988.....	75.....	32.....	390.....	112.....
1989.....	89.....	23.....	791.....	132.....
1990.....	105.....	23.....	578.....	100.....
1991.....	127.....	25.....	604.....	78.....
1992.....	122.....	37.....	560.....	89.....
1993.....	106.....	44.....	593.....	114.....
1994.....	115.....	35.....	869.....	109.....
1995.....	113.....	35.....	916.....	148.....
1996.....	129.....	22.....	891.....	115.....
1997.....	129.....	32.....	869.....	117.....
1998.....	141.....	31.....	732.....	138.....
1999.....	123.....	28.....	663.....	116.....

2 The data reported in this column represents both disciplinary and non-disciplinary matters filed with the Court.

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

#### **A. Amendments to Rules 756 through 770 Concerning Registration Status and Fees**

Effective November 1, 1999, Supreme Court Rules 756, 757, 758, 759 and 770, were amended to make certain changes in registration status.

##### *Eliminated Out-of-State Status Category:*

The out-of-state status was eliminated as a registration category for attorneys who "neither practice, nor reside, nor are employed in Illinois," who formerly paid an annual fee of \$35. About 12% of the Illinois bar was registered under this category. Lawyers who previously registered under that category must now choose to change their status to active, or the amended categories of either inactive or retirement.

##### *Amended Inactive Status Category:*

Provisions of Rules 757, 758, 759, and 770 pertaining to inactive status were amended to differentiate between disability and non-disability inactive status, and to allow lawyers to transfer to non-disability inactive status or resume active status without Court order by sending written notification to the ARDC of their intent to make the change. Previously, an attorney had to seek leave of the Court to transfer to inactive status and could return to active status only by petition to be restored to active status. Under the amendments, only transfers to and from disability inactive status will require Court action. The amendments require inactive attorneys to register annually and pay a reduced fee of \$70. Attorneys on inactive status are not eligible to practice law or hold themselves out as being authorized to practice law in Illinois.

##### *Created New Retirement Status Category:*

The amendments to Rule 756 created a new registration category for retired lawyers who pay no annual fee, are not required to register for future years, and are not eligible to practice law or hold themselves out as being authorized to practice law in Illinois.

#### **B. Amendments to Rules 3.6 and 3.8 of the 1990 Illinois Rules of Professional Conduct**

On October 22, 1999, the Supreme Court amended Rules 3.6 and 3.8 of the Illinois Rules of Professional Conduct to take effect on December 1, 1999. On November 23, 1999, the Court stayed the effect and enforcement of those newly amended rules until further order of the Court and directed the Supreme Court Committee on Professional Responsibility to file a response to the petition to reconsider filed by petitioners, Richard A. Devine, et al, in *In re the Matter of Illinois Supreme Court Rules of Professional Conduct 3.6 and 3.7*, M.R. 16290. On March 16, 2000, the Court denied the petition, lifted the stay, and ordered that amended Rules 3.6 and 3.8 would take effect immediately.

The changes to *Rule 3.6 Trial Publicity* were intended to be consistent with the 1994 amendments to ABA Model Rule 3.6, which followed the U.S. Supreme Court opinion in *Gentile v. Nevada State Bar*, 501 U.S. 1030 (1991). Subsection (a) was amended to apply specifically to lawyers participating in the investigation or litigation of the matter. Subsection (b) sets forth six areas of public comment, which could "pose a serious and imminent threat to the fairness of a proceeding," and substantially tracks the Comment to ABA Model Rule 3.6. Subsection (d) adds an exception permitting a lawyer to make a necessary response to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. Subsection (e) extends the application of Rule 3.6 to the affected lawyer's colleagues at the law firm or government agency.

The amendments to *Rule 3.8 Special Responsibilities of a Prosecutor* added two new paragraphs which expand on the obligations of Rule 3.6. Subsection (c) requires prosecutors and other government lawyers in criminal litigation to exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons from making extrajudicial statements that



any lawyer is forbidden from making by Rule 3.6. Subsection (d) prohibits prosecutors from making extrajudicial comments "that would pose a serious and imminent threat of heightening public condemnation of the accused..." unless they are necessary to provide information about "the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose."

#### IV. ARDC Programs

##### A. Client Protection Program

The Client Protection Program was created by the Illinois Supreme Court in 1994 by the adoption of Rule 780. In 1999, the program paid claims totaling \$310,604 to clients who lost money or property due to the dishonest conduct of attorneys holding an Illinois license. The program may reimburse losses up to \$10,000. The majority of claims involve sums less than \$10,000. The program does not cover losses resulting from professional negligence or malpractice and does not consider claims involving contractual disputes or personal loans to an attorney. Awards are made out of the Disciplinary Fund. The rules governing the administration of the program are contained in Commission Rules 501 through 512.

**Chart 19: Classification of Approved Claims**

<i>Type of Misconduct:</i>	
Accepting fees without performing services.....	59
Conversion/forged endorsement.....	30
Improper loans from clients.....	1
Accepting fee when not authorized to practice law ....	1
<i>Area of Law</i>	
Domestic relations.....	26
Tort.....	14
Real Estate.....	12
Bankruptcy.....	12
Criminal/quasi criminal.....	9
Probate.....	8
Contract.....	3
Civil Rights.....	2
Corporate.....	2
Loans/Investment.....	1
Debt Collection.....	1
Workers' Comp./Labor.....	1

**Chart 20: Summary of Approved Claims**

	1996	1997	1998	1999
New Claims submitted:	197	267	216	153
Claims concluded:				
• approvals.....	122	104	75	91
• denials.....	73	93	106	89
Amount approved:	\$509,669	\$348,000	\$257,054	\$310,604
Number of lawyers:	53	48	41	44

##### B. Ethics Inquiry Program

The Commission's Ethics Inquiry Program is a telephone inquiry line that allows Illinois attorneys and members of the public to call for help in resolving hypothetical questions about ethical dilemmas, the Illinois Rules of Professional Conduct and the Rules of the Commission. No legal opinion or binding advisory opinion is given.

The Ethics Inquiry Program handles over 2,200 calls each year from attorneys. This figure does not include calls received from nonlawyers. The most common subjects of inquiry are:

- Duty to report professional misconduct
- Client trust accounts
- Lawyer's assertion of retaining lien on client file
- Conflicts:
  - former client
  - lawyer's own interest
- Advertising:
  - professional designation
  - targeted mailing

A brochure describing the program can be obtained by calling the ARDC in Chicago. Commission Rules 601 *et al.* govern the program

##### C. Education

###### *Professionalism Seminar of the Illinois Professional Responsibility Institute*

Since November 1996, the Commission has sponsored a seminar on law office

management issues and the ethical obligations of lawyers. The seminar is held three times a year for lawyers who are required to attend as part of their disciplinary sanctions or who attend voluntarily because they have an identified need for training in these areas. Nearly 100 lawyers have attended the seminar thus far.

The seminar was created in cooperation with members from the Chicago Bar Association, Illinois State Bar Association and Cook County Bar Association, to further the Commission's efforts to develop preventive and remedial programs for attorneys on relevant ethics issues. The *Professionalism Seminar* is taught mostly by select, volunteer practicing Illinois attorneys. Any attorney interested in learning more about the *Professionalism Seminar*, may call Mary F. Andreoni, Administrative Counsel, ARDC, Chicago.

#### ***ARDC Compiled Professional Responsibility Decisions and Rules on CD-ROM***

The Commission continues to publish in January of each year the *ARDC Compiled Professional Responsibility Decisions and Rules* on CD-ROM, a compilation of disciplinary decisions issued by the Hearing and Review Boards of the Commission, as well as a collection of published Illinois Supreme Court opinions discussing legal ethics issues arising under Illinois law and the Illinois ethics rules. Anyone interested in buying a copy (\$20.00 plus tax) can call the ARDC and request an order form or can buy it directly from the CBA Shop, 321 South Plymouth Court, Chicago, Illinois 60604, (312) 554-2000.

There are plans to establish an ARDC web site sometime in 2000 and these decisions will be accessible through that Internet web site.

#### ***Presentations and Articles***

The Commission continued its efforts to familiarize attorneys with the ethics rules and concerns by having its legal staff make more than 100 presentations to bar associations, law firms,

law schools, continuing legal education seminars and civic groups. Any group interested in having a Commission representative speak to their group, may call Mary F. Andreoni, Administrative Counsel, ARDC, Chicago.

Also, Commission lawyers published a number of articles that appeared in bar association journals and newsletters on various topics of interest to the legal profession.

### ***V. Developments During 1999***

#### ***A. Court Appointments***

##### ***1. ARDC Commissioners***

The ARDC Commission consists of four members of the Illinois Bar and three non-lawyers. The Commission Chairman is Jay H. Janssen of Peoria. The Commissioners receive no compensation for their services. The Commissioners establish ARDC policies, appoint members of the ARDC Inquiry and Hearing Boards and, subject to the approval of the Supreme Court, appoint the Commission's chief executive officer, the Administrator.

#### ***Retirement of Commissioner Eldridge T. Freeman, Jr., Ph.D.***

On December 31, 1999, Dr. Eldridge T. Freeman, Jr. concluded his nine years of service as a Commissioner. During his tenure as a nonlawyer member of the Commission, he helped streamline the lawyer discipline system's investigation process, participated in the development of a program to compensate the victims of lawyer misconduct that is now known as the *Client Protection Program*, and supported the ARDC's establishment of community outreach initiatives. He fostered the appointment of non-lawyers to the various ARDC Boards and he actively sought minority participation at all levels of the lawyer regulatory system. Dr. Freeman was a Professor of Management at the College of Business and Administration at Chicago State University, a career from which he also retired at the end of 1999.

### *Appointment of Donn F. Bailey, Ph.D.*

Effective January 1, 2000, Donn F. Bailey, Ph.D., was appointed by the Court to a three-year term as a Commissioner to replace Dr. Eldridge T. Freeman, Jr. Dr. Bailey served on the Hearing Board from 1994 to 1999. Dr. Bailey earned his B.A. and M.A. degrees in Speech Pathology and Audiology at Indiana University in Bloomington, and his Ph.D. in Speech Communication from Penn State. He has been involved in public education since 1954. In 1974, he helped found the Center for Inner City Studies at Northeastern Illinois University and has served as a Director and faculty member there for many years. He currently is the Managing Director for Bailey and Associates, Ltd. Educational Consulting. Dr. Bailey is a nationally recognized expert on the structure and function of Black English and its effect on the learning of African-American children.

### **2. Hearing Board**

#### *Retirement of Charles T. Beckman as Chair of the Hearing Board*

In September 1999, Charles T. Beckman resigned from his position as Chair of the entire Hearing Board, upon his appointment as an associate judge in the 15th Judicial Circuit. Mr. Beckman had served as Chair of the Hearing Board since 1996. He was first appointed to the ARDC Inquiry Board in 1984, and, in 1986, he was appointed to the Hearing Board. Mr. Beckman was a partner with the Dixon law firm of Ehrmann, Gehlbach, Beckman, Badger & Lee prior to his appointment to the bench.

#### *Appointment of John B. Whiton as Chair of the Hearing Board*

The Commission has appointed John B. Whiton as the new Chair of the entire Hearing Board. Mr. Whiton was first appointed to the Hearing Board in 1981, and he has served as a panel chair since 1985. He has a general practice in Freeport, Illinois, as a partner in the law firm of Snow, Hunter, Whiton & Fishburn, Ltd. Mr.

Whiton received his law degree from the University of Chicago and was admitted to the Illinois Bar in 1974. As Chair of the entire Hearing Board, he is responsible for administrative matters including overseeing the adjudication staff, advising the Commission on appointments to the Hearing Board, resolving procedural issues, arranging board seminars, and assisting other members of the Hearing Board on administrative matters.

### **VI. Financial Report**

The Commission engaged the services of Grant Thornton LLP to conduct an independent audit as required by Supreme Court Rule 751(e)(7). The audited financial statements for the year ended December 31, 1999, are attached.

The Commission's *1998 Annual Report* discussed budgetary issues arising from several circumstances, including the fact that annual fees for Illinois lawyers had not changed since 1989, that expenditures had exceeded revenues for several consecutive years, and that, despite budget-tightening measures, the operating reserve would be substantially depleted by the end of 2000. Rule amendments adopted by the Supreme Court eliminating the out-of-state fee category and setting a fee for inactive lawyers are projected to add about \$520,000 in revenue for 2000. Nevertheless, projected expenditures will still exceed fee-generated income for 2000 by \$1.3 million, and the reserve will still be depleted shortly.

The Commission will continue to work toward a resolution.

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

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

We have audited the accompanying statement of financial position of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 1999, and the related statements of activities and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by 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, 1999, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States.

*Grant Thornton LLP*

Chicago, Illinois  
February 4, 2000

700 One Prudential Plaza  
130 E. Randolph Drive  
Chicago, IL 60601-6203  
Tel. 312 856-0200

Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois  
STATEMENT OF ACTIVITIES  
Year ended December 31, 1999

REVENUES		
Registration fees and penalties		\$8,114,535
Investment income		
Decrease in fair value of investments		
Sold during the year	\$ (14,212)	
Held at year end	(128,222)	(142,434)
Interest income		577,546
Total investment income		435,112
Cost reimbursements collected		206,072
Miscellaneous income		9,516
Total revenues		8,765,235
EXPENDITURES		
Salaries and related expenses		6,140,788
Travel expenses		99,838
Library and continuing education		137,835
Office support		1,124,609
General expenses		580,414
Computer expenses		176,539
Other professional expenses		336,302
Case related expenses		318,474
Client protection program payments		397,583
Depreciation expense		338,236
Loss on sale of fixed assets		793
Total expenditures		9,651,411
<b>DECREASE IN UNRESTRICTED NET ASSETS</b>		<b>(886,176)</b>
Unrestricted net assets		
Beginning of year		4,099,462
End of year		<u>\$3,213,286</u>

The accompanying notes are an integral part of this statement.

ASSETS	
<b>CURRENT ASSETS</b>	
Cash and cash equivalents	\$ 244,593
Short term investments, at fair value	9,279,367
Accrued interest receivable	183,816
Accounts receivable, net	22,678
Prepaid expenses and other assets	61,801
Total current assets	9,792,255
<b>NON-CURRENT ASSETS</b>	
Long-term investments, at fair value	3,030,385
Fixed assets, at cost - net of accumulated depreciation	840,254
Total non-current assets	3,870,639
Total assets	<u>\$13,662,894</u>
LIABILITIES AND NET ASSETS	
<b>CURRENT LIABILITIES</b>	
Accounts payable and other accruals	\$ 329,337
Accrued compensated absences	172,055
Deferred registration fees	6,489,744
Reinstatement deposits	2,000
Total current liabilities	6,993,136
<b>LONG-TERM LIABILITIES</b>	
Accrued Medicare replacement funding	769,456
Deferred rent expense	2,687,016
Total long term liabilities	3,456,472
Total liabilities	10,449,608
<b>NET ASSETS - UNRESTRICTED</b>	<u>3,213,286</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u>\$13,662,894</u>

The accompanying notes are an integral part of this statement.

Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois  
STATEMENT OF CASH FLOWS  
Year ended December 31, 1999

Cash flows from operating activities	
Decrease in net assets	\$ (886,176)
Adjustments to reconcile decrease in net assets to	
Net cash provided by operating activities	
Decrease in market value of investments	142,434
Depreciation expense	338,236
Loss on disposal of fixed assets	793
(Increase) decrease in assets	
Accounts receivable and accrued interest receivable	(93,048)
Prepaid expenses and other assets	15,773
Increase (decrease) in liabilities	
Accounts payable, accrued compensated balances, and other accruals	113,798
Deferred registration fees and reinstatement deposits	773,314
Accrued Medicare replacement funding	179,833
Deferred rent expense	(44,070)
Net cash provided by operating activities	540,887
Cash flows from investing activities	
Acquisitions of fixed assets	
Computer software and hardware	(238,818)
Office furniture and equipment	(89,794)
Library volumes	(6,743)
Net increase in money market investment	(687,837)
Purchases of investment securities	(3,645,273)
Sales and maturities of investment securities	3,950,000
Net cash used in investing activities	(718,465)
Net decrease in cash and cash equivalents	(177,578)
Cash and cash equivalents	
Beginning of year	422,171
End of year	<u>\$ 244,593</u>

The accompanying notes are an integral part of this statement.

**NOTE A - GENERAL PURPOSE DESCRIPTION**

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

Additional significant rules of the Court applicable to the Commission's operations are as follows:

- Rule 773, as amended, provides that an attorney-respondent has 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 an attorney-respondent fails to provide records.
- Rule 769 provides that every attorney has a duty to retain all financial records related to the attorney's practice for a period of not less than seven years.
- Rule 780 establishes the Client Protection Program to reimburse claimants for losses caused by the dishonest conduct of Illinois lawyers. Pursuant to section (d) of the rule, the Commission annually allocates an amount of money to pay these claims.

**NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Basis of Presentation*

The accompanying financial statements reflect the financial position and activities of the Commission. Net assets are generally reported as unrestricted, unless assets are received from donors with explicit stipulations that limit the use of the assets. The Commission has no temporarily or permanently restricted net assets.

**NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued**

*Deferred Registration Fees*

The Commission is funded by an annual registration fee assessed on Illinois attorneys. The annual fee for the subsequent year is billed on November 1 and is due January 1. Deferred registration fees represent the fees for calendar year 2000 received prior to December 31, 1999.

*Deferred Rent Expense*

Deferred rent expense consists of a combination of "free rent" and a lease incentive payment received from the landlord. These rent deferrals and incentive payments are being amortized over the life of the lease on a straight-line basis.

*Income Taxes*

The Commission is a tax-exempt organization as determined by the Internal Revenue Service under Section 501(c)(6) of the Internal Revenue Code.

*Significant Estimates and Concentrations of Risk*

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

The Commission's registration fees are sent directly by registering attorneys to a lock box under the sole supervision of National City Bank (the "Bank"). The Bank accounts for the contents of the lock box, and all receipts are deposited to the Commission's account at the Bank. The Bank sends an accounting for these funds to the Commission's registration department for processing and comparison with the registration and billing records.

The Commission receives cost reimbursements for investigative and disciplinary costs from disciplined attorneys. Cost reimbursement is billed at the time that discipline is imposed by the Court, but may not be a total reimbursement or match the period in which the investigative disciplinary costs were incurred. Beginning in November 1995, the Commission has also regularly sought entry of judgments by the Court with interest at the rate charged by the State of Illinois (9% at December 31, 1999) for all invoices not paid within 30 days of the initial billing. The Commission has also established payment plans for disciplined attorneys.

**NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued**

*Cash and Cash Equivalents*

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

*Investments*

Investments are stated at fair value, which generally represents quoted market value as of the last business day of the year. Investments in money market accounts are carried at cost, which approximates market value.

*Fixed Assets*

Fixed assets 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. Upon disposal of assets, gains or losses are included in current income. Leasehold improvements are amortized over the shorter of their estimated useful lives or the lease period.

The estimated useful lives of the fixed assets are as follows:

	Years
Computer and related equipment	3
Office furniture and equipment	5
Library	7
Leasehold improvements	5 - 15

*Accrued Compensated Absences*

The Commission's vacation policy provides time off for full-time salaried employees based on years of service. Years of service are computed from each employee's anniversary date of employment. Employees are not permitted to carry over vacation time from year to year without written approval from the Administrator. An accrual is included in the financial statements representing vacation time earned but unused at December 31, 1999, along with its related retirement contribution.

**NOTE B - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued**

*Significant Estimates and Concentrations of Risk - Continued*

Although collectibility of the cost reimbursements has been enhanced by the Commission's judgment procedures, the Commission cannot reasonably estimate the collectibility of the cost reimbursements at this time. Whether the Commission can fully collect all cost reimbursements is dependent upon the disciplined attorneys' ability to pay and the current economic environment. Therefore, the Commission records cost reimbursements as revenue under the cost recovery method when the reimbursements are received. In 1999, the Commission collected approximately \$206,000 in cost reimbursements. Approximately \$975,000 in additional amounts remain unpaid by attorney-respondents at December 31, 1999, for which a corresponding allowance is recorded.

The Commission maintains most of its cash and money market funds at the Bank. The balance is insured by the Federal Deposit Insurance Corporation up to \$100,000. All investment transactions are handled by the Trust Department of the Bank and are held in safekeeping at the Bank.

**NOTE C - FUNCTIONAL EXPENSES BY OBJECT**

An analysis of the Commission's functional expenses, by object, is as follows:

	Registration and discipline	Client protection	Administration and support	Total
Salaries and related expenses	\$5,053,357	\$122,654	\$ 964,777	\$6,140,788
Travel expenses	73,821	1,056	24,961	99,838
Library and continuing education	112,653	2,651	22,531	137,835
General expenses and office support	1,406,120	31,463	267,440	1,705,023
Computer expenses	144,288	3,395	28,856	176,539
Other professional and case related expenses	639,633	7,410	7,733	654,776
Client protection program payments	-	397,583	-	397,583
Depreciation expense	276,444	6,504	55,288	338,236
Loss on sales of fixed assets	649	15	129	793
<b>Total expenditures</b>	<b>\$7,706,965</b>	<b>\$572,731</b>	<b>\$1,371,715</b>	<b>\$9,651,411</b>

**NOTE D - INVESTMENTS**

Investments consist of the following:

	Cost	Market
U.S. Treasury notes and bills	\$11,026,991	\$10,965,404
Money market funds	<u>1,344,348</u>	<u>1,344,348</u>
Total	<u>\$12,371,339</u>	<u>\$12,309,752</u>

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

The following table lists the maturities of securities held at December 31, 1999:

	Cost	Market
Due in one year or less	\$ 9,282,696	\$ 9,279,367
Due after one year through five years	2,954,487	2,899,308
Due after five years	<u>134,156</u>	<u>131,077</u>
Total	<u>\$12,371,339</u>	<u>\$12,309,752</u>

**NOTE E - FIXED ASSETS**

Fixed assets at December 31, 1999, are as follows:

Computer and related equipment	\$1,123,318
Office furniture and equipment	1,563,219
Library	53,011
Leasehold improvements	<u>117,925</u>
	2,857,473
Less accumulated depreciation and amortization	<u>2,017,219</u>
Total	<u>\$ 840,254</u>

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**NOTE G - MEDICARE REPLACEMENT RESERVE TRUST - Continued**

The Commission engages the services of an actuary to compute the liability every other year. However, the Commission records an estimated expense annually.

A summary of actuarial assumptions and methods are as follows:

Measurement date	June 30, 1999
Actuarial cost method	Projected unit credit method
Actuarial assumptions	Mortality - 1983 GAM table Discount rate - 7.5% Expected return on assets - 7.5% Retirement will occur between age 55 and 65

Actuarial valuation at June 30, 1999:

Net periodic postretirement benefit cost	
Service cost	\$ 45,779
Interest cost	57,251
Amortization	5,499
Expected return	(44,613)
Expected benefit payments	<u>(12,431)</u>
	<u>\$ 51,485</u>
Accumulated postretirement benefit obligations	
Benefit obligation, July 1, 1997	\$488,877
Service costs for the two years ended June 30, 1999	61,782
Interest costs for the two years ended June 30, 1999	72,546
Actuarial losses for the two years ended June 30, 1999	152,916
Benefits paid for the two years ended June 30, 1999	<u>(6,665)</u>
Benefit obligation, June 30, 1999	<u>\$769,456</u>

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**NOTE F - LEASE AND MAINTENANCE COMMITMENTS**

The Commission leases its Chicago and Springfield offices under operating lease agreements. The terms of the Chicago office lease, which began in May 1993, are for 15 years and provide for a minimum annual base rent, plus related taxes and operating expenses. In addition, the lease provides a period of 32 months "free rent" with the first rent payment made on January 1, 1997. Pursuant to the lease, the landlord advanced a sum equal to the present value of estimated taxes and operating costs for the 32-month period and the Commission made monthly payments for actual tax and operating cost assessments during that period. This amount and the value of the "free rent" is included in deferred rent.

The terms of the Springfield office lease, which began in November 1995, are for 7 years and provide for a minimum annual rent. The lease gives the Commission the option to renew the lease for another 7-year period.

Rent expense under all lease agreements was approximately \$1,084,000 in 1999.

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

Year	Springfield	Chicago	Total
2000	\$ 74,000	\$ 1,116,000	\$ 1,190,000
2001	76,000	1,157,000	1,233,000
2002	65,000	1,200,000	1,265,000
2003	-	1,248,000	1,248,000
2004	-	1,301,000	1,301,000
Remaining	-	<u>4,872,000</u>	<u>4,872,000</u>
	<u>\$215,000</u>	<u>\$10,894,000</u>	<u>\$11,109,000</u>

**NOTE G - MEDICARE REPLACEMENT RESERVE TRUST**

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

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

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**NOTE G - MEDICARE REPLACEMENT RESERVE TRUST - Continued**

The Commission maintains a separate trust for the Medicare replacement reserve. The trust fund assets are included in the Commission's investments (see note D). The trust fund assets at fair value as of December 31, 1999, are as follows:

Money market account	\$115,596
U.S. Treasury notes	547,933
Accrued interest receivable	<u>6,122</u>
	<u>\$669,651</u>

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

**NOTE H - EMPLOYEE BENEFIT PLAN**

The Commission maintains a defined contribution retirement plan and trust for the benefit of all eligible employees. Based on the decision of the Social Security Administration discussed in note G, the Commission enhanced the retirement benefits. Employee contributions are not permitted under the Plan's provisions. The Commission contributes 18% of compensation for eligible employees, which approximated \$829,000 in 1999. The Commission also pays the Plan's administrative expenses, which approximated \$38,000 in 1999.

**NOTE I - LITIGATION**

Various complaints and actions have been filed against the Commission. At December 31, 1999, the Commission believes that pending matters do not present any serious prospect of negative financial consequences.

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