



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Chicago
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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 2004 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 2004 and an accounting and audit of the monies received and expended during the twelve-month period, which ended December 31, 2004.

Respectfully submitted,

Benedict Schwarz II, Chairman
Donn F. Bailey, Ph.D.
Patricia Campbell Bobb
John R. Carroll
R. Michael Henderson
John Paul Kujawski
Brian McFadden, Commissioners

Mary Robinson, Administrator

I. Registration Report

The Master Roll of attorneys registered to practice law in Illinois for the year 2004 contained the names of 78,101 attorneys as of October 31, 2004. After that date, the Commission began the 2005 registration process, so that the total reported as of October 31, 2004, does not include the 1,976 attorneys who first took their oath of office in November or December 2004. The 2004 registration totals show a modest 1.85% increase over 2003. While still below the 2.9% average growth experience from 1990 through 1999, the 1.85% growth for 2004 exceeded the average 1.1% growth experienced between 2000 and 2003. (See Chart 17, pg. 15 for comparative registration data for 1992-2004.)

The slowed growth in lawyer population resulted primarily from increases in the number of lawyers stricken from the Master Roll due to failure to register, retirement, death or discipline, rather than any sustained reduction in new admissions (see Chart A).

Chart A: Comparison of Lawyer Population of Newly Admitted Lawyers vs. Lawyers Removed from the Master Roll: 1995-2004

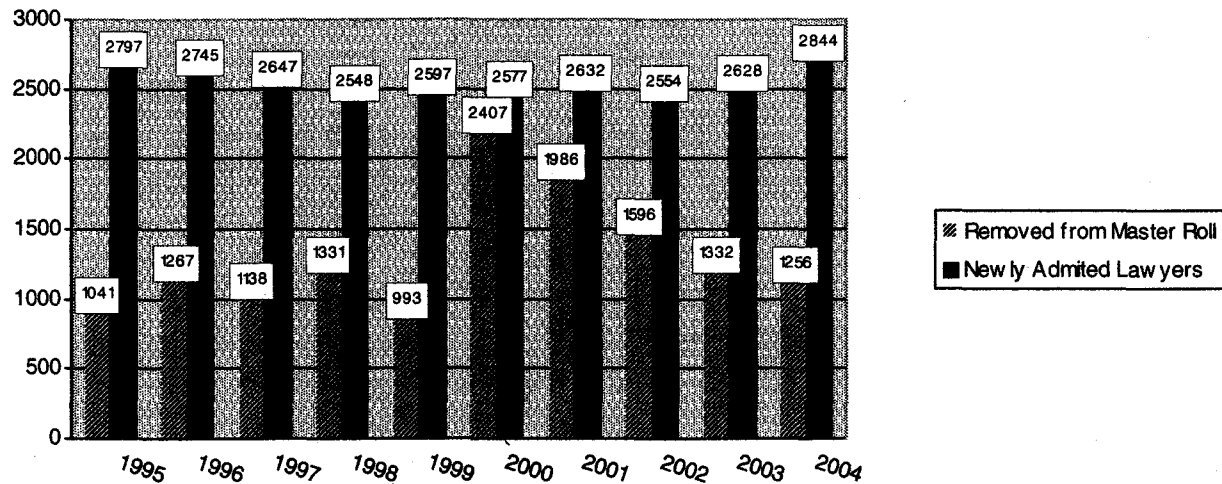


Chart B shows further demographic information for attorneys registered in 2004, and Chart C shows the breakdown by the registration categories set forth in Rule 756.

Chart B: Age, Gender and Years in Practice for Attorneys Registered in 2004

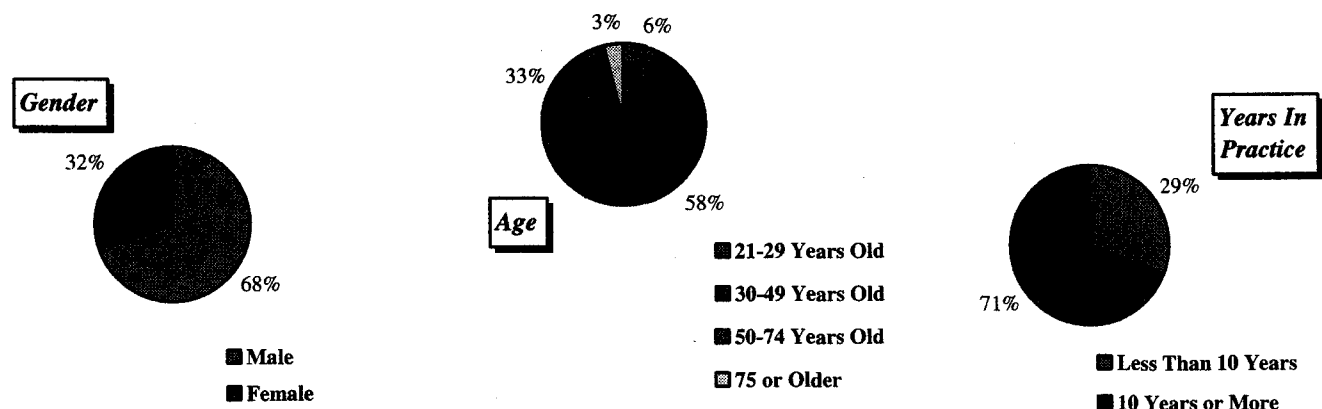


Chart C: Registration Categories for 2004

<u>Category</u>	<u>Number of Attorneys</u>
Admitted between January 1, 2003 and October 31, 2004	2,824
Admitted between January 1, 2001 and December 31, 2002.....	4,563
Admitted before January 1, 2001.....	58,785
Serving active military duty.....	213
Serving as judge or judicial clerk	1,815
Birthday before December 31, 1928.....	1,892
Foreign legal consultant.....	6
Inactive status	8,003
Total attorneys currently registered	78,101
Removed from the Master Roll (Arrears, Deceased, Retired and Disciplined Attorneys)	(1,256)

Charts D and E show the distribution by judicial circuit and by county of the 59,827 registered attorneys who report a principal business address in Illinois. Another 18,274 attorneys report a business address outside Illinois, but register as either active and able to practice in Illinois or inactive. Those 18,274 attorneys are not included in Charts D and E. Cook County has over 70% of the lawyers who have an Illinois business address. Of the 102 counties, 26 counties saw no change in lawyer population, 49 experienced some increase and 27 saw a slight decrease. Of the counties with 100 or more lawyers, the greatest increase over 2003 was seen in Will (9.2%), LaSalle (7.7%), Madison (7.5%), and Rock Island (4.1%), compared with a 1.4% increase in Cook County.

Chart D: Registration by Judicial Districts: 2000-2004

	2000	2001	2002	2003	2004		2000	2001	2002	2003	2004
First District											
Cook County	39,300	40,124	40,623	41,229	41,796	Fourth District					
						5 th Circuit.....	264	269	273	267	263
Second District						6 th Circuit.....	843	847	851	833	854
15 th Circuit.....	206	208	206	206	207	7 th Circuit.....	1,230	1,229	1,222	1,218	1,214
16 th Circuit.....	1,198	1,167	1,207	1,228	1,268	8 th Circuit.....	204	203	202	197	198
17 th Circuit.....	697	717	726	737	750	11 th Circuit	562	570	581	593	591
18 th Circuit.....	3,640	3,645	3,793	3,859	3,983	Total	3,103	3,118	3,129	3,108	3,120
19 th Circuit.....	3,287	3,160	3,198	3,272	3,365						
Total	9,028	8,897	9,130	9,302	9,573	Fifth District					
						1 st Circuit.....	421	419	422	433	449
Third District						2 nd Circuit.....	306	295	295	297	295
9 th Circuit.....	211	205	206	210	210	3 rd Circuit.....	559	569	586	636	684
10 th Circuit.....	857	840	850	861	880	4 th Circuit.....	274	265	258	258	254
12 th Circuit.....	665	679	709	740	808	20 th Circuit	745	740	745	756	763
13 th Circuit.....	330	327	327	324	323	Total	2,305	2,288	2,306	2,380	2,445
14 th Circuit.....	509	503	509	495	511						
21 st Circuit.....	152	155	162	162	161	Total	56,460	57,136	57,951	58,811	59,827
Total	2,724	2,709	2,763	2,792	2,893						

Chart E: Registered Attorneys by County for 2003-2004

<u>Principal Office</u>	<u>Number of Attorneys</u>		<u>Principal Office</u>	<u>Number of Attorneys</u>		<u>Principal Office</u>	<u>Number of Attorneys</u>	
	<u>2003</u>	<u>2004</u>		<u>2003</u>	<u>2004</u>		<u>2003</u>	<u>2004</u>
Adams.....	126	128	Hardin.....	5	5	Morgan.....	47	44
Alexander.....	10	10	Henderson.....	4	4	Moultrie.....	13	13
Bond.....	13	14	Henry.....	53	54	Ogle.....	53	53
Boone.....	38	39	Iroquois.....	27	29	Peoria.....	722	739
Brown.....	10	10	Jackson.....	215	216	Perry.....	22	22
Bureau.....	42	39	Jasper.....	6	5	Piatt.....	26	26
Calhoun.....	4	5	Jefferson.....	110	109	Pike.....	12	13
Carroll.....	18	16	Jersey.....	15	17	Pope.....	3	3
Cass.....	10	10	Jo Daviess.....	32	33	Pulaski.....	6	7
Champaign.....	517	533	Johnson.....	11	10	Putnam.....	6	7
Christian.....	44	41	Kane.....	1,003	1,035	Randolph.....	28	29
Clark.....	15	15	Kankakee.....	135	132	Richland.....	25	24
Clay.....	13	13	Kendall.....	62	66	Rock Island.....	363	378
Clinton.....	28	27	Knox.....	71	72	Saline.....	39	39
Coles.....	102	96	Lake.....	2,765	2,675	Sangamon.....	1,096	1,096
Cook.....	41,229	41,796	LaSalle.....	219	388	Schuyler.....	11	10
Crawford.....	20	20	Lawrence.....	14	15	Scott.....	6	6
Cumberland.....	7	12	Lee.....	46	48	Shelby.....	17	18
DeKalb.....	163	167	Livingston.....	49	49	St. Clair.....	650	653
DeWitt.....	23	21	Logan.....	33	34	Stark.....	8	8
Douglas.....	21	23	Macon.....	233	238	Stephenson.....	57	57
Du Page.....	3,859	3,983	Macoupin.....	40	37	Tazewell.....	111	112
Edgar.....	25	24	Madison.....	623	670	Union.....	23	26
Edwards.....	6	6	Marion.....	49	51	Vermilion.....	118	116
Effingham.....	51	47	Marshall.....	14	14	Wabash.....	18	17
Fayette.....	17	17	Mason.....	10	10	Warren.....	23	22
Ford.....	16	16	Massac.....	16	15	Washington.....	16	17
Franklin.....	56	57	McDonough.....	45	43	Wayne.....	12	13
Fulton.....	46	47	McHenry.....	507	520	White.....	14	14
Gallatin.....	5	4	McLean.....	473	469	Whiteside.....	69	68
Greene.....	14	14	Menard.....	14	12	Will.....	740	808
Grundy.....	63	66	Mercer.....	10	11	Williamson.....	110	123
Hamilton.....	12	11	Monroe.....	40	42	Winnebago.....	699	711
Hancock.....	21	22	Montgomery.....	33	35	Woodford.....	22	23

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

A. Investigations

During 2004, the Commission docketed 6,070 investigations. This reflects a 4% decrease from 2003 and the first time since 2001 that the caseload did not increase over the previous year. Those 6,070 investigations involved charges against 4,112 different attorneys. This means that about 5% of all registered attorneys became the subject of an investigation in 2004. Nearly a quarter of the 4,112 attorneys were the subject of more than one investigation docketed in 2004, as shown in Chart 1.

Chart 1: Investigations Docketed in 2004

<u>Number of Investigations</u>	<u>Number of Attorneys</u>
1.....	3,156
2.....	622
3.....	187
4.....	70
5 or more.....	77

<u>Gender</u>	<u>Years in Practice</u>
Female.....20%	Less than 10 years..... 21%
Male.....80%	10 years or more..... 79%

Charts 2 and 3 report the classification of investigations docketed in 2004, 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 and excessive fees.

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 2004 by Violation Alleged

<i>Type of Misconduct</i>	<i>Number*</i>	<i>Type of Misconduct</i>	<i>Number*</i>
Neglect	2,699	Failing to preserve client confidences or secrets	52
Failing to communicate with client, including failing to communicate the basis of a fee	1,473	Aiding a nonlawyer in the unauthorized practice of law	38
Fraudulent or deceptive activity, including lying to clients, knowing use of false evidence or making a misrepresentation to a tribunal or non-client	950	Threatening criminal prosecution or disciplinary proceedings to gain advantage in a civil matter	37
Excessive or improper fees, including failing to refund unearned fees	867	Improper communications with a party known to be represented by counsel or unrepresented party	34
Improper trial conduct, including using means to embarrass, delay or burden another or suppressing evidence where there is a duty to reveal	648	Practicing after failing to register	33
Improper management of client or third party funds, including commingling, conversion, failing to promptly pay litigation costs or client creditors or issuing NSF checks	536	Failing to supervise subordinates	25
Conflict of Interest:	294	Improper division of legal fees with another lawyer	13
Rule 1.7: concurrent conflicts	211	Failing to disclose fraud to tribunal or third person	13
Rule 1.9: successive conflicts	41	Incapacity due to chemical addiction or mental condition	11
Rule 1.8(a)-(e); (i): self-dealing conflicts	26	Improper extrajudicial statement	11
Rule 1.8(f)-(h): improper agreement to limit liability/avoid disciplinary action	6	Sexual harassment/abuse or violation of law prohibiting discrimination	10
Rule 1.10: imputed disqualification	6	False statements about judge, jud. candidate or public official	10
Rule 1.11: successive government and private employment	4	False statements in bar admission or disciplinary matter	9
Conduct prejudicial to the administration of justice, including conduct which is the subject of a contempt finding or court sanction	276	Failing to comply with Rule 764	9
Filing frivolous or non-meritorious claims or pleadings	239	Improper <i>ex parte</i> communication with judge	8
Failing to properly withdraw from representation, including failing to return client files or documents	228	Bad faith avoidance of student loan	8
Criminal activity, including criminal convictions, counseling illegal conduct or public corruption	145	Improper division of legal fees/partnership with nonlawyer	7
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf	130	Improper employment where lawyer may become witness	6
Failing to provide competent representation	102	Violate federal, state or local law prohibiting discrimination	5
Practicing in jurisdiction where not authorized	99	Failing to maintain a normal attorney-client relationship with disabled client	5
Improper commercial speech, including inappropriate written or oral solicitation	92	Failing to report misconduct of another lawyer or judge	4
Prosecutorial misconduct	69	Failing to pay tax obligation in bad faith	2
		Failing to pay child support	2
		Paying registration fee with NSF check	1
		Failing to report lawyer's own discipline in another jurisdiction	1
		No misconduct alleged	242

*Total exceed the number of charges docketed in 2004 because in many charges more than one type of misconduct is alleged.

Chart 3: Classification of Charges Docketed in 2004 by Area of Law

Area of Law	Number*
Criminal/Quasi-Criminal.....	1,244
Domestic Relations	1,007
Tort (Personal Injury/Property Damage).....	730
Real Estate/Landlord-Tenant	583
Workers' Compensation	346
Probate	331
Bankruptcy.....	222
Contract.....	201
Debt Collection	174
Immigration.....	170
Civil Rights	134
Criminal Conduct/Conviction	126
Corporate Matters	117
Local Government Problems.....	40
Tax	20
Social Security	17
Patent and Trademark	9
Adoption	9
Mental Health.....	3
Other	338
Undeterminable.....	293

*Total exceed the number of charges docketed in 2004 because in many charges more than one area of law is involved.

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 under Rules 761, 762(a), or 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 sufficient evidence to support a charge, to close an investigation if it does not so find, or to place an attorney on supervision under the direction of the panel pursuant to Commission Rule 108. The Administrator cannot pursue formal charges without authorization by an Inquiry Board panel.

About 6% of investigations concluded in 2004 resulted in the filing of formal charges. Charts 4 and 5 show the number of investigations docketed and terminated during 2004, and the type of actions which terminated the investigations.

Chart 4: Investigations Docketed: 2000-2004

Year	Pending January 1 st	Docketed During Year	Concluded During Year	Pending December 31 st
2000	2,188	5,716	5,857	2,047
2001	2,047	5,811	5,778	2,080
2002	2,080	6,182	6,183	2,079
2003	2,079	6,325	6,215	2,189
2004	2,189	6,070	6,315	1,944

Chart 5: Investigations Concluded in 2004

Concluded by Administrator:	
Closed after initial review	1,303 (No misconduct alleged)
Closed after investigation.....	4,539
Filed at Supreme Court pursuant to Supreme Court Rules 761, 762(a), and 763	49
Concluded by Inquiry:	
Closed after panel review.....	90
Complaint or impairment petition voted	320
Closed upon completion of conditions of Rule 108 supervision	14
Total.....	6,315

B. Hearing Matters

Once an Inquiry Board panel authorizes the filing of charges, a formal complaint setting forth all allegations of misconduct pending 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 2004. There were 156 cases added to the Hearing Board's docket in 2004. Of those, 147 were initiated by the filing of a new disciplinary complaint, the highest number of new disciplinary complaints filed in a year since the ARDC was founded in 1973. New filings at Hearing have been high since 2001, and the Hearing Board had begun to develop a backlog. The Commission added funding for the staff that provide research and drafting assistance to the Hearing Board, and with the additional assistance, the Board concluded a record number of cases (170), up more than 22% over the highest number (139 in 1998) ever concluded in a single year before 2004.

Chart 6: Matters Before the Hearing Board in 2004

Cases Pending on January 1, 2004	178
New Cases Filed in 2004:	
<i>Disciplinary Complaints Filed: *</i>	
> Rules 753, 761(d).....	147
<i>Reinstatement Petitions Filed:</i>	
> Rule 767.....	3
<i>Petition for Transfer to Disability Inactive Status Filed:</i>	
> Rule 758.....	1
<i>Remanded after Supreme Court denied Rule 762 Petition</i>	3
<i>Remanded by Review Board for supplemental hearing on petition for restoration</i>	1
<i>Remanded by Review Board for a new hearing</i>	1
Total New Cases	156
Cases Concluded During 2004	170
Cases Pending December 31, 2004	164
* 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 147 lawyers who were the subject of a formal complaint in 2004.

Chart 7: Disciplinary Complaints Filed in 2004

Number of Complaints Filed in 2004 147		
Respondent's		
Years in Practice	Number of Complaints	Percentage
Less than 5 years	8	6%
Between 5 and 10 years	18	12%
10 or more years	121	82%

Charts 8 and 9 show the types of misconduct alleged in the 147 disciplinary complaints filed during 2004 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 2004

<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.....	60.....	41%	Pursuing/filing frivolous or non-meritorious claims or pleadings.....	10.....	7%
In most cases where neglect was charged, the neglect was accompanied by at least one of the following:			Misrepresentation to third persons.....	8.....	5%
Misrepresentation to client.....	35		Improper lawyer advertising/solicitation	7.....	5%
Failure to return unearned fees	22		Not abiding by client's decision or taking unauthorized action on client's behalf	6.....	4%
Failure to communicate with client	56.....	38%	Induce/assist another to violate rules	6.....	4%
Fraudulent or deceptive activity	47.....	32%	Improper communication with a party the lawyer knows to be represented by counsel.....	6.....	4%
Improper handling of trust funds.....	41.....	28%	Practice in jurisdiction not authorized	4.....	3%
Criminal conduct by the lawyer.....	33.....	22%	Failure to report criminal conviction under Rule 761(a)	4.....	3%
Conflict of interest.....	32.....	22%	Counseling/assisting client in criminal or fraudulent conduct.....	3.....	2%
Rule 1.7: concurrent conflicts.....	17		Failure to supervise employees.....	3.....	2%
Rule 1.9: successive conflicts.....	8		Failure to comply with Rule 764	3.....	2%
Rule 1.8(a)-(e): self-dealing conflicts.....	4		Aiding in the unauthorized practice of law	3.....	1%
Rule 1.8(f)-(h): improper settlement of client's claim against lawyer	3		Practice after failure to register.....	2.....	1%
False statement or failure to respond in bar admission or disciplinary matter	27.....	18%	Improper division of fees with non-lawyer	2.....	1%
Falsifying evidence or making false statements to tribunal.....	25.....	17%	Failure to maintain client confidences	2.....	1%
Failure to provide competent representation	25.....	17%	Committing/soliciting official misconduct	2.....	1%
Excessive or unauthorized fees.....	15.....	10%	Improper threat of criminal or disciplinary prosecution.....	1.....	1%
Improper withdrawal from employment without court approval or avoiding prejudice to client	11.....	7%			

*Totals exceed 147 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 2004

<i>Area of Law</i>	<i>Number of Cases</i>	<i>% of Cases Filed*</i>	<i>Area of Law</i>	<i>Number of Cases</i>	<i>% of Cases Filed*</i>
Tort.....	36	24%	Contract.....	13	9%
Criminal Conduct by Lawyer.....	28	19%	Corporate Matters.....	9	6%
Impeding Disciplinary Process.....	28	19%	Civil Rights.....	6	4%
Real Estate.....	22	15%	Immigration.....	6	4%
Workers' Comp/Labor Relations.....	21	14%	Bankruptcy.....	5	3%
Domestic Relations.....	20	14%	Tax.....	3	2%
Probate.....	14	10%	Adoption.....	2	1%
Criminal.....	14	10%	Debt Collection.....	1	1%
Personal Misconduct.....	14	10%	Local Gov't.....	1	1%

* Totals exceed 147 cases and 100% because 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 170 cases during 2004.

Chart 10: Actions Taken by Hearing Board in Matters Terminated in 2004

A. Disciplinary Cases: Rules 753 & 761(d)	
Recommendation of discipline.....	86
Cases closed by filing of petition for disbarment on consent.....	7
Cases closed by filing of petition for other discipline on consent.....	55
Cases closed by administration of a reprimand to respondent.....	7
Recommendation of dismissal/discharge.....	3
Cases closed by filing petition to transfer to disability inactive status.....	3
Cases closed by death of respondent.....	2
Total Disciplinary Cases.....	163
B. Reinstatement Petitions: Rule 767	
Petitions denied.....	1
Petitions granted.....	1
Petitions withdrawn.....	2
C. Restoration Cases: Rule 759	
Petitions withdrawn.....	1
D. Transfer to Disability Inactive Status: Rule 758	
Petitions allowed.....	1
Cases closed by filing petition to transfer to disability inactive status.....	1
Total Matters Terminated.....	170

C. Matters Filed Before the Review Board

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 2004. Consistent with the increased activity at the Hearing Board, new filings at the Review Board hit a new high. The Review Board kept pace with the increased caseload by concluding 37% more cases in 2004 (41) than in 2003 (30).

Chart 11: Trend of Matters in the Review Board in 2004

Cases pending on January 1, 2004	34
Cases filed during 2004:	
Exceptions filed by Respondent	23
Exceptions filed by Administrator	19
Exceptions filed by both	3
Total	45
Cases decided in 2004:	
Hearing Board reversed on findings and/or sanction	20
Hearing Board affirmed	8
Notice of exceptions stricken	4
Notice of exceptions withdrawn	2
Recommend remand to Hearing Board	2
Petitions for reinstatement denied	2
Cases closed by filing of petition for discipline on consent	2
Cases closed by death of respondent	1
Total	41
Cases pending December 31, 2004	38

D. Supreme Court – Disciplinary Cases

The Supreme Court has sole 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 2004, the Hearing Board administered seven reprimands (*see* Chart 10). Other than Board reprimands, the Hearing and Review Board reports are recommendations to the Supreme Court. During 2004, the Court entered 149 sanctions against 147 attorneys. (Two lawyers were disciplined twice during the year.) Consistent with the increased activity at each level of the administrative process, the number of sanction orders entered by the Court in 2004 exceeded those entered in any prior year. Chart 12 reflects the nature of the orders entered.

Chart 12: Disciplinary Sanctions Ordered by the Supreme Court in 2004

Disbarment	35
Suspension	74 *
Probation	23
Censure	13
Reprimand	4
Total	149

*In addition to the 74 suspensions, the Court also ordered 8 interim suspensions, as reported in Charts 14F and 14J.

Chart 13 provides demographic information on the 154 lawyers disciplined in 2004 (the 147 attorneys sanctioned by the Supreme Court as well as the seven attorneys who were reprimanded by the Hearing Board).

Chart 13: County of Practice

County	Number Disciplined	County	Number Disciplined
Cook	84	Will	2
Out-of-State	24	Alexander	1
Lake	9	Effingham	1
DuPage	6	Jefferson	1
McHenry	4	Kankakee	1
Winnebago	4	Madison	1
Champaign	3	Marion	1
Kane	3	Rock Island	1
DeKalb	2	Sangamon	1
LaSalle	2	St. Clair	1
Peoria	2		

Disciplinary cases reach the Court in several ways. Chart 14 reflects the actions taken by the Supreme Court in disciplinary matters in varying procedural contexts in which those matters are presented. Chart 15 tracks the type of misconduct that led to the 149 sanctions entered in 2004.

Chart 14: Orders Entered by Supreme Court in Disciplinary Cases in 2004

<p>A. <u>Motions for disbarment on consent: Rule 762(a)</u> Allowed..... 12 Denied..... 0 Total..... 12</p>	<p>E. <u>Motions to approve and confirm report of Hearing Board: Rule 753(d)(2)</u> Allowed..... 43 Denied..... 0 Total..... 43</p>
<p>B. <u>Petitions for discipline on consent: Rule 762(b)</u> Allowed: Suspended..... 31 Suspension stayed in part, probation ordered..... 12 Suspension stayed in its entirety, probation ordered..... 6 Censured..... 4 Total..... 53 Denied..... 0 Total..... 53</p>	<p>F. <u>Petitions for interim suspension due to conviction of a crime: Rule 761(b)</u> Rule enforced and lawyer suspended..... 4 Denied..... 0 Total..... 4</p>
<p>C. <u>Petitions for leave to file exceptions to report and recommendation of Review Board: Rules 753(e)(1) and 761</u> Denied, and sanctions recommended by Review Board imposed..... 15 Allowed, and more discipline imposed..... 6 Allowed..... 1 Total..... 22</p>	<p>G. <u>Petitions for reciprocal discipline: Rule 763</u> Allowed..... 17 Denied..... 0 Total..... 17</p>
<p>D. <u>Motions to approve and confirm report of Review Board: Rule 753(e)(6)</u> Allowed..... 1 Denied and less discipline imposed..... 1 Total..... 2</p>	<p>H. <u>Petitions for reinstatement: Rule 767</u> Denied..... 1 Allowed upon readmission to foreign jurisdiction..... 1 Total..... 2</p>
	<p>I. <u>Motions to revoke probation: Rule 772</u> Allowed, probation revoked/stayed and respondent suspended..... 2 Denied..... 0 Total..... 2</p>
	<p>J. <u>Petitions for interim suspension: Rule 774</u> Rule enforced and lawyer suspended..... 4 Denied..... 0 Total..... 4</p>

Chart 15: Misconduct Committed in the 156 Disciplinary Cases Decided in 2004*

Types of Misconduct	Number of Cases in Which Type of Misconduct Was Sanctioned			
	Disbarment	Suspension**	Censure	Reprimand***
Total Number of Cases:	35	97	13	11
Improper management of client or third party funds, including commingling and conversion	16	33	2	1
Neglect or lack of diligence	13	46	5	4
Fraudulent or deceptive activity	18	25	2	0
Criminal conduct by the lawyer	15	12	0	0
Failing to communicate with client, including failing to communicate basis of a fee	13	37	5	3
Failure to provide competent representation	4	16	1	1
Fee violations, including failing to refund unearned fees	6	25	0	1
Failure to cooperate with or false statement to disciplinary authority	14	21	1	2
Improper fee division with nonlawyer	0	1	1	0
Not abiding by a client's decision concerning the representation or taking unauthorized action on the client's behalf	3	3	0	1
Improper withdrawal, including failure to return file	5	12	0	0
Aiding a nonlawyer in the unauthorized practice of law	0	1	0	0
Conflict of Interest (financial assistance to client)	1	1	0	0
Conflict of interest (between current clients)	1	5	0	0
Conflict of interest (lawyer's own interests)	1	8	0	1
Conflict of interest (improper business transaction with client)	3	1	0	0
Conflict of interest (improper agreement with client to limit lawyer's liability or avoid disciplinary action)	0	3	0	0
Conflict of interest (former client)	0	2	1	0
Threatening to present criminal/disciplinary charges	0	2	0	0
Filing false, frivolous or non-meritorious claims or pleadings	4	9	2	1
Counseling/assisting a client in criminal or fraudulent conduct	0	1	0	0
Misrepresentation to a tribunal	3	9	1	0
Misrepresentation to clients to cover up neglect	5	18	3	1
Misrepresentation to third persons	0	5	0	0
Unauthorized practice in another jurisdiction	1	0	0	0
Practice after failure to register	0	1	0	0
Practice after suspension	1	4	0	0
Improper solicitation or advertising	0	3	0	0
Failure to supervise lawyer's employees	0	2	0	4
Failure to report conviction to ARDC	1	2	0	0
Improper communication with a represented person	0	3	1	1
Failure to comply with Rule 764	1	1	0	0
Improper ex parte communication with judge	0	0	1	0
Improper employment where lawyer is a witness	0	1	0	0
Breach of client confidences	0	3	0	0

* Totals exceed 156 cases because in most cases more than one type of misconduct was found.
 ** Includes suspensions stayed by probation.
 *** Includes 7 Hearing Board reprimands.

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 16 reflects the orders entered in such cases during 2004.

Chart 16: Non-Disciplinary Actions by the Supreme Court for 2004

A. Rule 759	
Petitions for restoration to active status:	
Allowed	39
Allowed with conditions	1
Withdrawn without prejudice	<u>1</u>
Total	41
B. Rule 758	
Petitions for involuntary transfer to inactive status due to mental disability or substance addiction:	
Allowed	3
Denied	<u>0</u>
Total	3
C. Rule 752	
Petitions by complainant to require Administrator to further investigate charges or expedite proceedings:	
Allowed	0
Denied	<u>28</u>
Total	28
D. Rule 383	
Motions for supervisory order:	
Allowed	0
Denied	<u>2</u>
Total	2

Chart 17: Caseload Trends: 1992-2004

	Number of Registered Attorneys	% of Growth Over Prior Year	Investigations Docketed Per Attorney	Closure By Administrator No Misconduct Alleged	Closure By Administrator After Investigation	Closure By Inquiry After Investigation	Complaint Voted By Inquiry Board
1992.....	61,107.....	3.7%.....	6,291.....	889.....	5,210.....	473.....	277
1993.....	63,328.....	3.6%.....	6,345.....	974.....	5,422.....	137.....	241
1994.....	65,163.....	2.9%.....	6,567.....	1,224.....	5,125.....	133.....	247
1995.....	67,121.....	3.0%.....	6,505.....	1,359.....	5,134.....	73.....	277
1996.....	68,819.....	2.5%.....	6,801.....	1,364.....	4,946.....	76.....	300
1997.....	70,415.....	2.3%.....	6,293.....	1,202.....	5,018.....	81.....	342
1998.....	72,149.....	2.5%.....	6,048.....	1,352.....	4,414.....	58.....	272
1999.....	73,514.....	1.9%.....	5,877.....	1,131.....	4,268.....	69.....	231
2000.....	73,661.....	0.2%.....	5,716.....	1,146.....	4,319.....	87.....	224
2001.....	74,311.....	0.9%.....	5,811.....	1,077.....	4,318.....	55.....	273
2002.....	75,421.....	1.5%.....	6,182.....	1,350.....	4,360.....	96.....	334
2003.....	76,671.....	1.7%.....	6,325.....	1,396.....	4,332.....	61.....	353
2004.....	78,101.....	1.9%.....	6,070.....	1,303.....	4,539.....	90.....	320

	Matters Filed With Hearing Board	Matters Concluded at Hearing Board	Matters Filed With Review Board	Matters Concluded at Review Board	Sanctions Ordered By Court
1992.....	122.....	134.....	37.....	24.....	89
1993.....	106.....	115.....	44.....	41.....	114
1994.....	115.....	128.....	35.....	54.....	109
1995.....	113.....	137.....	35.....	32.....	148
1996.....	129.....	82.....	22.....	37.....	115
1997.....	129.....	131.....	32.....	24.....	117
1998.....	141.....	139.....	31.....	28.....	138
1999.....	123.....	112.....	28.....	24.....	116
2000.....	119.....	116.....	29.....	32.....	120
2001.....	137.....	129.....	28.....	28.....	123
2002.....	131.....	122.....	36.....	30.....	126
2003.....	141.....	125.....	35.....	30.....	137
2004.....	156.....	170.....	45.....	41.....	149

III. Amendments to the Rules Regulating the Profession

A. Supreme Court Rule 756(e): Disclosure of Malpractice Coverage

On June 15, 2004, the Supreme Court amended its lawyer registration rule to add Rule 756(e), making it a requirement that lawyers report as part of the registration process whether they carry malpractice coverage and, if so, the dates of coverage for the policy. Under Rule 756(e), the Administrator may conduct random audits to assure the accuracy of information reported and each lawyer shall maintain, for a period of seven years from the date the coverage is reported, documentation showing the name of the insurer, the policy number, the amount of coverage and the term of the policy, and shall produce such documentation upon the Administrator's request.

To reflect the addition of Rule 756(e), the Court amended Rule 756(f) to provide that the report is a mandatory component of registration. The lawyer's report about whether he/she has malpractice coverage is provided as public information about a lawyer's registration and is displayed on the Commission website. These changes took effect for the 2005 registration year.

B. Supreme Court Rule 766(a): Confidentiality of Trust Account Report and Commission Deliberations and Minutes

Pursuant to amendment effective January 1, 2005, information concerning trust accounts provided by lawyers as part of the annual registration pursuant to Rule 756(d) is deemed private and confidential under Rule 766(a)(10). Also, under Rule 766(a)(8) deliberations of the Commission and minutes of Commission meetings are deemed private and confidential.

C. Supreme Court Rule 714(g): Continuing Legal Education for Capital Litigation Trial Bar

Effective January 1, 2005, continuing legal education requirements were added for

maintaining admission to the Capital Litigation Trial Bar. Under Rule 714(g), a lawyer must take at least 12 hours of training in the preparation and trial of capital cases in a course approved by the Supreme Court within each two-year period following admission to that bar. The Supreme Court may remove from the roster of the Capital Litigation Trial Bar any attorney who, in the court's judgment, has not provided ethical, competent, and thorough representation. In addition, the court may suspend or remove from the Capital Litigation Trial Bar roster any attorney who has failed to meet the continuing legal education requirements of paragraph (g).

D. Commission Rule 402: Content of Reinstatement Petition

Amended effective April 15, 2004, the Commission amended Commission Rule 402(17), to require a petitioner seeking reinstatement to include a statement of the petitioner's reimbursement to the Disciplinary Fund for any Client Protection payments made as a result of the petitioner's dishonest conduct as required by Supreme Court Rule 780(e).

IV. Commission Programs

A. Commission Web Site

In October 2004, the Commission launched a searchable database of disciplinary decisions on the Commission web site (www.iardc.org). The web site also includes the Master Roll of Attorneys in Illinois, which enables the user to search the Master Roll for certain basic public registration information, including business address, and public disciplinary information about Illinois lawyers. The web site averages over 40,000 visitors per month.

B. Ethics Inquiry Program

The Commission's Ethics Inquiry Program is a telephone inquiry service that allows Illinois attorneys to call for help in resolving hypothetical ethical dilemmas. To make an inquiry, please call the Commission offices in Chicago (312-565-2600) or Springfield (217-522-6838). Additional information about the program can be obtained at (www.iardc.org).

C. Client Protection Program

In order to better protect the public, the Supreme Court of Illinois created the Client Protection Program (CPP) in 1994 to reimburse clients who lose money as a result of the dishonest conduct of a lawyer. Supreme Court Rule 780 directed the ARDC to administer the program and to pay claims with sums allocated from the disciplinary fund. The program is financed by the annual registration fees that Illinois lawyers pay pursuant to Supreme Court Rule 756.

Prior to the establishment of the CPP, the Chicago and Illinois State Bar Associations compensated fraud victims through an indemnity fund that relied solely upon voluntary contributions. The earlier program had significant fiscal problems due to inadequate funding. During 1992, for example, the bar associations awarded a total of \$10,487. Only 10 claims were accepted for payment that year.¹

The formation of the CPP made an immediate and extensive change from the prior system of victim reimbursement, and the program has made great strides toward restoring faith in the legal profession by the profession's willingness to provide recourse in those unfortunate instances when clients lose money due to dishonest conduct by their lawyers. In the eleven years since the program began, the CPP has received more than 2,300 claims, and has awarded a total \$3,897,071 to reimburse 1,016 victims. This has resulted in average annual awards of \$354,279 paid to an average of 92 claimants per year. One of the more poignant claims occurred in 2002, when the CPP paid the funeral expenses of an elderly nursing home resident who was otherwise going to be buried as a pauper after her lawyer converted her entire estate of over \$400,000.

CPP claims will only be considered if the lawyer whose conduct led to the claim has been sanctioned for misconduct or has died. Although the greatest percentage of claims involve matters

where a lawyer has taken a fee advance and then refused or failed to perform the promised services or to refund the fees not earned, the largest claims in terms of dollars involve theft of client funds. Particularly for the theft based claims, great amounts of client losses are not reimbursed due to the caps set by the Commission limiting claim payments. For the first nine years of the program, the maximum claim limit was \$10,000. In addition, beginning in 1998, the Commission placed a \$100,000 aggregate cap on claims arising from the conduct of any one lawyer as a means of managing resources that were insufficient to meet the claims volume. In April 2003, the Commission raised the maximum claim limit to \$25,000 and the aggregate per-lawyer award limit to \$250,000, recognizing that the \$10,000/\$100,000 limits were among the lowest in the nation and too severely restricted the reimbursements that the program could allow to claimants who were most affected by the dishonest conduct of disciplined attorneys.

Even with the higher caps, many theft related losses are reimbursed at minimal levels. As examples, during 2003 and 2004, the CPP paid \$175,936 in claims involving the late Richard L. Bernardi, the largest payout of claims for any one lawyer. Nevertheless, total eligible losses incurred by Bernardi's clients were more than \$670,000, so that more than \$498,000 of those losses were not reimbursed. One of the claims involved Bernardi's theft of \$120,000 from a trust account created for the benefit of a disabled adult, who was awarded \$25,000 in reimbursement of that loss. In 2004, the CPP paid \$108,281 on ten claims involving disbarred lawyer Guy J. Bacci III. One of the claims involved Bacci's unauthorized settlement of a personal injury case and his misappropriation of almost \$800,000 in settlement proceeds from an elderly couple who were awarded \$50,000 in reimbursement of that loss.

In addition to the caps, the Commission reduced payments to all claimants reimbursed in 2003 and 2004 because the sum of all capped amounts ruled eligible for payment during those years exceeded the amount of funding the Commission had budgeted for each year. Thus the 24 awards approved in December 2003 were

1 Truppa, Mike. "Client Fund Broke; Board Mulls Forced Contributions," *Chicago Daily Law Bulletin*, (December 11, 1992).

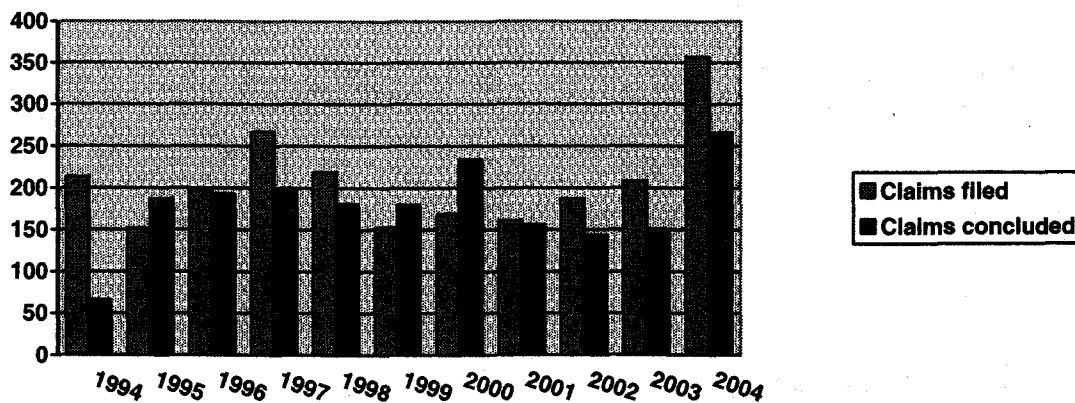
each reduced by 12%, the percentage of the insufficiency in funding. Although the Commission had budgeted additional funding for 2004, the claims that came through exceeded estimates by about 20%, and all approved claims were paid at slightly less than 80% of the amount that would otherwise have been reimbursed. Thus, if a client had been defrauded of \$10,000, only \$7,979 was awarded to that

victim in 2004.

All told, over the life of the program, the caps and the prorations for 2003 and 2004 have resulted in more than \$19,000,000 in otherwise eligible claims not being paid. The following chart shows the awards paid for each of the past eleven years, as well as the eligible losses that have not been reimbursed.

Year	Awards Paid	Unreimbursed Losses
1994	\$162,111	\$185,748
1995	\$453,780	\$2,549,300
1996	\$504,619	\$1,299,867
1997	\$321,628	\$787,000
1998	\$257,682	\$1,049,152
1999	\$397,583	\$972,661
2000	\$218,880	\$6,570,731 ²
2001	\$266,419	\$393,657
2002	\$215,564	\$707,000
2003	\$477,595	\$1,446,583
2004	\$617,772	\$3,413,793

Pressure on the program continues. The number of claims filed during the year spiked to a record high in 2004, when 357 matters were filed, 141 of which were investigated, ruled upon and either denied



or paid during the year. Staffing for the program (one lawyer and paralegal) has remained consistent

² More than \$6 million in losses were attributable to one lawyer, Anthony Gail Cappetta, who had convinced many clients to allow him to invest their savings, only to learn upon his death that he had spent all the money. The \$100,000 aggregate capped award was divided among 74 claimants in proportion to their losses.

since 1994, while the workload has increased almost fourfold over that time. The following chart tracks the claims filed and concluded from 1994 through 2004.

The Commission is studying options for enhancing the viability of the Client Protection Program, recognizing that Illinois is not in the national forefront in terms of indemnifying clients for lawyer theft. Our \$25,000 claim cap is only half that of the national average, and none of the sixteen other jurisdictions with caps at \$25,000 or less are among the states with substantial lawyer populations. Among the ten jurisdictions with the largest lawyer populations, Illinois has the lowest claim limit, and many of the large jurisdictions pay awards substantially beyond those paid in Illinois.

Jurisdiction	Number of Claims	Claim Limit	Total Claims Paid (2004)	Average Claim Paid (2004)
New York	207,413	\$300,000	\$5,700,000	\$6,400,000
California	192,656	\$50,000	\$5,859,620	\$3,640,050
Pennsylvania	89,960	\$75,000	\$2,539,984	\$1,692,730
Texas	83,911	\$30,000	\$250,939	\$380,840
Illinois	79,682	\$25,000	\$499,810	\$301,266
District of Columbia ⁷	78,879	\$75,000	\$12,200	\$99,884
New Jersey	78,862	\$250,000	\$2,638,349	\$2,242,573
Massachusetts	74,542	None	\$1,054,477	\$2,276,026
Florida	74,328	\$50,000	\$352,702	\$1,034,896
Ohio	52,541	\$75,000	\$1,006,729	\$793,923

In particular, the Commission is studying different funding constructs. Many states fund their programs by special assessments or designated set-asides from annual registration fees. Those jurisdictions avoid the conflict Illinois has experienced under our present system. Particularly in recent years of economic recession, the Commission has experienced increasing disciplinary caseloads accompanied by increasing Client Protection claims. The present funding mechanism of diverting a sum from the disciplinary budget each year pits the needs of the discipline system against the demands on the Client Protection Program, whereas the ultimate goal of public protection requires that the discipline system operate at peak during times when CPP claims peak. That goal has been particularly difficult to achieve in times when economies of practice appear to have prompted more lawyers to leave the rolls (*see* Registration Report at p. 1), depressing fee revenues (*see* Financial Report at p. 21).

The Commission has no doubt that a viable Client Protection Program is a critical component in not only serving the goal of public protection, but also working toward improving the image of the legal profession in this state. Few other professions are willing to reimburse members of the public for the monetary wrongs and defalcations of their members. Over the years, the CPP has received numerous letters of thanks from people who had been injured by acts of lawyer misconduct. A common theme of

3 Source: "International Survey of Attorney Licensing Fees," *Office of Attorney Ethics of New Jersey* (July 2004).

4 Amon, Elizabeth, "Client Funds Improved, Still Flawed," *National Law Journal* (September 27, 2004).

5 *Ibid.*

6 "Survey of Lawyers' Funds for Client Protection, 1999-2001," *American Bar Association*.

7 The District of Columbia lawyer population differs from that of most states, comprised overwhelmingly of lawyers who work for government or who office elsewhere. DC averages only 24 client protection claims per year.

these letters is exemplified by the following passage: "The work of the ARDC helps to restore trust in the legal profession. Please accept our thanks and appreciation. It is unfortunate that the impropriety of one member can damage the entire profession."

The Commission will study the options most carefully over the next year and make a report to the Court upon reaching any conclusions.

Charts 18 and 19 show additional information about 2004 claims and comparative data for the previous three years.

Chart 18: Summary of Approved Claims

	2001	2002	2003	2004
New Claims submitted:	161	187	208	357
Claims Concluded:				
• denials	88	87	81	113
• approvals	73	57	70	153
Number of lawyers: (approved claims)	31	31	31	40

Chart 19: Classification of Approved Client Protection Claims in 2004

<i>Type of Misconduct:</i>	
Fees dishonestly withheld	101
Conversion	48
Fraud	4
<i>Area of Law</i>	
Bankruptcy	27
Immigration	27
Tort/Workers' Comp.	27
Family Law	18
Probate/Trusts	11
Contract	11
Real Estate	10
Criminal	6
Labor Employment	6
Corporate	4
Debt Collection	3
Investment	2
Tax	1

D. Education

1. Illinois Professional Responsibility Institute: Professionalism Seminar

Since November 1996, the Commission has sponsored a seminar on law office management issues and 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. Any attorney interested in learning more about the *Professionalism Seminar*, may call the Commission in Chicago at 312-565-2600, or consult the Commission web site at www.iardc.org.

2. Speeches and Presentations

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.

V. Financial Report

The Commission engaged the services of Legacy Professionals 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, 2004, also showing comparative data from the 2003 audited statements, are attached. In addition, a four-year summary of revenues and expenditures as reported in this and prior audited statements appears after the text in this section.

The financial trends discussed in the 2003 Annual Report continued through 2004. Revenues continued to be impacted by the larger numbers of lawyers who left the fee-paying rolls since 2000 and by low interest rates, while increasing caseload activity drove expenditures. Nevertheless, in certain respects, those trends are showing signs of abating.

In particular, the number of lawyers removed from the Master Roll due to failure to register, death, retirement or discipline which peaked in 2000 at 2,401 (after averaging 1,150 for the prior five years) has shown a steady decline since 2000, and in 2004 dropped back toward historic levels at 1,256. (See Chart A, p. 1, supra) The number of lawyers removed from the rolls impacts revenues more directly than the number of lawyers admitted each year since newly admitted lawyers pay no fee during their first full year in practice and pay a reduced fee for the next two years, whereas most lawyers removed had previously paid full fees. From 1989 through 1999 (while all fee categories and amounts remained exactly the same), fee revenues increased on average 3.07% per year. In contrast, since 2001, when the present fee amounts (\$180 for active lawyers admitted three years or more, \$90 for active lawyers admitted between one and three years)⁸ became effective, fee revenues have increased on average only 1.3% per year. (See four-year summary, below at page 22.) The increases were .85% for 2002 (when the addition of the LAP and Lawyers Trust Fund assessments prompted many active lawyers to transfer to inactive or retired status), 1.6% for 2003, and 1.5% for 2004. In that the figures for new admissions remained relatively steady, it was the increase in lawyers leaving the rolls or transferring to a non-fee or lesser fee status that depressed fee revenue.

The registration experience since 2001 was compounded by low interest income, with losses in interest income offsetting the minimal increase in fee revenues for 2002 and 2003. As a result, total Commission revenues for those years actually declined from total revenues for the prior years. (See four-year summary, below at page 22.) 2004 finally produced a 2.2% increase in total revenues over 2003, through a combination of the 1.5% increase in fee revenue, a \$6,616 increase in interest income, and an increase of \$70,890 in the collection of reimbursements for costs incurred in disciplinary cases and for claims paid by the Client Protection Program.

In 2000, when the Commission sought the Court's approval of the fee increase that was implemented in 2001, the Commission had projected both revenues and expenditures based upon its experience since 1989. As is apparent from the above discussion, the actual experience since 2000 in terms of revenues has been quite different from what was projected, and the impact of lesser fee revenues and interest income has compounded each year. For 2002, actual revenues were 3.5% below what had been projected, for 2003, 7.2% below projections, and for 2004, 7.9% below projections. Actual revenues for the four years beginning 2001 through 2004 have fallen almost \$2.9 million under what had been projected for the four years.

The recessionary trends that depressed revenues increased pressure on resources, with steadily increasing caseload demands and Client Protection claims driving the Commission's decisions on funding

⁸ Additional assessments for LAP and the Lawyers Trust Fund to be paid by active lawyers admitted more than three years were added in 2002, but the amounts collected pursuant to those assessments are passed on to those entities and are not included in ARDC revenues.

for each of the last four years. Nevertheless, the Commission held expenditures to slightly under those that had been predicted when the fee proposal was submitted in 2000. In 2004, the pressure peaked with a record number of formal complaints filed (*see* Charts 6 and 17, at pgs. 8 and 15), a record number of matters concluded by the Hearing Board (*see* Charts 10 and 17, at pg. 10 and 15), a record number of matters filed at the Review Board (*see* Charts 11 and 17, at pgs. 11 and 15), a record number of sanction orders entered by the Court (*see* Charts 12 and 17, at pgs. 11 and 15), and record numbers of new Client Protection claims filed and amounts awarded (*see* charts at pgs. 18 and 20). Nevertheless, for the first year since 2000, the number of new investigative files docketed during the year dropped (*see* Chart 1, at p. 5), which may signal an easing of caseload growth at the formal levels where most of the budgetary impact is felt.

In terms of other funding sources, the impact of Supreme Court Rule 716 providing for limited licenses and annual registration for in-house counsel has not yet been realized. The Rule, adopted February 11, 2004, gives out-of-state lawyers serving as in-house counsel to entities in Illinois until July 1, 2005 to secure the limited license to practice and register in Illinois. To date, only 91 lawyers have obtained the license and registered ahead of the deadline. As another potential funding source, the Commission recently submitted to the Court a proposal to amend Supreme Court Rule 707 to, *inter alia*, require out-of-state lawyers seeking leave to appear *pro hac vice* to pay a fee for each appearance. Based upon the experience of other states, the Commission estimates that, if adopted as proposed, the Rule might produce about \$500,000 in annual revenues.

The financial projections from 2000 had suggested that the present fee structure would support Commission operations through 2008. Projections incorporating the actual experience since 2000 indicate that the present fee will support operations only through 2006. The Commission is presently studying recommendations it will submit to address funding of operations thereafter.

Four-Year Summary of Operations

	2004	2003	2002	2001
Revenue				
Registration fees and delinquent charges	\$11,897,576	\$11,716,104	\$11,531,261	\$11,434,636
Investment income				
Interest	281,816	272,336	492,902	802,206
Net unrealized (depreciation) of investments	(86,014)	(83,150)	(74,221)	36,530
Costs reimbursements collected	106,223	65,374	131,012	49,704
Client protection reimbursements	30,041	-	-	-
Miscellaneous	-	1,293	23,955	3,162
Total revenue	<u>12,229,642</u>	<u>11,971,957</u>	<u>12,104,909</u>	<u>12,326,238</u>
Expenditures				
Salaries and related costs	8,522,136	8,042,551	7,554,563	7,054,656
Travel expenses	96,862	105,250	92,122	95,217
Library and continuing education	179,152	173,191	166,361	155,324
General expenses and office support	1,953,849	1,815,962	1,827,255	1,748,924
Computer expense	137,304	153,814	173,993	199,360
Other professional and case-related expenses	967,780	942,123	903,775	783,260
Client protection program payments	617,772	477,595	215,566	266,419
Depreciation and amortization expense	198,430	180,641	197,166	348,996
Total expenditures	<u>12,673,285</u>	<u>11,891,127</u>	<u>11,130,801</u>	<u>10,652,156</u>
Increase (decrease) in net assets	(443,643)	80,830	974,108	1,674,082
Unrestricted net assets				
Beginning of year	<u>5,912,373</u>	<u>5,831,543</u>	<u>4,857,435</u>	<u>3,183,353</u>
End of year	<u>\$5,468,730</u>	<u>\$5,912,373</u>	<u>\$4,831,543</u>	<u>\$4,857,435</u>

REPORT OF INDEPENDENT AUDITORS

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

We have audited the accompanying statement of financial position of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (the Commission) as of December 31, 2004 and the related statements of activities and of 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. The financial statements of Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 2003 were audited by other auditors, whose report dated January 30, 2004 expressed an unqualified opinion on those statements.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform an 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 the Commission's 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 Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois as of December 31, 2004 and the changes in net assets and cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Legacy Professionals LLP

February 16, 2005

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**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS**

STATEMENTS OF FINANCIAL POSITION

DECEMBER 31, 2004 AND 2003

	2004	2003
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 76,289	\$ 264,233
Short-term investments	19,460,586	18,530,050
Accrued interest receivable	42,546	36,826
Accounts receivable	5,695	2,007
Prepaid expenses and other assets	93,987	66,534
Total current assets	19,679,103	18,899,650
PROPERTY AND EQUIPMENT - net	549,026	510,182
LONG-TERM INVESTMENTS	329,841	589,906
Total assets	\$ 20,557,970	\$ 19,999,738
LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES		
Accounts payable and other accruals	\$ 758,239	\$ 362,271
Amounts held for others	1,070,801	965,808
Accrued vacation	271,969	255,942
Deferred registration fees	9,550,170	9,213,334
Deposits	7,728	10,118
Total current liabilities	11,659,907	10,807,473
LONG-TERM LIABILITIES		
Accrued Medicare replacement funding	1,239,665	1,122,007
Deferred rent expense	2,190,668	2,157,885
Total long-term liabilities	3,430,333	3,279,892
Total liabilities	15,089,240	14,087,365
UNRESTRICTED NET ASSETS	5,468,730	5,912,373
Total liabilities and net assets	\$ 20,557,970	\$ 19,999,738

See accompanying notes to financial statements.

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**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS**

STATEMENTS OF ACTIVITIES

YEARS ENDED DECEMBER 31, 2004 AND 2003

	2004	2003
REVENUE		
Registration fees and delinquent charges	\$ 11,897,576	\$ 11,716,104
Investment income		
Interest	281,816	272,336
Net unrealized (depreciation) of investments	(86,014)	(83,150)
Total investment income	195,802	189,186
Cost reimbursements collected	106,223	65,374
Client protection reimbursements	30,041	-
Miscellaneous	-	1,293
Total revenue	12,329,642	11,971,957
EXPENDITURES		
Salaries and related expenses	8,522,136	8,042,551
Travel expenses	96,862	105,250
Library and continuing education	179,152	173,191
General expenses and office support	1,953,849	1,815,962
Computer expenses	137,304	153,814
Other professional and case-related expenses	967,780	942,123
Client protection program payments	617,772	477,595
Depreciation and amortization expense	198,430	180,641
Total expenditures	12,673,285	11,891,127
CHANGE IN NET ASSETS	(443,643)	80,830
UNRESTRICTED NET ASSETS		
Beginning of year	\$ 5,912,373	\$ 5,831,543
End of year	\$ 5,468,730	\$ 5,912,373

See accompanying notes to financial statements.

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**ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ILLINOIS**

STATEMENTS OF CASH FLOWS

YEARS ENDED DECEMBER 31, 2004 AND 2003

	2004	2003
CASH FLOWS FROM OPERATING ACTIVITIES		
Change in net assets	\$ (443,643)	\$ 80,830
Adjustments to reconcile increase (decrease) in net assets to net cash provided by (used in) operating activities		
Net unrealized depreciation of investments	86,014	83,150
Depreciation and amortization expense	198,430	180,641
Investment security amortization	(69,072)	201,193
(Increase) decrease in assets		
Accounts receivable and accrued interest receivable	(9,408)	113,513
Prepaid expenses and other assets	(27,453)	506
Increase (decrease) in liabilities		
Accounts payable and other accruals	395,968	144,703
Amounts held for others	104,993	30,845
Accrued vacation	16,027	30,673
Deferred registration fees	336,836	306,294
Accrued Medicare replacement funding	117,658	117,839
Deferred rent expense	32,783	(201,317)
Net cash provided by operating activities	739,133	1,088,870
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of investment securities	(27,610,253)	(17,757,481)
Maturities of investment securities	26,922,840	17,166,078
Acquisitions of property and equipment	(237,274)	(290,217)
Net cash (used in) investing activities	(924,687)	(881,620)
CASH FLOWS FROM FINANCING ACTIVITIES		
Increase (decrease) in deposits	(2,390)	521
CHANGE IN CASH AND CASH EQUIVALENTS	(187,944)	207,771
CASH AND CASH EQUIVALENTS		
Beginning of year	264,233	56,462
End of year	\$ 76,289	\$ 264,233

See accompanying notes to financial statements.

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NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2004 AND 2003

NOTE 1. GENERAL PURPOSE DESCRIPTION

The Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (Commission) was appointed by the Illinois Supreme Court (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 (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.

Recent amendments to those rules and additional significant rules of the Court impacting the Commission's operations are as follows:

- Rule 756, as amended effective October 4, 2002, increased the annual registration fees for active lawyers licensed to practice law for three years or more from \$180 to \$229. As amended, the Rule provides that \$7 of the increase is to be remitted to the Lawyers Assistance Program Fund, and \$42 of the increase is to be remitted to the Lawyers Trust Fund. Rule 751(e)(6) was also amended at the same time to add the duty to collect the above fees and remit them to the respective entities to the description of the Commission's duties.
- Rule 773, as amended, provides that an attorney-respondent has a duty to pay certain costs associated with the disciplinary proceedings against the attorney-respondent, including witness fees, court-reporting expenses, expert fees and document duplication fees. Effective November 1, 2000, the Commission is limited to collection of \$1,000 for cost reimbursements, absent exceptional circumstances (see Note 3).
- 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.

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NOTE 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation - The financial statements are presented in accordance with Statement of Financial Accounting Standard No. 117, "Financial Statements of Not-for-Profit Organizations," which requires the Commission to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets and permanently restricted net assets. The Commission does not have any temporarily restricted or permanently restricted net assets.

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.

Accounts Receivable - Cost Reimbursements and Client Protection Program Reimbursements - The Commission fully reserves reimbursements owed by attorneys under the cost reimbursement program and Client Protection Program. Whether the Commission can fully collect all reimbursements is dependent upon each identified attorney's ability to pay and the current economic environment. Therefore, the Commission records these reimbursements as revenue under the cost recovery method when the reimbursements are received.

Property and Equipment - Property and equipment are stated at cost. Major additions are capitalized while replacements, maintenance and repairs which do not improve or extend the lives of the respective assets are expensed currently. 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 income. Leasehold improvements are amortized over the shorter of their estimated useful lives or the remaining lease period.

The estimated useful lives of the property and equipment are as follows:

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

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. For U.S. Treasury bills, the difference between the cost and fair value is recorded as interest income.

Amounts Held for Others - Amounts held for others at December 31, 2004 and 2003 consist of funds collected for the Lawyers Assistance Program of \$152,881 and \$137,944 and the Lawyers Trust Fund of \$917,920 and \$827,864 respectively, which were remitted subsequent to year end. Amounts collected for Lawyers Assistance Program for the years ending December 31, 2004 and 2003 were \$425,024 and \$417,179 respectively. Amounts collected for Lawyers Trust Fund for the years ending December 31, 2004 and 2003 were \$2,551,476 and \$2,501,518 respectively.

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NOTE 2. 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 before November 1 and is due January 1. Deferred registration fees represent the fees for next year received in the current year.

Deposits - Portions of these funds are the reinstatement deposits that accompany the petition of any attorney who is filing for reinstatement under rule 767. The amount the attorney actually owes will be assessed at the conclusion of the proceedings. Reinstatement deposits held at December 31, 2004 and 2003 are \$3,000 and \$5,500 respectively. The remaining deposits consist of funds owed by an attorney, who has been the subject of a disciplinary proceeding or who is in receivership, to the attorney's former clients who have not been located. At December 31, 2004 and 2003, the amounts held are \$4,728 and \$4,618 respectively.

Deferred Rent Expense - Deferred rent expense consists of a combination of "free rent" and past and future lease incentive payments from the landlord. The Commission is recognizing operating lease expense on the straight-line basis over the term of the lease.

Income Taxes - The Internal Revenue Service has determined that the Commission is exempt from Federal income taxes as an instrumentality of the State of Illinois.

Use of Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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.

Concentrations of Risk - The Commission places its cash with financial institutions deemed to be creditworthy. Cash balances may at times exceed federally insured deposit limits.

Functional Allocation of Expenses - The Commission has allocated certain administrative expenses, such as salary costs, among the various programs benefited. These allocations have been based on management's estimate of time incurred on these programs or other reasonable and consistent methodology.

NOTE 3. COST REIMBURSEMENTS

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. The Commission is limited to \$1,000 in cost reimbursement for each disciplined attorney, absent exceptional circumstances. During the years ended December 31, 2004 and 2003, the Commission regularly sought entry of judgments by the Court with interest at the rate charged by the State of Illinois for all invoices not paid within 30 days of the initial billing. This interest rate was 9% for both 2004 and 2003. The Commission has also established payment plans for disciplined attorneys.

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NOTE 4. FUNCTIONAL EXPENSES BY NATURAL CLASSIFICATION

An analysis of the Commission's functional expenses, by natural classification, is as follows for the years ended December 31, 2004 and 2003:

	2004			
	Registration and Discipline	Client Protection	Administration and Support	Total
Salaries and related expenses	\$ 6,987,920	\$ 198,237	\$ 1,335,979	\$ 8,522,136
Travel expenses	74,550	1,056	21,256	96,862
Library and continuing education	146,128	4,128	28,896	179,152
General expenses and office support	1,606,396	43,429	304,024	1,953,849
Computer expenses	111,994	3,163	22,147	137,304
Other professional and case-related expenses	911,138	2,782	53,860	967,780
Client protection program payments	-	617,772	-	617,772
Depreciation and amortization expenses	161,853	4,572	32,005	198,430
Total expenditures	\$ 9,999,979	\$ 875,139	\$ 1,798,167	\$ 12,673,285

	2003			
	Registration and Discipline	Client Protection	Administration and Support	Total
Salaries and related expenses	\$ 6,624,921	\$ 163,487	\$ 1,254,143	\$ 8,042,551
Travel expenses	76,488	1,004	27,758	105,250
Library and continuing education	141,418	3,251	28,522	173,191
General expenses and office support	1,496,075	32,810	287,077	1,815,962
Computer expenses	125,650	2,889	25,275	153,814
Other professional and case-related expenses	912,528	10,080	19,515	942,123
Client protection program payments	-	477,595	-	477,595
Depreciation and amortization expenses	147,566	3,392	29,683	180,641
Total expenditures	\$ 9,524,646	\$ 694,508	\$ 1,671,973	\$ 11,891,127

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NOTE 5. INVESTMENTS

Investments consist of the following:

	2004		2003	
	Cost	Fair Value	Cost	Fair Value
U.S. Treasury notes and bills	\$ 17,352,165	\$ 17,374,475	\$ 16,010,249	\$ 16,026,174
Money market funds	<u>2,415,952</u>	<u>2,415,952</u>	<u>3,093,782</u>	<u>3,093,782</u>
Total	<u>\$ 19,768,117</u>	<u>\$ 19,790,427</u>	<u>\$ 19,104,031</u>	<u>\$ 19,119,956</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 for the years ended December 31, 2004 and 2003:

	2004		2003	
	Cost	Fair Value	Cost	Fair Value
Due on demand or in one year or less	\$ 19,459,580	\$ 19,460,586	\$ 18,556,228	\$ 18,530,050
Due after one year to five years	<u>175,328</u>	<u>186,719</u>	<u>414,594</u>	<u>444,143</u>
Due after five years	<u>133,209</u>	<u>143,122</u>	<u>133,209</u>	<u>145,763</u>
Total	<u>\$ 19,768,117</u>	<u>\$ 19,790,427</u>	<u>\$ 19,104,031</u>	<u>\$ 19,119,956</u>

NOTE 6. PROPERTY AND EQUIPMENT

Property and equipment consist of the following:

	2004	2003
Office furniture and equipment	\$ 1,315,002	\$ 1,612,674
Computer and related equipment	706,881	752,581
Library	56,682	53,704
Leasehold improvements	<u>316,081</u>	<u>197,693</u>
	2,394,646	2,616,652
Less accumulated depreciation and amortization	<u>(1,845,620)</u>	<u>(2,106,470)</u>
Property and equipment - net	<u>\$ 549,026</u>	<u>\$ 510,182</u>

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NOTE 7. LEASE AND MAINTENANCE COMMITMENTS

The Commission leases its Chicago and Springfield offices under operating lease agreements. The Chicago office lease, began in May 1993, was amended in December 2003 and expires in May 2015. This lease provides for a minimum annual base rent plus related taxes and operating expenses. In addition, the lease provided 32 months "free rent" with the first rent payment made on January 1, 1996. Under the terms of the amendment, base rent was reduced from December 2003 through May 2008, and the landlord will provide certain rent concessions that will be available during the period from June 2008 to May 2009.

The Springfield office lease, which began in November 2002, has a term of 10 years and provides for a minimum annual rent. The lease gives the Commission the option to renew the lease for another five-year period.

Rent expense under all lease agreements was \$1,227,681 in 2004 and \$1,057,305 in 2003.

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

Year ending December 31,	Springfield	Chicago	Total
2005	\$ 85,872	\$ 1,112,995	\$ 1,198,867
2006	87,315	1,147,930	1,235,245
2007	87,603	1,184,199	1,271,802
2008	89,046	1,138,709	1,227,755
2009	89,333	1,200,739	1,290,072
Remaining	<u>258,937</u>	<u>8,110,228</u>	<u>8,369,165</u>
	<u>\$ 698,106</u>	<u>\$ 13,894,800</u>	<u>\$ 14,592,906</u>

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NOTE 8. 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 Commission employees were ineligible for benefits.

Previously, the Commission had committed to pay the future cost of Medicare premiums for former employees who were employed by the Commission and met certain criteria 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 and supplemental health benefits for retirees.

The Commission engages the services of an actuary to compute the liability every other year.

A summary of actuarial assumptions and methods as of the last measurement date is as follows:

Measurement date	January 1, 2003
Actuarial cost method	Projected unit credit method
Actuarial assumptions	Mortality - 1983 GAM Discount rate - 6.5% Expected return on assets - 6.5% Retirement will occur between age 55 and 65

Actuarial valuation:

Net periodic postretirement benefit cost:	
Service cost	\$ 56,358
Interest cost	68,177
Expected return	(66,621)
Expected benefit payments	<u>(6,877)</u>
	<u>\$ 51,037</u>

Accumulated postretirement benefit obligations:

Benefit obligation, January 1, 2004:	\$ 1,122,007
Service cost	56,358
Interest cost	68,177
Benefits paid	<u>(6,877)</u>
Benefit obligation, December 31, 2004	<u>\$ 1,239,665</u>

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NOTE 8. MEDICARE REPLACEMENT RESERVE TRUST (CONTINUED)

The accrued Medicare replacement funding liability at December 31, 2004 represents:

Actuarially determined benefit obligation at December 31, 2003	\$ 1,122,007
Benefit expense for the year ended December 31, 2004	<u>117,638</u>
Estimated benefit obligation at December 31, 2004	<u>\$ 1,239,665</u>

The Commission maintains a separate trust for the Medicare replacement reserve. The trust fund assets are included in the Commission's investments (see Note 5). The trust fund assets at fair value for the years ended December 31, 2004 and 2003 are as follows:

	2004	2003
U.S. Treasury notes and bills	\$ 754,590	\$ 993,844
Money market account	440,560	117,050
Accrued interest receivable	<u>6,894</u>	<u>6,804</u>
	<u>\$ 1,202,044</u>	<u>\$ 1,119,698</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 9. 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 8, the Commission enhanced employees' retirement benefits. Employee contributions are not permitted under the plan's provisions. The Commission contributes 18% of compensation for eligible employees, which totaled \$1,129,707 in 2004 and \$1,061,651 in 2003. The Commission also pays the plan's administrative expenses, which totaled \$88,538 in 2004 and \$99,313 in 2003.

NOTE 10. LITIGATION

Various complaints and actions have been filed against the Commission. At December 31, 2004, the Commission believes that pending matters do not present any serious prospect of negative financial consequences.

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