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OFFICE OF
APPELLATE COURTS

ANNUAL REPORT OF THE
LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

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ANNUAL REPORT OF THE
OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY

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I. INTRODUCTION AND HIGHLIGHTS

The Lawyers Professional Responsibility Board and the Director of the Office of Lawyers Professional Responsibility are required to report annually on the operation of the professional responsibility system in Minnesota. Rules on Lawyers Professional Responsibility 4(c) and 5(b). The reports are hereby jointly made for the period June 1, 2001, through May 31, 2002.

Changes to the Board

This year the Supreme Court filled two attorney positions and one public member position, after several members of the Board completed their terms. The two new attorney members are Richard A. Beens from Minneapolis and Kenneth R. White from Mankato. The new public member is Wallace Neal from Bloomington. Attached at A. 1 is a short biographical sketch of current Board members.

In addition, there were three new appointments to the Executive Committee, including a new Vice Chair, Regina M. Chu of Minneapolis; a new attorney member, E. George Widseth of Minneapolis; and a new public member, Patty Murto of Duluth.

Lowest Number of Complaints in Thirteen Years

When the statistics were compiled for the year 2001, the members of the Office and the Board were pleased to note that the number of complaints received in 2001 was the lowest total since 1988. This is particularly impressive given that there are approximately 30 percent more attorneys with active licenses in 2001 than there were in 1988. (To put it another way, in 1988 there was one complaint per 14 active licensed attorneys. In 1994, the year that the most complaints were received by the Office, there was one complaint per 13 active licensed attorneys. In 2001, there was one complaint per 19 active licensed attorneys.) This shows substantial progress in educating the bar and in reducing the number of complaints received by the Office. (See A. 2, 3 and 4.) One disturbing trend, however, is that several

respondents have become increasingly litigious, leveling personal attacks on members of the Board and the Office and using resources that could otherwise be better allocated. The Board and the Office will be keeping a close watch on this development.

At the same time, the number of advisory opinions given by the Office has increased substantially over the years, and in 2001 reached an all-time high. The number of opinions has almost doubled over the past 13 years, while the number of complaints has declined. The Office intends to continue to improve and expand the issuance of advisory opinions as a service to the organized bar. The existence of the program has become more widely known among lawyers and the decline in complaints appears to be attributable in part to the success of the program.

Office Move

In September of 2001, the office of State Court Administration notified the Office of Lawyers Professional Responsibility that the space occupied by the Office since 1994 was needed for expansion and that the Office would need to find new office facilities by the end of 2002.

Consequently, the Director, the First Assistant Director, and the Office Administrator have been very busy in working with the real estate division of the Department of Administration in finding new space for the Office. Although a lease has not been signed as of this date, it appears likely that the Office will be moving to downtown St. Paul. The Office will keep its courtroom in the Minnesota Judicial Center and will continue to be on the Court computer network.

Fall Seminar

On September 10, 2001, the Office and the Board conducted the annual seminar in a new location and with a unique program. The seminar, held at the offices of the Minnesota State Bar Association in Minneapolis, focused on the recommended changes to the Rules of Professional Conduct that resulted from the

deliberations of the ABA's Ethics 2000 Committee. The chair of that committee, E. Norman Veasey, the Chief Justice of the Supreme Court of Delaware, was our keynote speaker; the reporter for the committee also spoke. The seminar was very successful and very timely, given the need for the Office and the Board to recommend changes to the Rules of Professional Conduct within the next several years.

These will be the first major revisions to the rules in the state of Minnesota in approximately 18 years. We anticipate that a petition will be brought to the Court no later than the fall of 2003 detailing recommended changes to the rules. The Office and Board will be working in conjunction with the MSBA's Rules Committee.

On September 6, 2002, the Office and the Board will again hold the annual seminar in conjunction with the Board's fall meeting, in St. Paul. The emphasis of this seminar will return to practical advice with regard to investigations and reporting. Such advice was the focus of the seminar in September of 2000, and the seminar was warmly received.

Pending Litigation

As noted in previous annual reports, since 1998 the Director and the Chair, along with the Chair of the Board on Judicial Standards, have been named defendants in a federal court lawsuit challenging the enforcement of Canon 5 of the Code of Judicial Conduct.

The lower court dismissed the action, and the Eighth Circuit Court of Appeals affirmed the lower court's ruling in April of 2001. In December of 2001, the U.S. Supreme Court granted *certiorari* on one of the three questions presented, namely, the constitutionality of the so-called "announce clause" (Canon 5A(3)(d)(i)). Both the Director and the Board Chair worked closely with the Minnesota Attorney General's office in drafting the briefs for the United States Supreme Court and in helping prepare for oral argument. Arguments were held before the U.S. Supreme

Court in March of 2002, with both the Director and the Chair in attendance. We anticipate that the Court will issue its decision before the end of its term on July 1, 2002.

II. MINNESOTA SUPREME COURT DISCIPLINARY CASES

Attached at A. 5 is a table identifying the attorneys who were (1) publicly disciplined or (2) reinstated during calendar year 2001 to the practice of law after suspension or disbarment. Three attorneys were disbarred in 2001; four attorneys have been disbarred in the first five months of 2002:

| <u>2001</u> | <u>2002</u> |
|--------------------------------|------------------------------|
| William P. Kaszynski (1/11/01) | Ragnhild A. Westby (2/21/02) |
| Mark Allen Levine (4/11/01) | David L. Brehmer (4/18/02) |
| Martin M. Fiterman (9/26/01) | Roland C. Amundson (5/3/02) |
| | Steve C. Samborski (5/23/02) |

As noted in last year's report, since the consecutive record years in disbarments in 1997 (10 disbarments) and 1998 (15 disbarments), the number of attorneys who have been disbarred has dropped noticeably. In the three years following, 1999, 2000 and 2001, only an average of four attorneys have been disbarred. The annual average of disbarments from 1985 to 1997, before the two record years, was six. It thus appears that the 25 disbarments that occurred in that 24-month period in 1997 and 1998 were an aberration.

Among the public disciplinary cases decided in 2001 and during the first five months of 2002 are:

Roland C. Amundson of Eden Prairie, a Court of Appeals Judge, was removed from the bench and disbarred for misappropriating more than \$414,000 from a trust established for the benefit of a disabled woman, while serving as trustee.

David L. Brehmer of Eden Prairie was disbarred for multiple violations of the Rules of Professional Conduct including neglect, non-communication, failure to

return files and unearned fees, failure to provide an accounting of services, failure to inform clients of his suspension, charging unreasonable fees, failing to pay a malpractice judgment, failing to respond to a criminal summons, failing to pay a judgment to a former client, improper trust account practices and record keeping, failure to pay federal and state taxes, and failure to cooperate with disciplinary authorities.

Ragnhild A. Westby of St. Paul was disbarred for lack of diligence, failing to communicate, failing to place client funds in a trust account, knowingly disobeying an obligation under the rules of a tribunal, failing to be truthful, engaging in the authorized practice of law, engaging in conduct involving dishonesty, engaging in conduct prejudicial to the administration of justice, and for failing to cooperate with the Office of Lawyers Professional Responsibility.

Daniel Francis Jambor of St. Paul received a two-year suspension for failing to cooperate with disciplinary authorities while on probation, for engaging in a pattern of frivolous and retaliatory litigation, for neglecting client matters, for failing to adequately communicate with his clients, for failing to return a client file, for failing to comply with stipulated agreements in a court order, and for making false and misleading statements to clients and others.

Thomas M. Brudvig of Roseville received an indefinite suspension, with a minimum of 12 months, for neglecting and failing to communicate with the clients in 11 different representations, for falsely telling one client that he had filed a brief, for failing to place client funds in his trust account, for failing to make reasonably diligent efforts to comply with a legally proper discovery request by an opposing party, for failing to comply with a court order, and for failing to cooperate with the Director's investigation.

John M. Steele of Minneapolis received a public reprimand for failing to keep a client reasonably informed regarding an arbitrator's decision, regarding

anticipated costs related to an appeal, regarding timelines for the appeal, for failing to return a client file within a reasonable time that would have allowed the client to pursue an appeal, and for a history of prior discipline and violations that constituted a pattern of related misconduct.

Donald J. Fraley of Wayzata received a public reprimand for collecting attorney fees in a workers' compensation matter without compliance with required statutory provisions, improperly obtaining a signature, and improperly providing financial assistance to a client.

(For caseload and statistics, *see* A. 6 - A. 8.)

III. DIRECTOR'S OFFICE

A. Budget.

1. FY'02 and FY'03 Budgets.

For the fiscal year ending June 30, 2002, expenditures are projected to be \$2,076,726. The FY'03 budget includes anticipated expenditures of \$2,243,796. The FY'03 payroll budget includes a 3.5% across the board increase (formerly known as cost of living adjustment) and a 3.5% merit increase for those eligible. The FY'03 budget provides for no additional staffing.

The portion of the attorney registration fee allocated to the Lawyers Professional Responsibility Board has not increased since FY'97 when it was set at \$110.00. However, \$10.00 of that increase was voluntarily returned to registering attorneys for FY'01, FY'02 and FY'03. It was projected at the time of the voluntary reduction that the fee would need to be increased for the fiscal year beginning July 1, 2003. As projected, due to budgetary needs, the office has now requested that the \$10.00 returned the past three fiscal years be reinstated for FY'04 along with a \$10.00 increase. On May 28, 2002, the Court issued an order granting the request, increasing the total portion of the attorney registration fee allocated to the Office to \$120.00 annually beginning July 1, 2003, which represents the first increase in seven

years. The increase is needed due to costs associated with the implementation of the classification and compensation study and the office move.

B. Administration.

Website.

The Office of Lawyers Professional Responsibility continues to maintain and regularly update the website for the Office and the Board. The address is www.courts.state.mn.us/lprb. Attached at A. 9 is the title page showing the current contents of the website.

C. Personnel.

The Director's Office employs 10 attorneys, 4.5 paralegals, 1 administrator, 7.5 support staff and 1 part-time law clerk (*see* organizational chart at A. 10). In May of 2002, law clerk Nicholas Vivian left the Office for a summer internship. Law clerk Angela Samec was hired to start this summer.

D. Trusteeships.

Pursuant to Rule 27, Rules on Lawyers Professional Responsibility (RLPR), the Supreme Court periodically appoints the Office as trustee to inventory files and, when necessary, trust accounts, of disabled, disappeared, deceased, suspended, disbarred or resigned lawyers.

The Office received one new disabled lawyer trusteeship this year, Norman P. Friederichs, Jr. In May 2002, approximately 30 boxes of open active files were delivered to the Director's Office. Office staff are in the process of inventorying the files and notifying clients..

The Director obtained authorization to destroy files from two previous trusteeships. In October 2001, approximately 350 Peter Orlins files were destroyed and in February 2002, 140 Barry Robinson files were destroyed, pursuant to court orders.

Approximately 210 files remain in storage in the Director's Office in the Gerald McNabb matter which will be eligible for destruction in April 2003.

In April 1999 the Director was appointed trustee over the trust account of deceased lawyer Karla Wahl. In February 2002, funds belonging to clients whom the Director was unable to locate were forwarded to the Minnesota Department of Commerce as unclaimed property.

E. Complainant Appeals.

Under Rule 8(e), Rules on Lawyers Professional Responsibility, a complainant has the right to appeal from the Director's disposition in most cases. The file is then reviewed by a Board member. During 2001, the Director's Office received 265 complainant appeals, compared to 232 such appeals in 2000. There were 259 determinations made by Board members in 2001 as follows:

| | | <u>%</u> |
|--|-----|----------|
| Approve Director's disposition | 248 | 96 |
| Direct further investigation | 9 | 3 |
| Instruct Director to issue an admonition | 0 | 0 |
| Instruct Director to issue charges | 2 | 1 |

A total of 38.75 clerical hours were spent in 2001 processing the appeal files, as well as a relatively small amount of attorney time, which was expended responding to complainants, respondents and Board members, as well as reviewing files and letters to determine a variety of appeal issues.

F. Probation.

While the total number of attorneys on probation has decreased somewhat in 2001, the number of problematic probations has increased. The number of probation revocations and extensions increased significantly in 2001. During 2001 six probations were revoked and seven probations extended.¹ In 2000, only three

¹ One of the seven probation extensions subsequently resulted in a probation revocation.

probations were revoked and two private probations were extended. In addition, four more probation extensions have already occurred in 2002. Not unrelated to this increase in problem probations is the increase in the number of probations with a mental health and/or chemical dependency component.

The total number of ongoing probations with a mental health component increased 40% from 15 in 2000 to 21 in 2001. As a percentage of the probation group as a whole, the number of probations related, at least in part, to psychological disorders increased from 9.9% in 1999 to 12.2% in 2000 to 22.1% in 2001. The three oldest probations (Gherity, Heikens, and Bergstrom) all have a psychological component and all are indefinite probations.

Probation revocations occur where additional misconduct results in suspension or transfer to disability status. Probation extensions occur when additional misconduct results in a longer period of private probation or when a probationer on public or private probation receives a public reprimand and an additional term of probation. Private probations are extended by stipulation. Public probations are imposed and/or extended by Supreme Court order.

The following is a brief summary of four of the six probation revocations:

Michele Danielson -- indefinitely suspended for client neglect and lack of communication and for non-cooperation.

Alfred Hoedeman -- indefinitely suspended for client neglect and lack of communication and for non-cooperation.

Richard Jellinger -- temporarily suspended from practice for misappropriation of client funds and other misconduct.

Martha Burns -- placed on disability inactive status for client neglect, lack of communication and non-cooperation.

Mental health issues were implicated in five of these six probation revocations.

The following is a brief summary of the seven probation extensions during 2001:²

² Male pronouns are used for both male and female probationers to preserve anonymity.

Attorney No. 1 had his private probation extended for two years for additional misconduct similar to that which resulted in the original probation. After his probation had been extended, the attorney was hospitalized for depression.

Attorney No. 2's private probation was extended for two years for failure to cooperate. A therapy requirement was added.

Attorneys Nos. 3 and 4 had their private probations revoked for failure to abstain from mood altering chemicals and were placed on public probation.

Attorney No. 5's private probation was extended an additional two years for non-cooperation in early 2001. Later in the year, the probation was revoked and he was placed on disability inactive status.

Attorney No. 6's public probation was extended for two years for failing to cooperate.

Attorney No. 7's public probation was extended an additional two years for failure to cooperate. On April 10, 2002, the Court heard oral arguments on the Director's petition for revocation of that extended probation.

Four probationers whose probations were extended in 2002 include:²

Attorney A whose public probation was extended for the shorter of six months or until six consecutive months of negative urinalysis (UA) tests. Positive UA will result in suspension.

Attorney B whose private probation was extended for an additional two years to verify that he is not practicing law.

Attorney C whose private probation was extended for an additional one year and seven months.

Attorney D whose public probation was extended for an additional two years to monitor his continuing payment of a judgment.

In 2001 a smaller percentage of the probations (40% compared to 48% in 2000) were public probations and more of those public probations were Court-ordered disciplines rather than probations following reinstatement. Thirty-three (33) probations were completed in 2001, with 13 additional probations either revoked or extended.

| | | |
|---|-----------|-----------|
| TOTAL PROBATION FILES OPEN DURING 2001 | | |
| Public Supervised Probation Files (26.3%) | 25 | |
| Public Unsupervised Probation Files (13.7%) | <u>13</u> | |
| Total Public Probation Files (40%) | | 38 |
| Private Supervised Probation Files (30.5%) | 29 | |
| Private Unsupervised Probation Files (29.5%) | <u>28</u> | |
| Total Private Probation Files (60%) | | <u>57</u> |
| Total Probation Files Open During 2001 | | 95 |

| | | |
|--|--|-------------|
| TOTAL PROBATION FILES | | |
| Total probation files as of 1/1/01 | | 76* |
| Probation files opened during 2001 | | 24 |
| Private probations extended during 2001 | | 7 |
| Probation files closed during 2001 | | <u>(46)</u> |
| Total Probation files open as of 12/31/01 | | 61 |

*2000 file count (77) was inflated by one.

| | | |
|---|----------|-----------|
| PROBATIONS OPENED IN 2001 | | |
| Public Probation Files | | |
| Court-ordered Probation Files | | |
| Supervised | 8 | |
| Unsupervised | <u>1</u> | |
| | | 9 |
| Reinstatements | | |
| Supervised | 1 | |
| Unsupervised | <u>1</u> | |
| | | <u>2</u> |
| Total Public Probation Files | | 11 |
| Private Probation Files | | |
| Supervised | 12 | |
| Unsupervised | <u>8</u> | |
| Total Private Probation Files | | <u>20</u> |
| Total New Probation Files Opened in 2001 | | 31 |

| | | |
|---|--|-----------|
| PROBATION FILES CLOSED IN 2001 | | |
| Probations Successfully Completed | | 33 |
| Probation Revocations | | 6 |
| Probations Extensions | | <u>7</u> |
| Total Probation Files Closed in 2001 | | 46 |

PROBATIONS OPENED IN 2001 INVOLVING:

| | |
|-------------------------------------|-----------|
| Client Related Violations | 9 |
| Non-Client Related Violations | 11 |
| Both Client & Non-Client Violations | <u>11</u> |
| Total Probation Files Opened | 31 |

Improper maintenance of an attorney's trust account continues to be an issue for attorneys. Trust account violations are third only to neglect/non-communication and Rule 8.4(d), MRPC, violations as the most common misconduct on which a probation is based. Thirteen of twenty-eight new probations opened during 2001 involved problems with an attorney's trust account. All of these probationers are required to submit their complete trust account books and records for periodic review by the Director's Office.

AREAS OF MISCONDUCT**

As reflected in 95 files open during 2001

| | |
|---|----|
| Competence (Violation of Rules 1.1 and 1.2, MRPC) | 11 |
| Neglect & Non-Communication (Violation of Rules 1.3 and 1.4, MRPC) | 50 |
| Conflict of Interest | 4 |
| Fees & Opinion 15 Violations | 20 |
| Trust Account Books and Records (Violation of Rule 1.15, MRPC, and LPRB Opinion 9) | 33 |
| Termination of Representation | 19 |
| Unauthorized Practice of Law (Violation of Rule 5.5, MRPC) | 6 |
| Taxes | 12 |
| Supervision of Non-Lawyer Assistants (Violation of Rule 5.3, MRPC) | 3 |
| Non-Cooperation (Violation of Rule 8.1, MRPC) | 23 |
| Breach of Confidentiality (Violation of Rule 1.6, MRPC) | 2 |
| Criminal Conduct (Violation of Rule 8.4(b), MRPC) | 9 |
| Misrepresentations (Violation of Rule 8.4(c), MRPC) | 24 |
| Discrimination (Violation of Rule 8.4(h), MRPC) | 1 |
| Conduct Prejudicial to the Administration of Justice (Violation of Rule 8.4(d), MRPC) | 36 |

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

DISABILITY RELATED PROBATIONS

| | | |
|--|-----------|-----------|
| Chemical Dependency*- existing files on 1/1/01 | 3 | |
| New files opened during 2001 | <u>0*</u> | |
| Total Chemical Dependency Related Probation Files | | 3 |
| Psychological Disorders - existing files on 1/1/01 | 13 | |
| New files opened during 2001 | <u>5</u> | |
| Total Psychological Disorder Related Probation Files | | <u>18</u> |
| Total Disability Related Probations | | 21 |

* Two probations involving chemical dependency were extended in 2001. However, these two files were not included as "new" files because they involved the same individuals.

Our probation records, indicated below, show a gradual increase in probations with a psychological component:

| NUMBER OF NEW PROBATIONS OPENED REQUIRING: | | | |
|--|---------------|-----------|---------|
| YEAR | AA ATTENDANCE | RANDOM UA | THERAPY |
| 1992 | 1 | 0 | 0 |
| 1993 | 1 | 0 | 0 |
| 1994 | 2 | 1 | 7 |
| 1995 | 1 | 1 | 5 |
| 1996 | 3 | 0 | 2 |
| 1997 | 0 | 2 | 3 |
| 1998 | 0 | 0 | 1 |
| 1999 | 0 | 0 | 5 |
| 2000 | 3 | 2 | 4 |
| 2001 | 1* | 2* | 5 |

* Does not represent "new" probations, but extensions of existing probations.

In the fall of 2001 the Probation Department started to compile feedback from its volunteer probation supervisors using a simple survey form. Only six supervisors have completed service and filed our surveys. However, it is clear that supervisors find the experience rewarding since they all stated they would serve again and recommend service to a friend. The supervisors responding to the survey had 119 total years in the practice of law or an average of 20 years per supervisor. Each supervisor spent approximately two to three hours per month

monitoring their probationer. Supervisors spent time in telephone conferences, quarterly meetings, file and trust account reviews, discussing client issues, and writing a quarterly supervisor's report to the Director Office.

One supervisor spent significantly more time, an estimated 10-15 hours per quarter, supervising her probationer. This supervisor's greater time commitment may be due in part to the probationer's depression, lack of experience, transportation, failure to cooperate and initial lack of communication and on keeping appointments. All of these factors contributed to the probation's later transfer to disability status.

The following is a summary of responses:

| | |
|------------------------------------|--|
| Level of Probationer's Cooperation | <ul style="list-style-type: none"> • Excellent for most part. • Poor cooperation from one probationer resulted in revocation. |
| Changes Recommended: | <ul style="list-style-type: none"> • Limit advertising to keep workload manageable. • Improve client communications. • Withdraw where unable to adequately represent. • Improve record keeping & filing systems. • Network with other lawyers |
| Focus of Supervision: | <ul style="list-style-type: none"> • Assure compliance with probation requirements. • Maintaining focus on case requirements. • Improved client communications. • Trust account maintenance. |
| Unique Circumstances: | <ul style="list-style-type: none"> • Psychological factors contributed to neglect. • Probation ultimately closed. Probationer left practice due to depression and probation focused on steps to close office. |
| Would like to have known: | <ul style="list-style-type: none"> • How to handle calls from other attorneys and judges on probationer's cases. • Guidelines for amount of contact and where contact should occur. |

| | |
|--------------------------------|--|
| Negative Experiences: | <ul style="list-style-type: none"> • Stress related to loss of communication with probationer. • More time consuming than expected. • Too isolated from other supervisors. |
| Problems Encountered: | <ul style="list-style-type: none"> • Geographic distance from probationer's office. • Probationer moved office several times without notice to supervisor resulting in loss of communication. • Relationship changed to one of mentor. • Occasional miscommunications with probationer. • Lack of cooperation from probationer. |
| Suggestions for Improvement: | <ul style="list-style-type: none"> • Ongoing meetings for supervisors. • Clarify role of supervisor. (Can supervisor disclose his supervision to attorneys, courts or clients who have learned about probation and are requesting assistance.) |
| Contact with Director's Office | <ul style="list-style-type: none"> • Limited contact was very responsive. • Made a number of calls and received helpful advice. • Few questions handled promptly. |

With the exception of the one probation which was revoked and the probationer transferred to disability status, all supervisors felt the probation was successful.

Two Senior Assistant Directors monitor the majority of the probation program with the assistance of the Probation Paralegal. Assistant Director Cassie Hanson also monitors three probations.

TIME BY PROBATION DEPT. STAFF (hrs./wk.)

| | |
|------------|----|
| Attorney 1 | 8 |
| Attorney 2 | 12 |
| Attorney 3 | 1 |
| Paralegal | 12 |

G. Advisory Opinions.

The Director's Office continues to offer an advisory opinion service to Minnesota lawyers and judges. The goal of this service is to assist lawyers in complying with the profession's ethical standards.

Almost all advisory opinions are requested and given by telephone; a small number of opinions (less than 1%) are provided in writing. Advisory opinions are limited to prospective conduct. Questions or inquiries relating to past conduct, third-party conduct (i.e. conduct of another lawyer), questions of substantive law or advertising and solicitation are not answered. Advisory opinions are the personal opinion of the assistant director issuing the opinion and are not binding upon the Lawyers Board or the Supreme Court.

In 2001, the Director's Office received 1,824 requests for advisory opinions, an increase of 72 from requests received in 2000.

Set forth below is a statistical summary of advisory opinions for the period 1990 through 2001:

| YEAR | OPINIONS GIVEN BY TELEPHONE | OPINIONS GIVEN IN WRITING | TOTAL OPINIONS GIVEN | OPINIONS DECLINED | TOTAL |
|------|-----------------------------|---------------------------|----------------------|-------------------|-------|
| 1990 | 1130 (83%) | 26 (2%) | 1156 (85%) | 199 (15%) | 1355 |
| 1991 | 1083 (84%) | 23 (2%) | 1206 (86%) | 186 (14%) | 1292 |
| 1992 | 1201 (86%) | 15 (1%) | 1216 (87%) | 182 (13%) | 1398 |
| 1993 | 1401 (87%) | 16 (1%) | 1417 (88%) | 201 (12%) | 1618 |
| 1994 | 1489 (84%) | 10 (1%) | 1499 (85%) | 266 (15%) | 1765 |
| 1995 | 1567 (87%) | 22 (1%) | 1589 (88%) | 206 (12%) | 1795 |
| 1996 | 1568 (88%) | 16 (1%) | 1584 (89%) | 199 (11%) | 1783 |
| 1997 | 1577 (90%) | 15 (1%) | 1592 (91%) | 165 (9%) | 1757 |
| 1998 | 1478 (91%) | 23 (1%) | 1501 (92%) | 131 (8%) | 1632 |
| 1999 | 1464 (90%) | 17 (1%) | 1481 (91%) | 154 (9%) | 1635 |
| 2000 | 1585 (90%) | 28 (2%) | 1610 (92%) | 142 (8%) | 1752 |
| 2001 | 1682 (92%) | 9 (.5%) | 1691 (93%) | 133 (7%) | 1824 |

In 2001, the Director's Office expended 376 in assistant director hours in issuing advisory opinions. This compares with 405 hours in 2000 (385 in assistant

director time and 20 in paralegal and clerical time). Conflict of interest was the most frequent area of inquiry.

H. Judgments and Collections

In 2001, the Minnesota Supreme Court entered judgments in 27 disciplinary matters totaling \$28,139.81. The Director's Office collected a total of \$13,337.07 on judgments entered in and prior to 2001; of this amount, \$8,521.78 (or 64% of the total) was for judgments entered in 2001. 31% percent of the amount of the judgments entered in 2001 has been collected. The Director's Office filed satisfactions of 17 judgments.

The total amount of outstanding judgments as of January 1, 2002, was \$215,399.50.

A summary of the 2001 statistics, and how they compare to 2000 is presented below:

| | 2001 | 2000 |
|--|--------------|--------------|
| Number of judgments entered | 27 | 39 |
| Dollar value of judgments entered | \$ 28,139.81 | \$ 37,464.91 |
| Total amount collected | \$ 13,337.07 | \$ 28,463.88 |
| Portion attributed to current year's judgment | \$ 8,521.78 | \$ 15,645.63 |
| Portion attributable to judgments of prior years | \$ 4,815.29 | \$ 12,818.25 |

The Director's Office entered 30% fewer judgments in 2001 than in 2000. The value of the judgments entered by the Director's Office was \$9,325.10 (25%) less in 2001 than in 2000.

The Director's Office docketed no judgments in 2001 and undertook no extraordinary collection action.

The Director's Office filed 34 National Discipline Data Bank Reports in 2001.

I. Professional Firms.

Under the Minnesota Professional Firms Act, Minn. Stat. § 319B.01 to 319B.12, a professional firm engaged in the practice of law must file with the Board an initial report and annual reports thereafter, accompanied by a filing fee. The Professional Firms Act contains limitations on the structure and operation of professional firms and sets forth the information to be contained in the reports.

The Director's Office has monitored the reporting requirements of the statute since 1973. Annual reports are sought from all known legal professional firms, which includes professional corporations, professional limited liability corporations and professional limited liability partnerships. The filing requirements for professional firms are described on our website, and an article reminding the bar of the requirements was published in the April 30, 2001, *Minnesota Lawyer*.

Although the statutory authority exists to revoke the corporate charter of professional firms that fail to comply with the reporting requirements, no revocation proceedings have been pursued. The following are statistics for income collected as filing fees by the professional firms department as of March 4, 2002:

| | | | |
|------|-----|----------|--------------------|
| 1207 | @ | \$25.00 | \$30,175.00 |
| 16 | @ | 100.00 | <u>\$ 1,600.00</u> |
| | | | \$31,775.00 |
| 48* | for | 6,200.00 | <u>\$ 6,200.00</u> |
| | | | <u>\$37,975.00</u> |

*Funds collected for fees owed for 2000 and prior years.

| | |
|---------------------------|-----|
| Total Attorney Hours: | 31 |
| Total Non-attorney Hours: | 222 |

An Assistant Director, paralegal, and file clerk staff the professional firms department. The professional firms roster, statistical data, and regular notice letters are retained on computer to facilitate efficient processing.

J. Overdraft Notification

Since 1990, banks have been required to report lawyer trust account overdrafts to the Director's Office. The number of reported overdrafts decreased slightly from 113 in 2000 to 98 in 2001. This decrease is similar to those experienced in most recent years. The Director is concerned that bank mergers and turnover have contributed to the decreases in reported overdrafts. In the coming year, the Director intends to send updated reporting agreements and instructions to all approved banks.

During 2001, the Director's Office terminated 98 overdraft inquiries (some of which were initiated in prior years). Ninety-one (91) of the terminations were without a disciplinary investigation; 7 terminations were followed by a disciplinary investigation.

In 2001, two public discipline cases involved trust account overdrafts:

In re DeRycke, 627 N.W.2d 331 (Minn. 2001)

In re Jellinger, 626 N.W.2d 143 (Minn. 2001)

Five other cases arising out of trust account overdrafts resulted in private discipline.

1. Terminated Inquiries

In 44 of the overdraft inquiries terminated without a disciplinary investigation, the Director recommended changes or improvements to the lawyer or law firm. In general, the most common deficiencies discovered in lawyers' trust account books and records are a lack of client subsidiary ledgers and a failure to properly reconcile the trust account. Set forth below are the various causes of trust account overdrafts:

| <u>Overdraft Cause</u> | <u>No. of Closings</u> |
|-------------------------------|------------------------|
| Bank error | 28 |
| Late deposit | 18 |
| Mathematical/clerical error | 14 |
| Deposit to wrong account | 9 |
| Improper/lacking endorsements | 7 |
| Service or check charges | 5 |
| Check written in error on TA | 5 |
| Third party check bounced | 3 |
| Bank hold on funds drawn | 1 |
| Other | 1 |

2. Disciplinary File Openings

The Director opens a disciplinary investigation when the lawyer's response does not adequately explain the overdraft or significant problems are identified by reviewing the trust account books and records the lawyer submits. During 2001, overdraft inquiries resulted in disciplinary file openings for the following reasons:

| <u>Reason for Investigation</u> | |
|--|----------|
| Shortages | 2 |
| Grossly inadequate books and records | 2 |
| Response fails to explain OD | 1 |
| Using trust account as personal/business account | 1 |
| Disciplinary file already open | 1 |
| Total | 7 |

3. Time Requirements

Set forth below are the staff time requirements to administer the overdraft notification program:

| | <u>1/00-12/00</u> | <u>1/01-12/01</u> |
|---------------------------|-------------------|-------------------|
| Attorney | 240.00 hrs | 151.00 hrs |
| Paralegal and other staff | <u>123.50 hrs</u> | <u>220.75 hrs</u> |
| Total | 363.50 hrs | 371.75 hrs |

K. Disclosure.

1. Department Function.

The disclosure department responds to written requests for attorney disciplinary records. Public discipline is always disclosed. Private discipline is disclosed only with a properly executed consent from the affected attorney. In addition, the Director's Office responds to telephone requests for attorney public discipline records. The telephone requests and responses are not tabulated.

2. Source and Number of Written Requests for Disclosure.
Calendar Year 2001.

| | <u># of Requests</u> | <u># of Attorneys</u> | <u>Discipline Imposed</u> | <u>Open Files</u> |
|---|--------------------------|---------------------------|-------------------------------|-----------------------|
| A. National Conference of Bar Examiners | 78 | 78 | 2 | 0 |
| B. Individual Attorneys | 4 | 4 | 0 | 0 |
| C. Local Referral Services | | | | |
| 1. MSBA | 19 | 188 | 0 | 0 |
| 2. RCBA | 15 | 72 | 0 | 0 |
| D. Governor's Office | 16 | 46 | 6 | 0 |
| E. Other State Discipline Counsels/State Bars or Federal Jurisdiction | 261 | 261 | 18 | 2 |
| F. F.B.I. | 13 | 19 | 0 | 0 |
| G. MSBA: Specialist Certification Program | 6 | 78 | 15 | 2 |
| H. Miscellaneous Requests | 26 | 144 | 2 | 1 |
| TOTAL | 438 | 890 | 43 | 5 |
| (2000 Totals) | (450) | (1224) | (34) | (8) |

IV. DISTRICT ETHICS COMMITTEES.

Minnesota is one of only a handful of jurisdictions that have succeeded in making effective use of the local district ethics committees (DECs) to investigate complaints of lawyer misconduct. The system in Minnesota continues to work well and results in uniform application of ethical standards because the 21 bar

association committees have (1) uniform rules of procedure, pursuant to the Rules on Lawyers Professional Responsibility; (2) are directly supervised by the Director's Office; and (3) have a large enough jurisdiction for the most part that respondents are not routinely known personally by the investigators.

Initial peer review of complaints by practitioners in their own area is exceedingly valuable in reinforcing confidence in the system for lawyers. Input and participation by non-lawyer members instills confidence in the public that the system is not protectionist. The quantity and quality of the DEC investigative reports remain high. For the calendar year 2001, the Director's Office followed the recommendations of the DEC's in 88 percent of the matters referred from the Committees back to the Office. The legal profession, and the public at large, are indebted to those who volunteer significant time to the disciplinary system.

In 2001, the overall monthly average volume of files under consideration by the DEC's was 134, fluctuating between a low of 99 and a high of 160. This is lower than the 2000 overall average of 153. The year-to-date average volume for 2002 through April 30 is 135.

Rule 7(c), RLPR, provides a 90-day goal for completing investigations. The average file age for pending matters in all DEC's for April 2002 was 2.4 months, with the Hennepin (Fourth District) Ethics Committee at 2.4 months and the Ramsey (Second District) Ethics Committee at 2.5 months. For *completed* DEC investigations in April 2002, the overall average for the prior 12 months was 3.8 months, with the Hennepin DEC at 3.5 months and the Ramsey DEC at 2.7 months.

For the calendar year 2001, the DEC's completed 440 investigations, taking an average of 3.8 months to complete each investigation. The Hennepin DEC was assigned 191 of these investigations, taking an average of 3.6 months per investigation (*See* A. 11, DEC Investigation Summary).

Because the Hennepin DEC uses a two tiered complaint review process not used by the other DEC's, their statistics are separately monitored and broken down to reflect file aging at the various decision points in the process. In the Hennepin DEC, investigators first make their presentation to a screening committee which meets every other Wednesday. If that committee recommends dismissal, the complaint is referred back to the Director's Office for disposition. Should the committee conclude there may have been a rule violation or that additional investigation is warranted, the matter is heard by an Investigative Review Committee (IRC), made up of one of three Hennepin DEC panels. Both the complainant and the respondent are invited to attend and tell their story. In calendar year 2001, 136 matters were referred back to the Director's Office after screening without an IRC hearing; it took an average of 3.3 months to complete the DEC investigation of these matters. There were 43 matters referred to an IRC panel before being sent back to the Director's Office, which took an average of 4.3 months to complete. There were 12 matters withdrawn from the DEC prior to the completion of the investigation. Most often, the reason for withdrawal was delay in completing the investigation. In these cases the investigation was completed by the Director's Office.

For the calendar year 2001, 440 completed DEC investigations resulted in the following dispositions:³

| | |
|--|-----|
| Determination discipline not warranted | 332 |
| Admonition | 70 |
| Private probation | 5 |

A statewide seminar for DEC members, hosted by the Office and the Board, is scheduled for September 6, 2002. The Board and the Office remain committed to the support and training of ethics committee volunteers, both lawyer members and public members. For the Hennepin DEC, a separate training/orientation seminar is held annually in August with an additional session in September for non-attorney

³ 33 files received back from the DEC's in 2001 remained open as of 1/1/02.

members. The Director's Office continues to provide support to the DEC's through the liaisons assigned to each district.

V. FY'03 GOALS AND OBJECTIVES

The Office expects to be relocating to new facilities in downtown St. Paul later this year. The search for new facilities and the need to address issues related to the move have been very time-consuming during the past year for the Director, the First Assistant Director, and the Office Administrator. It is hoped that the transition will be relatively seamless as we occupy our new premises, while continuing to be on the Court network and continuing to use our courtroom in the Minnesota Judicial Center.

The U.S. Supreme Court will very shortly issue its determination in the *Republican Party v. Kelly, et al.* case. This decision will be the culmination of four and a half years of federal litigation for the Office and the Board, and may well change the landscape for judicial elections in the state of Minnesota and elsewhere. The Office and the Board will need to address any changes to the Canons governing judicial elections made by the U.S. Supreme Court, and any fallout that might result from the Court's decision.

Now that the American Bar Association has essentially finished its proposed amendments to the Rules of Professional Conduct resulting from the Ethics 2000 study, the MSBA is appointing a taskforce to examine those proposed changes in detail and the Director and several members of the Office will serve on that taskforce. It is expected that the petition to the Minnesota Supreme Court for those changes will arrive at the Court in the fall of 2003. These will be the first major changes to the rules in almost 18 years and the new rules will likely be in effect for another 15 or 20 years. These proposed changes will include the incorporating of portions of the opinions issued by the Lawyers Professional Responsibility Board

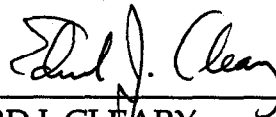
that the Office and the Board determine are essential for proper enforcement of the rules.

It should be noted that again this past year, the Office has done its very best to help prevent problems for members of the legal profession before they occur. As noted, the Office in 2001 issued more advisory opinions than in any previous year. These advisory opinions and the numerous speaking engagements and teaching engagements handled by the Office have, we believe, contributed to the 13-year low in the number of complaints filed with the Office. In a continuing effort to help the practicing bar, members of the Office in the last 12 months have been involved in 81 speaking engagements (*see* A. 12). The Board Chair has also been a frequent CLE speaker on ethics issues. Further, several members of the Office, including the Director, continue to serve as adjunct law professors at the University of Minnesota Law School and William Mitchell College of Law.

The past year was a busy and stressful one for both the Office and the Board. The upcoming year promises to present a number of challenges as well. However, both the members of the Board and members of the Office have not and will not lose sight of their duty to protect the public and, in doing so, serve the profession.

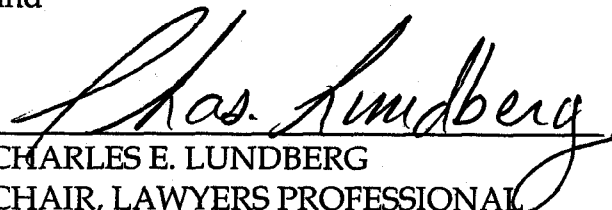
Dated: June 7, 2002.

Respectfully submitted,



EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY

and



CHARLES E. LUNDBERG
CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD

Lawyers Professional Responsibility Board Members

Charles E. Lundberg, Mpls. – Attorney member; current LPRB Board Chair; term expires 1/31/04; partner in the firm of Bassford, Lockhart, Truesdell & Briggs, P.A.; served 6 years as LPRB Board member, and over 8 years on the Fourth District DEC.

Regina Chu, Mpls. – Attorney member; MSBA nominee; current LPRB Vice-Chair; serves as Chair of the LPRB Opinion Committee; term expires 1/31/04; partner in Regina M. Chu, P.A.; served on Fourth DEC for 3 years.

Kathleen Clarke Anderson, Mpls. – Public member; term expires 1/31/03; worked with Hennepin County Bar Association Fee Arbitration Board; served over 8 years as member of the Fourth DEC.

Larry M. Anderson, Mpls. – Public member; term expires 1/31/04; Arbitration Coordinator/Settlement Conference Administrator for Hennepin County District Court; served 4 years on the Fourth DEC.

Charles R. Bateman, Duluth – Attorney member; term expires 1/31/05; serves on the LPRB Opinion Committee; partner with Halverson, Watters, Downs, Reyelts & Bateman; served on the Eleventh DEC for 11 years, including 5 years as Chair.

Richard A. Beens, Mpls. – Attorney member; term expires 1/31/05; partner in the firm of Felhaber, Larson, Fenlon & Vogt; served on the Twenty-First DEC for 8 years, including 6 years as Chair.

Kenneth E. Broin, Robbinsdale – Public member; term expires 1/31/05; recently retired after 57 years with U.S. Bank; served on Fourth DEC for 12 years.

Wood R. Foster, Jr. - Mpls. – Attorney member; MSBA nominee; term expires 1/31/03; partner in the firm of Siegel, Brill, Greupner, Duffy & Foster; former member of the Fourth DEC; past president of Hennepin County Bar Association and the Minnesota State Bar Association.

Timothy J. Gephart, Mpls. – Public member; term expires 1/31/05; serves on LPRB Rules Committee; works in the area of legal malpractice claims for Minnesota Lawyers Mutual; served on Fourth DEC from 1991-1998.

Christopher Lake-Smith, St. Paul – Public member; serves on LPRB Executive Committee; serves on the LPRB Opinion Committee; term expires 1/31/04; Director of Information Services for Knotts Camp Snoopy. Served on Second DEC.

Thomas J. LaVelle, Worthington – Attorney member; serves on the LPRB Opinion Committee; term expires 1/31/05; solo practitioner; served as Chair of the Thirteenth DEC for 5 years.

Patrick J. McGuigan, St. Paul – Attorney member; term expires 1/31/04; partner in the firm of McGuigan & Holly; served a total of 9 years on Second DEC, 6 years as Chair.

Katie McWatt, St. Paul - Public member; term expires 1/31/05; served on the Second DEC; recently retired from her position as Coordinator of St. Paul Central's Minority Education program.

Neil M. Meyer, Mpls. – Attorney member; term expires 1/31/04; partner in the firm of Meyer & Njus; longtime member of the Fourth DEC, serving as Vice-Chair; served as volunteer trustee appointed by Minnesota Supreme Court on behalf of the Office of Lawyers Professional Responsibility; named 1999 Lawyers Professional Responsibility Board Volunteer of the Year.

Michael E. Mickelson, Willmar – Public member; term expires 1/31/03; President and CEO of the Willmar Cookie and Nut Company, which he founded in 1953; served on the Twelfth DEC for 10 years.

Wallace Neal, Bloomington – Public member; term expires 1/31/05; self-employed as a consultant; served 12 years on the Fourth DEC.

Patty Murto, Duluth – Public member; term expires 1/31/03; serves on LPRB Executive Committee; responsible for development and implementation of a Volunteer Attorney Program.

Timothy M. O'Brien, Mpls. – Attorney member; MSBA nominee; serves as Chair of the LPRB Rules Committee; term expires 1/31/03; partner in the firm of Faegre & Benson; served many years on the Fourth DEC.

Mary Alice Richardson, Rochester – Attorney member; serves on the LPRB Rules Committee; term expires 1/31/04; solo practitioner in the areas of family law, probate and real estate; served over 6 years on the Third DEC and volunteered as a probation supervisor.

Judith M. Rush, Roseville – Attorney member; MSBA nominee; term expires 1/31/04; solo practitioner in the areas of family and appellate law; served 6 years as member of the Second DEC.

Cindy K. Telstad - Winona – Attorney member; MSBA nominee; term expires 1/31/05; partner in the firm of Streater & Murphy; served on the Third DEC for 6 years, including 2 years as Chair of that Committee.

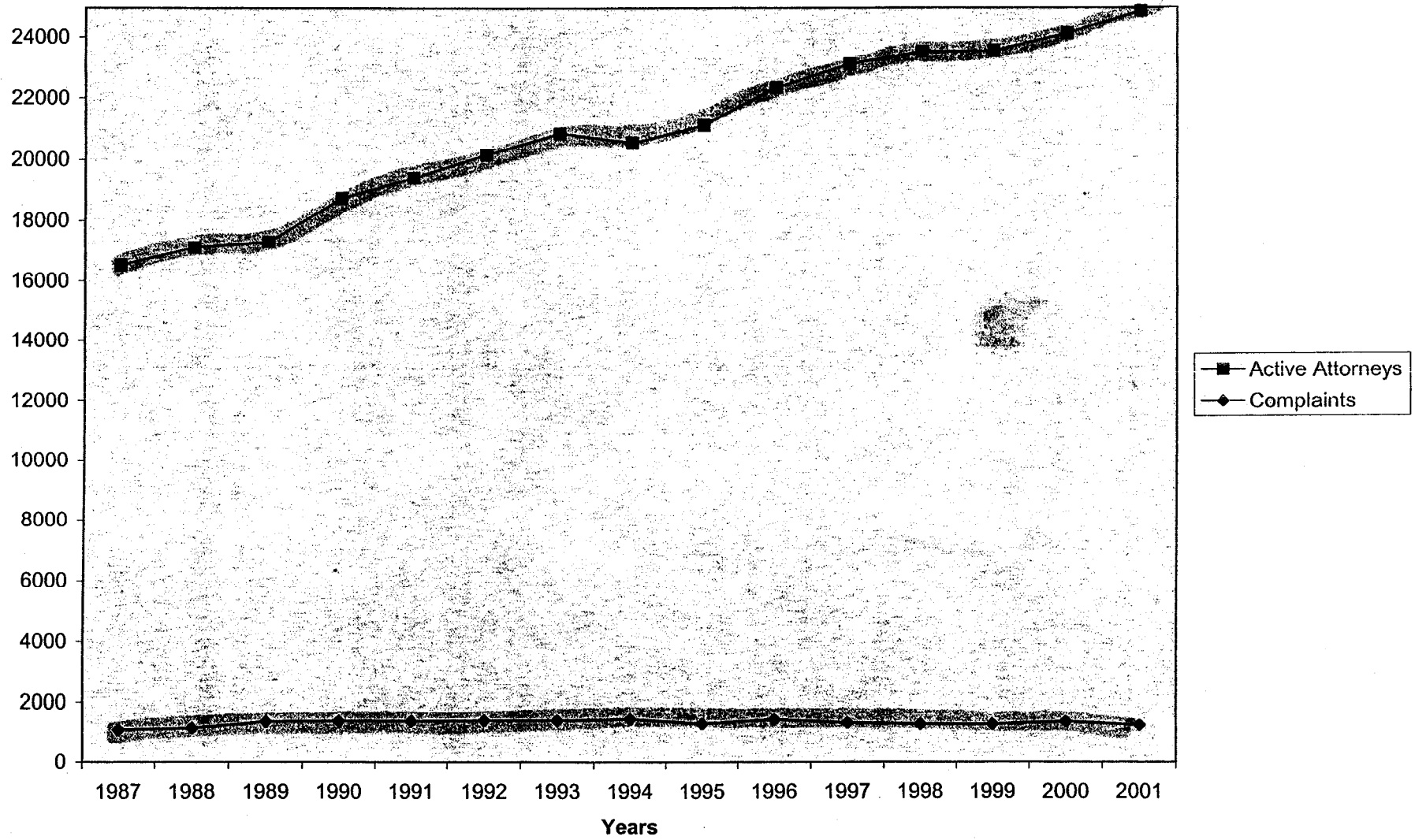
Kenneth R. White, Mankato – Attorney member; MSBA nominee; term expires 1/31/05; partner in the firm of Farrish Johnson Law Office since 1988.

E. George Widseth, Mpls. – Attorney member; serves on LPRB Executive Committee; serves on the LPRB Rules Committee; term expires 1/31/03; prosecutor in the Hennepin County Attorney's office.

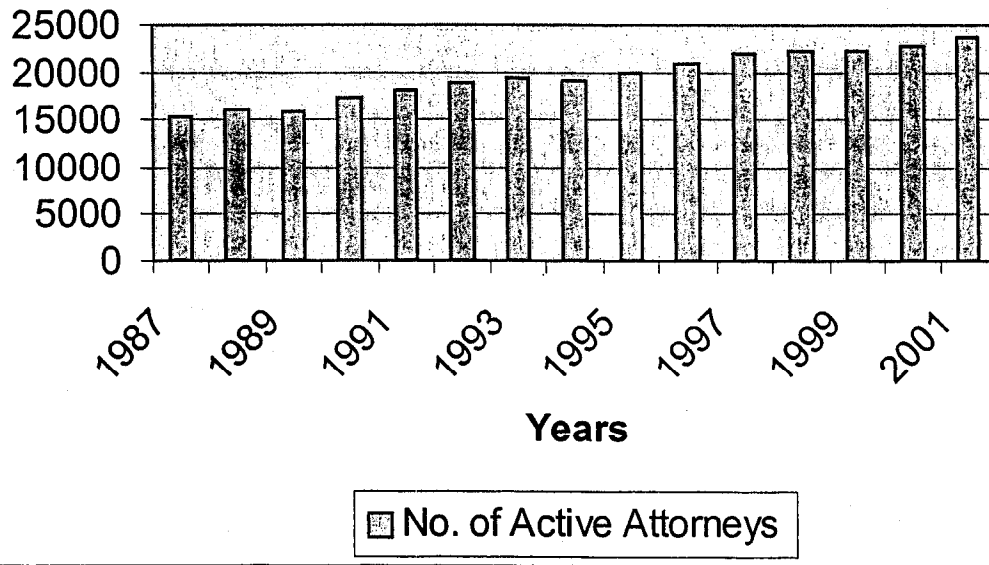
**Number of Complaints Received
and
Advisory Opinions Given
from 1987 to 2001**

| <u>YEAR</u> | <u>Complaints Received</u> | <u>Advisory Opinions Given</u> |
|-------------|--------------------------------|------------------------------------|
| 1987 | 1091 | 685 |
| 1988 | 1149 | 861 |
| 1989 | 1365 | 975 |
| 1990 | 1384 | 1156 |
| 1991 | 1380 | 1206 |
| 1992 | 1399 | 1216 |
| 1993 | 1405 | 1417 |
| 1994 | 1456 | 1499 |
| 1995 | 1290 | 1589 |
| 1996 | 1438 | 1584 |
| 1997 | 1314 | 1592 |
| 1998 | 1275 | 1501 |
| 1999 | 1278 | 1481 |
| 2000 | 1362 | 1610 |
| 2001 | 1246 | 1691 |

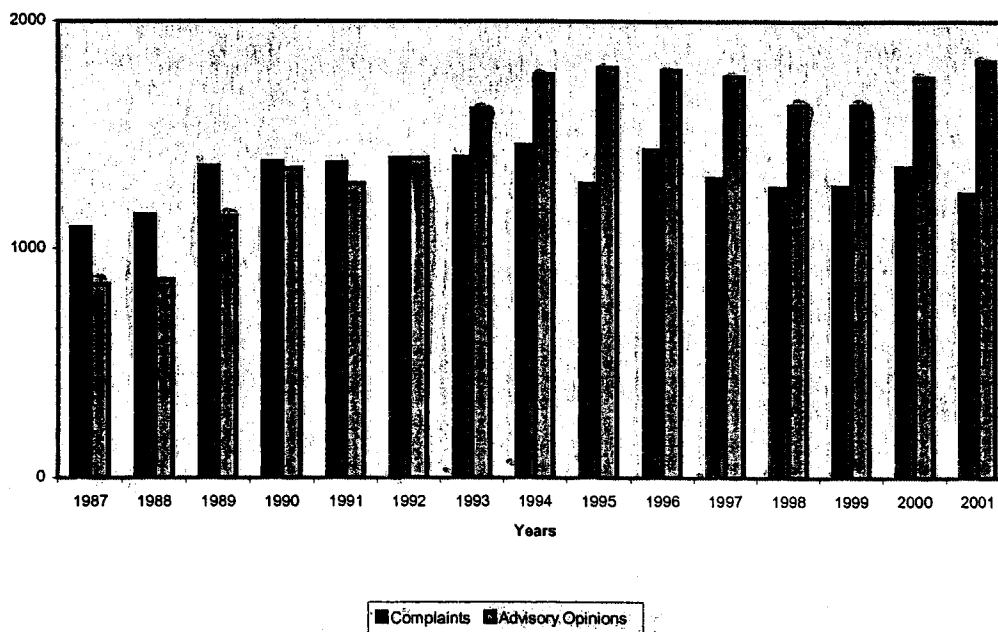
Active Attorneys v. Complaints



Minnesota's Active Attorney Population



Advisory Opinions v. Complaints



Office of Lawyers Professional Responsibility

2001 Summary of Public Matters Decided

34 DECISIONS

Supreme Court Disbarment 24 files 3 attorneys

| | | |
|---------------------|------------|----|
| Fiterman, Martin M. | C4-01-1506 | 1 |
| Levine, Mark Alan | C5-01-512 | 1 |
| Kaszynski, William | C4-99-1780 | 22 |

Supreme Court Disability 3 files 2 attorneys

| | | |
|---------------------|------------|---|
| Lebaron, Michael B. | C7-01-1712 | 1 |
| Nixon, Charles T. | C8-01-536 | 2 |

Supreme Court Suspension 48 files 13 attorneys

| | | |
|--------------------------|------------|----|
| Brehmer, David L. | C3-00-529 | 8 |
| Burns, Martha L. | C0-01-899 | 3 |
| Danielson, Michele Marie | C4-00-863 | 1 |
| Day, Richard G. | C7-00-1117 | 3 |
| Dvorak, Shirley A. | C7-95-1179 | 1 |
| Fuller, Donald Bedelle | CX-99-2061 | 1 |
| Geiger, Garrett T. | CX-00-1175 | 5 |
| Hoedeman, Alfred L. | C2-00-862 | 1 |
| Jambor, Daniel Francis | C9-99-1192 | 18 |
| Meaden, Charles E. | C3-00-1955 | 1 |
| Ornstein, Mitchell Ross | C4-01-274 | 3 |
| Singer, David A. | C9-00-163 | 1 |
| Sipkins, Robert C. | C7-01-544 | 2 |

Supreme Court Susp/Prob 9 files 2 attorneys

| | | |
|---------------------------|------------|---|
| Bianco, Christopher James | C0-00-1850 | 1 |
| Daub, Michael H. | C2-01-578 | 8 |

Supreme Court Reprimand 2 files 2 attorneys

| | | |
|-------------------|------------|---|
| Fraley, Donald J. | CX-00-1936 | 1 |
| Steele, John M. | C2-00-2210 | 1 |

Sup.Ct. Reprimand & Probation 11 files 8 attorneys

| | | |
|-----------------------|------------|---|
| Akong, Englebert Chia | C9-00-2236 | 2 |
| Burseth, James M. | CX-00-2004 | 1 |
| Bye, Don L. | C7-01-1225 | 1 |
| De Rycke, Eric A.L. | C1-98-589 | 1 |
| Gronbeck, David | C4-94-1162 | 1 |
| Jellinger, Richard T. | C3-00-1681 | 2 |
| Lyons, Thomas J., Jr. | C7-00-2011 | 1 |
| Rowe, Thomas G. | C1-98-964 | 2 |

Supreme Court Probation 1 file 1 attorney

| | | |
|-------------------------|------------|---|
| Appelget, Steven Thomas | C9-99-2181 | 1 |
|-------------------------|------------|---|

Reinstatement & Probation 2 files 2 attorneys

| | | |
|------------------------|------------|---|
| Miera, Alberto O., Jr. | C3-97-2009 | 1 |
| Selmer, Scott E. | C8-93-1638 | 1 |

Sup. Ct. Admonition Reversed 1 file 1 attorney

| | | |
|----------------------------|-----------|---|
| In re Panel File No. 99-42 | C6-00-623 | 1 |
|----------------------------|-----------|---|

TABLE I
Supreme Court Dispositions and Reinstatements 1990-2001
Number of Lawyers

| | Disbar. | Susp. | Probation | Reprimand | Dismissal | Reinstated | Reinstate Denied | Disability | SC AD/Aff | Other* | Total |
|------|---------|-------|-----------|-----------|-----------|------------|------------------|------------|-----------|--------|-------|
| 1990 | 8 | 27 | 9 | 10 | 0 | 2 | 2 | 2 | 0 | 0 | 60 |
| 1991 | 8 | 14 | 10 | 6 | 2 | 3 | 2 | 3 | 0 | 0 | 49 |
| 1992 | 7 | 16 | 8 | 5 | 0 | 3 | 0 | 2 | 0 | 0 | 41 |
| 1993 | 5 | 15 | 12 | 3 | 1 | 9 | 2 | 1 | 0 | 0 | 48 |
| 1994 | 8 | 5 | 7 | 0 | 0 | 4 | 0 | 1 | 0 | 0 | 25 |
| 1995 | 6 | 26 | 9 | 4 | 1 | 5 | 0 | 4 | 4 | 0 | 59 |
| 1996 | 4 | 27 | 5 | 0 | 3 | 4 | 1 | 2 | 1 | 1* | 48 |
| 1997 | 10 | 16 | 6 | 2 | 1 | 5 | 2 | 2 | 1 | 1** | 46 |
| 1998 | 15 | 18 | 10 | 2 | 1 | 4 | 3 | 2 | 1 | 0 | 56 |
| 1999 | 3 | 12 | 5 | 0 | 0 | 8 | 1 | 1 | 0 | 2*** | 32 |
| 2000 | 6 | 19 | 10 | 2 | 0 | 3 | 0 | 2 | 1 | 0 | 43 |
| 2001 | 3 | 15 | 9 | 2 | 0 | 2 | 0 | 2 | 0 | 1* | 34 |

* 1 Supreme Court admonition reversed.

** 1 Supreme Court stay.

*** 1 Supreme Court stay.

1 Supreme Court private admonition ordered.

| | Lawyers Board Goal | <u>12/98</u> | <u>12/99</u> | <u>12/00</u> | <u>12/01</u> | <u>4/30/02</u> |
|--------------------------------|--------------------------|--------------|--------------|--------------|--------------|----------------|
| Total Open Files | 500 | 493 | 484 | 557 | 525 | 524 |
| Cases at Least One Year Old | 100 | 91 | 128 | 123 | 146 | 144 |
| Complaints Received YTD | | 1,275 | 1,278 | 1,362 | 1,246 | 437 |
| Files Closed YTD | | 1,275 | 1,287 | 1,289 | 1,278 | 437 |

| | Percentage of Files Closed | | | | | | |
|---|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | <u>1995</u> | <u>1996</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> | <u>2001</u> |
| 1. <u>Total Dismissals</u> | 78% | 78% | 78% | 77% | 82% | 80% | 77% |
| a. Summary Dismissals | 38% | 39% | 41% | 40% | 45% | 43% | 43% |
| b. DNW/DEC | 36% | 32% | 31% | 31% | 31% | 31% | 26% |
| c. DNW/DIR | 4% | 6% | 6% | 6% | 5% | 6% | 8% |
| 2. <u>Admonitions</u> | 8% | 10% | 8% | 10% | 9% | 7% | 10% |
| 3. <u>Private Probation</u> | 3% | 1% | 1.5% | 1% | 3% | 3% | 3% |
| 4. <u>Supreme Court Dispositions</u> | 8% | 6% | 7.5% | 9% | 6% | 7% | 8% |
| a. Supreme Court Dismissal | - | - | - | - | -- | -- | |
| b. Supreme Court Reprimand | - | - | - | - | -- | -- | |
| c. Supreme Court Probation | 1% | 1% | 1% | 2% | .5% | 1% | 1% |
| d. Supreme Court Suspension | 4% | 4% | 4% | 3% | 2% | 5% | 5% |
| e. Supreme Court Disbarment | 2% | 1% | 2.5% | 4% | 1% | 1% | 2% |

TABLE IV

Number of Months File Was Open at Disposition

| | 1994 | 1995 | 1996 | 1997** | 1998 | 1999 | 2000 | 2001 |
|--|------|------|------|--------|------|------|------|------|
| Discipline Not Warranted/ District Ethics Committee | 4 | 5 | 5 | -- | -- | -- | 5 | 5 |
| Discipline Not Warranted/ Director | 8 | 7 | 7 | -- | -- | -- | 8 | 8 |
| Discipline Not Warranted* | | | | 6 | 6 | 5 | -- | -- |
| Admonition | 10 | 10 | 9 | 8 | 9 | 10 | 9 | 9 |
| Private Probation | 13 | 14 | 17 | 16 | 14 | 14 | 14 | 13 |
| Supreme Court Reprimand | -- | 31 | -- | 11 | 19 | -- | 16 | 21 |
| Supreme Court Reprimand and Probation | | | | | | | | 14 |
| Supreme Court Probation | 22 | 20 | 13 | 19 | 14 | 16 | 20 | 12 |
| Supreme Court Suspension and Probation | | | | | | | | 20 |
| Supreme Court Suspension | 17 | 20 | 20 | 24 | 18 | 13 | 20 | 16 |
| Supreme Court Disbarment | 14 | 14 | 17 | 17 | 27 | 8 | 26 | 30 |

*ADRS did not calculate number of months for DNW categories separately in 97-99. ADRS enhancements now allow such calculations.

**After discovering calculation errors in ADRS reports, ADRS was re-programmed, therefore the numbers for 1997 have been revised.

TABLE V

Average Time Cases Under Advisement by Supreme Court - 2001

| <u>Disposition</u> | <u>No. of Matters</u> | <u>Average Months</u> |
|--|-----------------------|-----------------------|
| Supreme Court Reprimand (Stipulated) | 2 | 1.5 |
| Supreme Court Probation (Stipulated) | 1 | 1.5 |
| Supreme Court Reprimand and Probation (Stipulated) | 1 | 2 |
| Supreme Court Reprimand and Probation | 7 | 1.2 |
| Supreme Court Suspension and Probation | 2 | 1 |
| Supreme Court Suspension (Stipulated) | 7 | 1.1 |
| Supreme Court Suspension | 6 | 2.7 |
| Supreme Court Disability | 2 | 1.3 |
| Supreme Court Disbarment (Stipulated) | 2 | .5 |
| Supreme Court Disbarment | 1 | 5 |



Minnesota Lawyers Professional Responsibility Board & Office of Lawyers Professional Responsibility

What's New?

- [Frequently Asked Trust Account Questions](#)
- [Most Recent Ethics Articles from Minnesota Lawyer](#)
- [Most Recent Bench & Bar Professional Responsibility Columns](#)

The Lawyers Professional Responsibility Board

- [About the Lawyers Professional Responsibility Board](#)
- [Board Member Directory](#)

The Office of Lawyers Professional Responsibility

- [About the Office of Lawyers Professional Responsibility](#)
- [Hours and Staff Directory](#)

Filing a Complaint Against a Lawyer

- [Complaints and Investigations Procedures Brochure](#)
- [Directions for Filing a Complaint](#)
- [Complaint Form for Filing a Complaint](#)

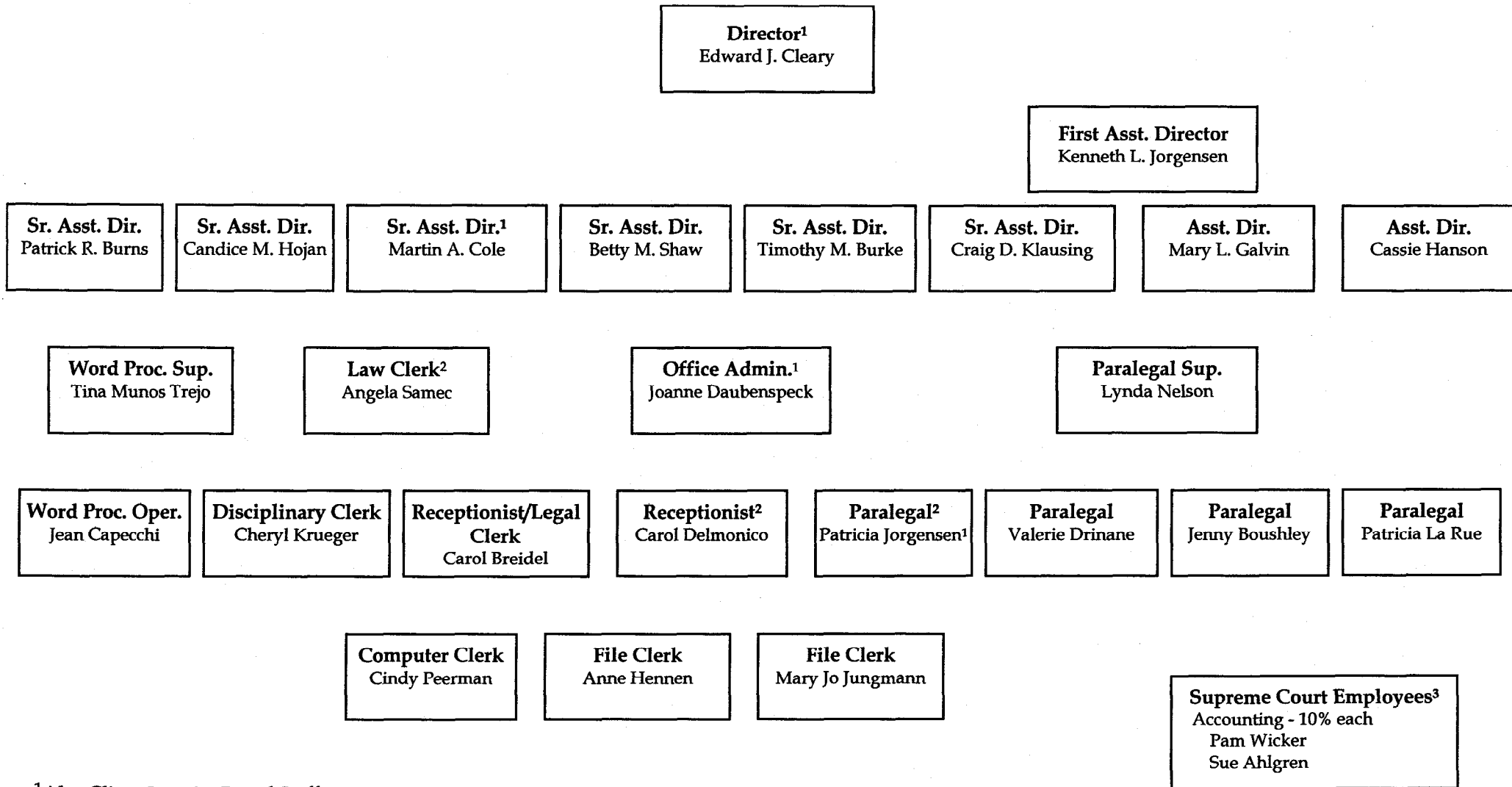
Rules Governing Minnesota Lawyer Discipline System

- [Minnesota Rules of Professional Conduct \(including amendments through 7/1/00\)](#)
- [Minnesota Rules on Lawyers Professional Responsibility \(Procedure Rules\)](#)
- [Lawyers Professional Responsibility Board Opinions \(1 through 19\)](#)

Other Resources

- [Index of Bench & Bar articles concerning Minnesota Professional Responsibility Issues](#)
 - [List of Disbarred and Currently Suspended Lawyers](#)
 - [List of Approved Financial Institutions for MN Lawyer Trust Accounts](#)
 - [Professional Firms](#)
 - [Annual Report and Statistics](#)
 - [Professionalism Aspirations](#)
-

**Office of Lawyers Professional Responsibility
FY'02 Organizational Chart**



¹Also Client Security Board Staff

²Part-time position

³Not administratively subject to Director's Office.
Office pays percentage of their salary

**DEC INVESTIGATION SUMMARY
2001**

| DEC | Number of Files | Average Investigation Duration (Months) |
|-----------------------------|------------------------|--|
| 1 | 25 | 6.4 |
| 2 | 70 | 3.8 |
| 3 | 7 | 3.1 |
| 4 | 191 | 3.6 |
| 5 | 3 | 2.0 |
| 6 | 3 | 4.0 |
| 7 | 26 | 2.9 |
| 8 | 14 | 5.2 |
| 9 | 4 | 2.5 |
| 10 | 4 | 9.3 |
| 11 | 19 | 3.9 |
| 12 | 3 | 3.7 |
| 13 | 1 | 5.0 |
| 14 | 6 | 4.7 |
| 15 | 13 | 3.1 |
| 16 | 3 | 3.7 |
| 17 | 3 | 4.0 |
| 18 | 9 | 3.8 |
| 19 | 16 | 3.1 |
| 20 | 7 | 2.3 |
| 21 | 13 | 3.7 |
| Totals | 440 | 3.8 |
| (non 4th) | (249) | (4.0) |

Office of Lawyers Professional Responsibility
 Speaking Engagements and Seminars July 2001 - June 2002

| | | | |
|----------|---|------------------|---------------------------|
| 7/11/01 | William Mitchell | St. Paul | William Mitchell |
| 7/19/01 | CLEO Program | Minneapolis | Winthrop & Weinstein |
| 7/25/01 | Criminal Law Seminar | Minneapolis | MILE |
| 7/31/01 | Paralegal Panel | St. Paul | Hamline |
| 8/2/01 | U.S. Supreme Court | Washington, DC | AEJMC |
| 8/21/01 | Criminal Justice Institute | Bloomington | MCLE |
| 8/23/01 | Guardianship and Conservatorship | Minneapolis | MILE |
| 8/24/01 | Ethical Obligations and Impairment | St. Paul | All District |
| 9/16/01 | JAG Corps Everyday Ethics for Everyday Lawyers | St. Paul | National Guard |
| 9/27/01 | HCBA Orientation | Minneapolis | HCBA |
| 9/27/02 | MPA Litigation Sectional | Minneapolis | MPA |
| 9/28/01 | Disability and Discipline | Minneapolis | HCBA |
| 10/11/01 | Anoka law clerks | Anoka | |
| 10/13/01 | 10 Inadvertent Violations | St. Paul | MSBA Family Law |
| 10/14/01 | Sandy Keith's Class | St. Paul | Hamline |
| 10/16/01 | Biernat's PR Class | St. Paul | Hamline |
| 10/17/01 | HCBA - Small/Solo Practitioner | Minneapolis | HCBA |
| 10/31/01 | Insurance Coverage Issues | Minneapolis | MILE |
| 11/2/01 | Criminal Law | Hinckley | HCPD |
| 11/9/01 | Annual Real Estate Institute | St. Paul | MNCLE |
| 11/16/01 | MTLA Seminar | Minneapolis | MTLA |
| 11/29/01 | Ethics | St. Paul | All District |
| 12/3/01 | Judicial Election Conference | Minneapolis | MSBA |
| 12/12/01 | Ethics | St. Paul | All District |
| 12/12/01 | West Group Panel | Eagan | |
| 12/17/01 | Ethics | Minneapolis | MILE |
| 12/19/01 | Prof. & PR | Minneapolis | MILE |
| 12/20/01 | Asset Valuation Seminar | Earle Brown Ctr. | MILE |
| 1/10/02 | Privacy | Minneapolis | MILE |
| 1/15/02 | Real Estate Ethics | Minneapolis | VLN |
| 1/17/02 | District Bar - Planning for Death or Disability | Mankato | 6 th Dist. Bar |
| 1/17/02 | National Assn. of Legal Secretaries - Ethics Overview | Minneapolis | NALS |
| 1/23/02 | Government Lawyers Section | St. Paul | RCBA |
| 1/25/02 | Hiring and Firing | Bloomington | MILE |
| 2/4/02 | Ethics and Equal Justice: What our Professional Conduct Code Requires | St. Paul | RCBA |
| 2/5/02 | Ethics for Paralegals | St. Paul | Hamline |
| 2/6/02 | U.S. Supreme Court Panel | St. Paul | |
| 2/8/02 | DWI | Bloomington | MILE |
| 2/12/02 | Real Property Specialist | Minneapolis | MCLE |
| 2/15/02 | Criminal Law Seminar | Minneapolis | HCBA |
| 2/20/02 | Operation of Director's Office | Duluth | 11 th DEC |

Office of Lawyers Professional Responsibility
 Speaking Engagements and Seminars July 2000 - June 2002

| | | | |
|---------|---|-----------------|-------------------------|
| 3/5/02 | Ethics and Bias | St. Paul | All Dist. Legal Ed. |
| 3/5/02 | Ethics & Legal Secretaries - Lindquist & Vennum - Ethics Overview | Minneapolis | NALS |
| 3/6/02 | Hamline Law School - Appellate Advocacy | St. Paul | Hamline |
| 3/7/02 | Rotary | St. Paul | Rotary |
| 3/7/02 | Bankruptcy and Marriage Dissolution | Bloomington | NBI |
| 3/7/02 | PR for New Lawyers | Minneapolis | HCBA |
| 3/12/02 | Certification Class | | NALS |
| 3/20/02 | Mergers & Acquisitions | Brooklyn Center | MILE |
| 3/22/02 | Ethical Issues in Representing Minors | Minneapolis | Children's Law Center |
| 3/26/02 | Securing Fees | St. Paul | Family Law Inst. |
| 3/29/02 | PI Ethics | Minneapolis | HCBA |
| 4/15/02 | Trust Account Seminar | | MCLE |
| 4/17/02 | What does PR have to do with it? Avoiding Ethical and Malpractice Problems in Your Small Practice | St. Paul | RCBA |
| 4/18/02 | Business Law Seminar | Minneapolis | MCLE |
| 4/19/02 | Tax Section | Minneapolis | MSBA |
| 4/20/02 | Legal Prof. Annual Seminar | Alexandria | MN Assn. of Legal Prof. |
| 4/25/02 | Dorsey & Whitney | Minneapolis | CLE |
| 4/26/02 | Public Defenders Seminar | Bemidji | CLE |
| 4/26/02 | Ethics Seminar | St. Paul | Ramsey Cty. Atty. |
| 5/2/02 | Rotary | Alexandria | Rotary |
| 5/3/02 | Larkin Hoffman | Bloomington | CLE |
| 5/3/02 | Investigation Training | Motley | 7 th DEC |
| 5/3/02 | Ethics and Elimination of Bias | Minneapolis | MTLA |
| 5/4/02 | 17 th District Bar Assn. | Fairmont | CLE |
| 5/11/02 | MACDL | Minneapolis | HCGC |
| 5/15/02 | Ethics for Corporate Counsel | Minneapolis | Gray, Plant, Mooty |
| 5/16/02 | Practical Legal Ethics | Bloomington | NBI |
| 5/17/02 | Ethical Dilemmas | Minneapolis | 4 th DEC |
| 5/17/02 | Paralegal Cert. Ceremony | St. Paul | Hamline |
| 5/21/02 | MSBA Bankruptcy Section | Minneapolis | CLE |
| 5/22/02 | Public Law Section Ethics | St. Paul | MSBA |
| 5/22/02 | PLS Ethics Seminar | St. Paul | MSBA |
| 5/23/02 | Olmsted County Bar Assn. | Rochester | Olmsted County Bar Assn |
| 6/6/02 | Anoka Law Clerk CLE | Anoka | CLE |
| 6/7/02 | DWI Seminar | Minneapolis | MILE |
| 6/19/02 | Federal Bar Assn. Seminar | Minneapolis | Federal Bar Assn. |
| 6/25/02 | Corporate Counsel Forum | Minneapolis | |
| 6/27/02 | Disability | Duluth | MSBA CLE |
| 6/27/02 | MSBA Appellate Section | Duluth | MSBA |
| 6/27/02 | What is Unprofessional Conduct? | Minneapolis | MILE |