

**2009-2010
ANNUAL REPORT
OF THE
DISCIPLINARY COMMISSION
OF THE
SUPREME COURT OF INDIANA**

PUBLISHED BY THE

**INDIANA SUPREME COURT DISCIPLINARY COMMISSION
30 SOUTH MERIDIAN STREET, SUITE 850
INDIANAPOLIS, INDIANA 46204
(317) 232-1807
<http://www.IN.gov/discipline>**

INDIANA SUPREME COURT DISCIPLINARY COMMISSION

MEMBERS OF THE COMMISSION

CORINNE R. FINNERTY, CHAIRPERSON
FRED AUSTERAN, VICE-CHAIR
R. ANTHONY PRATHER, SECRETARY
SALLY FRANKLIN ZWEIG, TREASURER
MAUREEN GRINSFELDER
J. MARK ROBINSON
ANTHONY M. ZAPPIA
WILLIAM ANTHONY WALKER
CATHERINE A. NESTRICK

DONALD R. LUNDBERG, EXECUTIVE SECRETARY (JULY 1, 2009 1, 2009 – DECEMBER 31, 2009)

SETH T. PRUDEN, INTERIM EXECUTIVE SECRETARY (JANUARY 1, 2010 – JUNE 20, 2010)

G. MICHAEL WITTE, EXECUTIVE SECRETARY (JUNE 21, 2010 – JUNE 30, 2010)

ATTORNEY STAFF:

GREG N. ANDERSON
ALLISON S. AVERY
DAVID B. HUGHES
LAURA B. IOSUE
CHARLES M. KIDD
CAROL KIRK
DENNIS K. MCKINNEY
ANGIE ORDWAY
SETH T. PRUDEN
FREDRICK L. RICE
ROBERT C. SHOOK

SUPPORT STAFF:

SHERYL BORSZEM
RONDA JOHNSON
ALICIA VITAGLIANO
JUDY E. WHITTAKER

INVESTIGATOR:

ROBERT D. HOLLAND

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	HISTORY AND STRUCTURE OF THE DISCIPLINARY COMMISSION	1
III.	THE DISCIPLINARY PROCESS.....	3
	A. The Grievance Process	3
	B. Preliminary Investigation	3
	C. Further Investigation	4
	D. Authorizing Charges of Misconduct	4
	E. Filing Formal Disciplinary Charges	4
	F. The Evidentiary Hearing	4
	G. Supreme Court Review	5
	H. Final Orders of Discipline	5
	I. Resolution by Agreement.....	6
	J. Temporary Suspension	7
	K. The License Reinstatement Process	7
	L. Lawyer Disability Proceedings	8
IV.	COMMISSION ACTIVITY IN 2009-2010.....	8
	A. Grievances and Investigations.....	8
	B. Non-Cooperation	9
	C. Trust Account Overdraft Reporting	10
	D. Litigation	11
	1. Overview	11
	2. Verified Complaints for Disciplinary Action.....	11
	3. Final Dispositions.....	12
V.	SUMMARY OF DISCIPLINARY COMMISSION ACTIVITIES	12
VI.	AMENDMENTS TO RULES AFFECTING LAWYER DISCIPLINE	13
VII.	OTHER DISCIPLINARY COMMISSION ACTIVITIES	15
VIII.	FINANCIAL REPORT OF THE DISCIPLINARY COMMISSION	15
IX.	APPENDICES:	
	APPENDIX A Biographies of Commission Members	
	APPENDIX B Number of Grievances Filed	
	APPENDIX C Grievance Rates	
	APPENDIX D Grievances by Case Type and Misconduct Alleged	
	APPENDIX E Grievances by Case Type	
	APPENDIX F Grievances by Misconduct Alleged	
	APPENDIX G Disciplinary Sanctions Ordered	
	APPENDIX H Other Disciplinary Commission Activities	
	APPENDIX I Statement of Revenues and Expenses	

I. INTRODUCTION

This is the annual report of the activities of the Disciplinary Commission of the Supreme Court of Indiana for the period beginning July 1, 2009 and ending June 30, 2010. The Disciplinary Commission is the agency of the Supreme Court of the State of Indiana charged with responsibility for investigation and prosecution of charges of lawyer misconduct. The Indiana Rules of Professional Conduct set forth the substantive law to which lawyers are held accountable by the Indiana lawyer discipline system. The procedures governing the Indiana lawyer discipline system are set forth in Indiana Supreme Court Admission and Discipline Rule 23. The broad purposes of the Disciplinary Commission are to "protect the public, the court and the members of the bar of this State from misconduct on the part of attorneys and to protect attorneys from unwarranted claims of misconduct." Admission and Discipline Rule 23, section 1.

The Disciplinary Commission is not a tax-supported agency. It is funded through an annual fee that each lawyer admitted to practice law in the State of Indiana must pay in order to keep his or her license in good standing. The current annual registration fee for a lawyer declaring active status is \$115.00. The annual registration fee for lawyers declaring inactive status is \$57.50. After paying the costs of collecting annual fees, the Clerk of the Supreme Court distributes the balance of fees to the Disciplinary Commission, the Commission for Continuing Legal Education and the Indiana Judges and Lawyers Assistance Program to support the work of those Court agencies. In this fiscal year, of each \$115 annual registration fee, after the Clerk's expenses for collecting fees, 69.3% was distributed to the Disciplinary Commission, 16.48% to the Continuing Legal Education Commission and 14.2% to the Judges and Lawyers Assistance Program.

The annual registration fee for lawyers in inactive status is \$57.50. The annual registration fee is due on or before October 1st of each year. Failure to pay the required fee within the established time subjects the delinquent lawyer to suspension of his or her license to practice law until such time as the fee and any delinquency penalties are paid.

Out-of-state lawyers who received court permission to practice law temporarily in the state of Indiana are required to pay a \$115 registration fee for each year they are participating as counsel in an Indiana case. It is due January 1 of each year.

On May 14, 2010, the Supreme Court issued an order suspending **183** lawyers on active and inactive status, effective June 7, 2010, for failure to pay their annual attorney registration fees.

II. HISTORY AND STRUCTURE OF THE DISCIPLINARY COMMISSION

The Indiana Supreme Court has original and exclusive jurisdiction over the discipline of lawyers admitted to practice law in the State of Indiana. Ind.Const. art. 7, § 4. On June 23, 1971, the Indiana Supreme Court created the Disciplinary Commission to function in an investigatory and prosecutorial capacity in lawyer discipline matters.

The Disciplinary Commission is governed by a board of commissioners, each of whom is appointed by the Supreme Court to serve a term of five years. The Disciplinary Commission consists of seven lawyers and two lay appointees.

The Commission meets monthly in Indianapolis, generally on the second Friday of each month. In addition to acting as the governing board of the agency, the Disciplinary Commission considers staff reports on claims of misconduct against lawyers. Before formal disciplinary charges can be filed against a lawyer, the Commission must make a determination that there is reasonable cause to believe that a lawyer is guilty of misconduct which would warrant disciplinary action.

The officers and members of the Disciplinary Commission during the reporting year were:

<u>Name</u>	<u>Hometown</u>	<u>First Appointed</u>	<u>Current Term Expires</u>
Corinne R. Finnerty, Chair	North Vernon	July 1, 2003	June 30, 2013
Fred Austerman, Vice-Chair	Richmond	July 1, 2003	June 30, 2013
R. Anthony Prather, Secretary	Indianapolis	July 1, 2004	June 30, 2014
Sally Franklin Zweig, Treasurer	Indianapolis	September 2, 2001	June 30, 2011
Maureen Grinsfelder	Fort Wayne	July 1, 2005	June 30, 2015
Catherine A. Nestrack	Evansville	July 1, 2009	June 30, 2014
J. Mark Robinson	New Albany	April 11, 2001	June 30, 2011
William A. Walker	Gary	July 1, 2009	June 30, 2014
Anthony M. Zappia	South Bend	September 9, 2001	June 30, 2011

Biographies of Commission members who served during this reporting year are included in **Appendix A**.

The Disciplinary Commission's work is administered and supervised by its Executive Secretary, who is appointed by the Commission with the approval of the Supreme Court. The Executive Secretary of the Commission was Donald R. Lundberg from July 1, 2009 – December 31, 2009. From January 1, 2010 to June 20, 2010, Seth T. Pruden served as the Interim Executive Secretary of the Commission. Senior Judge G. Michael Witte was appointed the new Executive Secretary of the Commission effective June 21, 2010.

The staff of the Disciplinary Commission during this year included:

Greg N. Anderson, Staff Attorney
 Allison S. Avery, Staff Attorney
 David B. Hughes, Trial Counsel (part-time)
 Laura B. Iosue, Staff Attorney
 Charles M. Kidd, Staff Attorney
 Carol Kirk, Staff Attorney/Investigator
 Dennis K. McKinney, Staff Attorney
 Angie Ordway, Staff Attorney
 Seth T. Pruden, Staff Attorney
 Fredrick L. Rice, Staff Attorney
 Robert C. Shook, Staff Attorney
 Robert D. Holland, Investigator
 Ronda Johnson, Office Manager
 Alicia Vitagliano, Office Manager
 Judy E. Whittaker, Secretary
 Sheryl Borszem, Secretary

In addition, the Disciplinary Commission employs part-time law students to assist in its work. Law clerks employed during this reporting period included Sara A. Vorndran, Amber Malcolm and Lauren E. Berger.

The Disciplinary Commission's offices are located at 30 South Meridian Street, Suite 850, Indianapolis, Indiana 46204.

III. THE DISCIPLINARY PROCESS

A. The Grievance Process

The purpose of the Disciplinary Commission is to inquire into claims of attorney misconduct, protect lawyers against unwarranted claims of misconduct, and prosecute cases seeking attorney discipline when merited. Action by the Disciplinary Commission is not a mechanism for the resolution of private disputes between clients and attorneys. The discipline process is independent of private remedies that may be available through civil litigation.

An investigation into lawyer misconduct is initiated through the filing of a grievance with the Disciplinary Commission. Any member of the bench, the bar or the public may file a grievance by submitting to the Disciplinary Commission a written statement on a prescribed form known as a Request for Investigation (RFI). There are no formal standing requirements for the filing of a grievance. Any individual having knowledge about the facts relating to the complaint may submit a grievance. An RFI is readily available from the Commission's office, from bar associations throughout the state, and on the Internet.

The Disciplinary Commission may also initiate an inquiry into alleged lawyer misconduct in the absence of a grievance from a third party. Acting upon information that is brought to its attention from any credible source, the Disciplinary Commission may authorize the Executive Secretary to prepare a grievance to be signed and issued by the Executive Secretary in the name of the Commission. This is known as a Commission Grievance.

B. Preliminary Investigation

The Commission staff reviews each newly filed grievance to initially determine whether the allegations contained therein raise a substantial question of misconduct. If a grievance does not present a substantial question of misconduct, it may be dismissed by the Executive Secretary with the approval of the Commission. Written notice of dismissal is mailed to the grievant and the lawyer.

A grievance that is not dismissed on its face is sent to the lawyer involved, and a demand is made for the lawyer to submit a mandatory written response within twenty days of receipt. Additional time for response is allotted in appropriate circumstances. Other investigation as appropriate is conducted in order to develop the facts related to a grievance. The Executive Secretary may call upon the assistance of bar associations in the state to aid in the preliminary investigation of grievances. The bar associations that maintain Grievance Committees of volunteer lawyers to assist the Disciplinary Commission with preliminary investigations are: the Allen County Bar Association, the Evansville Bar Association, the Indianapolis Bar Association, the Lake County Bar Association, and the St. Joseph County Bar Association. Upon petition by the Commission,

the Supreme Court may suspend the law license of a lawyer who fails to respond in writing to a grievance that has been opened for investigation.

Upon completion of the preliminary investigation and consideration of the grievance and the lawyer's response, the Executive Secretary, with the approval of the Commission, may dismiss the grievance upon a determination that there is not reasonable cause to believe that the lawyer is guilty of misconduct. The grievant and the lawyer are notified in writing of the dismissal.

Lawyers must cooperate with the Commission's investigation by answering grievances in writing and responding to other demands for information from the Commission. The Commission may seek an order from the Supreme Court suspending a non-cooperating lawyer's license to practice until such time as he or she cooperates. If after being suspended for non-cooperation, the lawyer does not cooperate for a period of six months, the Court may indefinitely suspend the lawyer's license. An indefinitely suspended lawyer will be reinstated only after successfully completing the reinstatement process described in Section K below.

C. Further Investigation

When the Executive Secretary determines that reasonable cause exists, the grievance is docketed for further investigation. Ultimately, full consideration is given by the Disciplinary Commission. Both the grievant and the lawyer are notified of this step in the process. Upon completion of the investigation, the results of the investigation are summarized in written form by Commission staff, and the matter is presented to the Disciplinary Commission for its consideration at one of its monthly meetings.

D. Authorizing Charges of Misconduct

After a grievance has been investigated, the Executive Secretary reports on it to the Disciplinary Commission, together with his recommendation about the disposition of the matter. The Commission makes a determination whether or not there is reasonable cause to believe the lawyer is guilty of misconduct that would warrant disciplinary action. If the Commission finds that there is not reasonable cause, the matter is dismissed with written notice to the grievant and the lawyer. If the Commission finds that reasonable cause exists, it directs the Executive Secretary to prepare and file with the Clerk of the Supreme Court a Verified Complaint charging the lawyer with misconduct.

E. Filing Formal Disciplinary Charges

Upon an authorization by the Disciplinary Commission as described in Section D, the Executive Secretary files a Verified Complaint with the Clerk of the Supreme Court. It sets forth the facts related to the alleged misconduct and identifies those provisions of the Rules of Professional Conduct that are alleged to have been violated by the lawyer's conduct. The respondent must file an answer to the verified complaint, or else the allegations set forth in the complaint will be taken as true.

F. The Evidentiary Hearing

Upon the filing of a verified complaint, the Supreme Court appoints a hearing officer who will preside over the case and who will submit recommended findings and conclusions to the

Supreme Court. The hearing officer must be an attorney admitted to practice law in the State of Indiana and is frequently a sitting or retired judge. Typically, the hearing officer is from a county close to the county in which the respondent lawyer practices law. The hearing officer's responsibilities include supervising the pre-hearing development of the case including discovery, conducting an evidentiary hearing, and reporting the results of the hearing to the Supreme Court. A hearing may be held at any location determined to be appropriate by the hearing officer.

G. Supreme Court Review

After the hearing officer has issued a report to the Supreme Court, either or both of the parties may petition the Court for a review of any or all of the hearing officer's findings, conclusions and recommendations. In every case, even in the absence of a petition for review by one of the parties, the Court independently reviews the matter and issues its final order in the case.

H. Final Orders of Discipline

The conclusion of a lawyer discipline proceeding is an order from the Supreme Court. The Order sets out the facts of the case, determines the violations (if any) of the Rules of Professional Conduct that are supported by the facts, and assesses a sanction in each case where it finds misconduct. The sanction ordered by the Court is related to the seriousness of the violation and the presence or absence of mitigating or aggravating circumstances. The available disciplinary sanctions include:

- **Private Administrative Admonition.** A private administrative admonition (PAA) is a disciplinary sanction that is issued by the Disciplinary Commission as an administrative resolution of cases involving minor misconduct. A PAA is issued as a sanction only when the Disciplinary Commission and the respondent lawyer agree to that disposition of a case. Unlike other disciplinary sanctions, the Supreme Court does not directly issue the admonition. However, the Court receives advance notice of the parties' intent to resolve a case by way of a PAA and may act within a period of 30 days to set aside such a proposed agreement. There is a public record made in the Office of the Clerk of the Supreme Court of every case resolved by a PAA, although the facts of the matter are not included in the public record.
- **Private Reprimand.** A private reprimand is a private letter of reprimand from the Supreme Court to the offending lawyer. The case does not result in a publicly disseminated opinion describing the facts of the case. The Court's brief order of a private reprimand is a public record that is available through the office of the Clerk of the Supreme Court. In rare cases where a private reprimand is assessed, the Court may issue a *per curiam* opinion for publication styled *In the Matter of Anonymous*. While the published opinion does not identify the offending lawyer by name, the opinion sets out the facts of the case and the violations of the Rules of Professional Conduct involved for the edification of the bench, the bar and the public.
- **Public Reprimand.** A public reprimand is issued in the form of a publicly disseminated opinion or order by the Supreme Court setting forth the facts of the case

and identifying the applicable Rule violations. A public reprimand does not result in any direct limitation upon the offending lawyer's license to practice law.

- **Short Term Suspension (six months or less).** The Court may assess a short-term suspension of a lawyer's license to practice law as the sanction in a case. When the term of suspension is six months or less, the lawyer's reinstatement to the practice of law is generally automatic upon the completion of the term of suspension. The Court may, and does from time to time, require that a lawyer under a short term suspension be reinstated to practice only after petitioning for reinstatement and proving fitness to practice law. The procedures associated with reinstatement upon petition are described later in this report. Even in cases of suspension with automatic reinstatement, for proper cause, the Disciplinary Commission may enter objections to the automatic reinstatement of the lawyer's license to practice law.
- **Long Term Suspension (longer than six months).** The Court may assess a longer term of suspension, which is a suspension for a period of time greater than six months. Every lawyer who is suspended for more than six months must petition the Court for reinstatement and prove fitness to re-enter the practice of law before a long-term suspension will be terminated.
- **Disbarment.** In the most serious cases of misconduct, the Court will issue a sanction of disbarment. Disbarment revokes a lawyer's license to practice law permanently, and it is not subject to being reinstated at any time in the future.

The lawyer discipline process in Indiana is not a substitute for private and other public remedies that might be available. These remedies might include criminal sanctions in appropriate cases and civil liability for damages caused by lawyer negligence or other misconduct. The sanctions that are issued in lawyer discipline cases do not generally provide for the resolution of disputed claims of liability for money damages between the grievant and the offending lawyer. However, a suspended lawyer's willingness to make restitution may be considered by the Court to be a substantial factor in determining whether or not the lawyer will be reinstated to the practice of law at the conclusion of a term of suspension.

From time to time, the Court includes in a sanction order additional provisions that address aspects of the lawyer's misconduct in the particular case. Examples of these conditions include participation in substance abuse or mental health recovery programs, specific continuing legal education requirements, and periodic audits of trust accounts.

I. Resolution By Agreement

In some cases of minor misconduct, the Disciplinary Commission and the respondent lawyer can agree before the filing of a formal complaint charging misconduct that the case be disposed of by the issuance of a private administrative admonition (PAA). A PAA is described under Section H.

In some cases that have resulted in the filing of a formal complaint charging misconduct, the respondent lawyer and the Disciplinary Commission reach an agreement to dispose of the case. The agreement resolves the facts of a case, the applicable rule violations and an appropriate

sanction for the misconduct in question. The agreement is submitted to the Supreme Court for its consideration. Any such agreement must include an affidavit from the lawyer accepting full responsibility for the agreed misconduct. The Court is free to accept or reject the agreement of the parties. If accepted, the Court will issue a final order of discipline. A lawyer charged with misconduct may also tender a written resignation from the practice of law. A resignation is not effective unless the lawyer fully admits his or her misconduct and the Court accepts the resignation as tendered. A lawyer who has resigned with misconduct allegations pending may not seek reinstatement of his or her license until a period of at least five years has elapsed and only after successfully petitioning the Court.

In a similar manner, a lawyer charged with misconduct may fully admit the allegations and consent to such discipline as the Court deems appropriate under the circumstances.

J. Temporary Suspension

The Disciplinary Commission may seek the temporary suspension of a lawyer's license to practice law pending the outcome of an ongoing discipline proceeding. Temporary suspensions are generally reserved for cases of serious misconduct or on-going risk to clients or the integrity of client funds. The hearing officer is responsible for taking evidence on a petition for temporary suspension and making a recommendation to the Supreme Court. The Court then issues an order granting or denying the petition for temporary suspension.

In addition to the temporary suspension procedure described above, whenever a lawyer licensed to practice law in Indiana is found guilty of a crime punishable as a felony, the Executive Secretary must report the finding of guilt to the Supreme Court and request an immediate temporary suspension from the practice of law. The Court may order the temporary suspension without a hearing, but the affected lawyer has the opportunity to submit to the Court reasons why the temporary suspension should be vacated. A felony offense temporary suspension is effective until such time as there is a resolution of related disciplinary charges or further order of the Court.

Trial judges are required to send a certified copy of the order adjudicating criminal guilt of any lawyer to the Executive Secretary of the Commission within ten days of the date of the order. This requirement applies to both misdemeanor and felony convictions rendered against a lawyer.

Finally, the Executive Secretary is required to report to the Supreme Court any time notice is received that a lawyer has been found to be delinquent in the payment of child support as a result of an intentional violation of a support order. After being given an opportunity to respond, the Supreme Court may suspend the lawyer's license to practice law until the lawyer is no longer in intentional violation of the support order.

K. The License Reinstatement Process

When any lawyer resigns or is suspended without provision for automatic reinstatement, the lawyer must successfully petition the Supreme Court to gain readmission. The petitioning lawyer must successfully complete the Multi-State Professional Responsibility Examination, a standardized examination on legal ethics. The lawyer must also prove by clear and convincing

evidence that the causes of the underlying misconduct have been successfully addressed, and demonstrate that he or she is otherwise fit to re-enter the practice of law.

Lawyer reinstatement proceedings are heard in the first instance by a member of the Disciplinary Commission appointed as hearing officer by the Court. After hearing evidence, the officer makes a recommendation to the full Disciplinary Commission. The Disciplinary Commission, acting upon the recommendation of the hearing officer, makes its recommendation to the Supreme Court. The Court reviews the recommendation of the Disciplinary Commission and ultimately issues its order granting or denying the petition for reinstatement.

L. Lawyer Disability Proceedings

Any member of the public, the bar, the Disciplinary Commission, or the Executive Secretary may file with the Commission a petition alleging that a lawyer is disabled by reason of physical or mental illness or chemical dependency. The Executive Secretary is charged with investigating allegations of disability. The Executive Secretary prosecutes a disability proceeding if justified by the investigation. The proceeding is conducted before the Disciplinary Commission or a hearing officer appointed by the Court. The Court ultimately reviews the recommendation of the Commission and may suspend the lawyer from the practice of law until such time as the disability has been remediated.

IV. COMMISSION ACTIVITY IN 2009-2010

A. Grievances and Investigations

An investigation into allegations of lawyer misconduct is commenced by the filing of a grievance with the Disciplinary Commission. During the reporting period, **1,542** grievances were filed with the Disciplinary Commission. The Disciplinary Commission initiated **71** grievances. The total number of grievances filed was about one-hundred more than the number filed the previous year. **Appendix B** presents in graphical form the number of grievances filed for each of the past ten years.

There were **17,467** Indiana lawyers in active, good-standing status and **4,581** lawyers in inactive, good-standing as of June 30, 2010. In addition, **964** lawyers regularly admitted to practice in other jurisdictions were granted temporary admission to practice law in Indiana. Indiana Admission and Discipline Rule 3 allows a trial court to grant temporary admission in a specific case. The total grievances filed represent **10.7** grievances for every one-hundred actively practicing lawyers. **Appendix C** presents in graphical form the grievance rate for each of the past ten years.

Distribution of grievances is not even. Far fewer than 1,542 separate lawyers received grievances during the reporting period, because many lawyers were the recipients of multiple grievances. It is important to note that the mere filing of a grievance is not, in and of itself, an indication of misconduct on the part of a lawyer.

During the reporting period, **906** of the grievances received were dismissed without further investigation. On their face, the grievances presented no substantial question of misconduct.

Upon receipt, each grievance that is not initially dismissed is classified according to the type of legal matter out of which the grievance arose and the type of misconduct alleged by the grievant. The table in **Appendix D** sets forth classifications of all grievances that were pending on June 30, 2010, or that were dismissed during the reporting year after investigation. Many grievances arise out of more than one type of legal matter. Others present claims of more than one type of alleged misconduct. Accordingly, the total numbers presented in Appendix D represent a smaller number of actual grievances.

Ranked in order of complaint frequency, the legal matters most often giving rise to grievances involve *Criminal, Domestic Relations, Tort, Personal Misconduct, Bankruptcy and Contract*. To understand the significance of this data, it is important to keep in mind that criminal cases make up the largest single category of cases filed in our trial courts. With the exception of civil plenary filings, domestic relations cases account for the next highest category of cases filed. Thus, in part, the high rates of grievances filed that pertain to criminal and domestic relations matters reflect the high number of cases of those types handled by lawyers in Indiana. Types of legal matters out of which grievances arose during the reporting period are presented graphically in **Appendix E**.

Ranked in order of complaint frequency, the alleged misconduct types most often giving rise to grievances are *Poor Communications or Non-Diligence, Improper Withdrawal, Not Acting With Competence, Exercising Improper Influence, Misinforming, Excessive Fees and Conflicts of Interest*. Complaints about poor communications or non-diligence occur nearly twice as frequently as the next category of alleged misconduct. Types of misconduct alleged in grievances are presented graphically in **Appendix F**

The following is the status of all grievances that were pending before the Disciplinary Commission on June 30, 2010, or that had been dismissed during the reporting period:

	<u>DISMISSED</u>	<u>OPEN</u>
Grievances filed before July 1, 2009	368	304
Grievances filed on or after July 1, 2009	1,184	321
Total carried over from preceding year:		724
Total carried over to next year:		625

This represents a reduction of less than 100 files in the number of grievances carried over into the following year

B. Non-Cooperation

A lawyer's law license may be suspended if the lawyer has failed to cooperate with the disciplinary process. This policy promotes lawyer cooperation to aid in the effective and efficient functioning of the disciplinary system. The Commission brings allegations of non-cooperation before the Court by filing petitions to show cause. During the reporting year, the Disciplinary Commission filed with the Supreme Court **22** non-cooperation petitions to show cause against **20** lawyers. The following are the dispositions of the non-cooperation matters that the Commission filed with the Court during the reporting year or that were carried over from the prior year:

Show cause petitions filed.....22

Dismissed as moot after cooperation before show cause order0

Petition pending on June 30, 2010, without show cause order0

Show cause orders with no suspension.....17

- Dismissed after show cause order due to compliance..... 10
- Dismissed due to disbarment, resignation or suspension..... 3
- Show cause orders pending on June 30, 2010.....4

Suspensions for non-cooperation.....8

- Non-cooperation Suspensions still in effect on June 30, 2010.....5
- Reinstated due to cooperation after suspension.....3

Non-Cooperation Suspensions Converted to Indefinite Suspensions.....5

C. Trust Account Overdraft Reporting

Pursuant to Admis.Disc.R. 23, section 29, all Indiana lawyers must maintain their client trust accounts in financial institutions that have agreed to report any trust account overdrafts to the Disciplinary Commission. Upon receipt of a trust account overdraft report, the Disciplinary Commission sends an inquiry letter to the lawyer directing that the lawyer supply a documented, written explanation for the overdraft. After review of the circumstances surrounding the overdraft, the investigation is either closed or referred to the Disciplinary Commission for consideration of filing a disciplinary grievance.

The results of inquiries into overdraft reports received during the reporting year are:

D. Litigation

1. Overview

In 2009-2010, the Commission filed **40** Verified Complaints for Disciplinary Action with the Supreme Court. This is twenty-two less than in the previous year. These Verified Complaints, together with amendments to pending Verified Complaints, represented findings of reasonable cause by the Commission in **63** separate counts of misconduct.

Including one dismissal and one finding for the respondent, in 2009-2010, the Supreme Court issued **60** final dispositive orders, compared to 74 in the previous year. This represents the completion of **87** separate discipline files compared to the completion of 110 files by court order in the previous year. Including four private administrative admonitions, 49 unique lawyers received final discipline in the reporting year, compared to 76 in the previous year. **Appendix G** provides a comparison of disciplinary sanctions entered for each of the past ten years.

2. Verified Complaints for Disciplinary Action

a. Status of Verified Complaints Filed During the Reporting Period

The following reports the status of all new verified complaints filed during the reporting period:

Verified Complaints Filed During Reporting Period.....	40
Number Disposed Of By End of Year.....	9
Number Pending At End of Year.....	31

In addition, the Disciplinary Commission authorized the filing of **18** verified complaints during the reporting period that had not yet been filed by June 30, 2010.

The Commission also filed **5** Notices of Foreign Discipline and Requests for Reciprocal Discipline with the Supreme Court pursuant to Admission and Discipline Rule 23, §28(b).

During the reporting year, the Disciplinary Commission filed Notices of Felony Guilty Findings and Requests for Suspension pursuant to Admission and Discipline Rule 23, Sec. 11.1(a) in **6** cases.

b. Status of All Pending Verified Complaints

The following reports the status of all formal disciplinary proceedings pending as of June 30, 2010:

Cases Filed; Appointment of Hearing Officer Pending.....	5
Cases Pending Before Hearing Officers	35
Cases Pending On Review Before the Supreme Court.....	9
Total Verified Complaints Pending on June 30, 2009.....	49

Of cases decided during the reporting year, **10** were tried on the merits to hearing officers at final hearings, **34** cases were submitted to the Supreme Court for resolution by way of Affidavit for Resignation, Conditional Agreement for Discipline or Consent to Discipline. Three cases were submitted by hearing officer findings on an Application for Judgment on the Complaint, i.e. default judgment.

3. Final Dispositions

During the reporting period, the Disciplinary Commission imposed administrative sanctions and the Supreme Court imposed disciplinary sanctions, made reinstatement determinations, or took other actions as follows:

Dismissals of Verified Complaint1

Findings for Respondent on Merits.....1

Private Administrative Admonitions4

Private Reprimands4

Public Reprimands.....7

Suspensions With Automatic Reinstatement.....4

Suspensions With Reinstatement on Conditions.....10

Suspensions Without Automatic Reinstatement27

Accepted Resignations5

Disbarments.....1

Reinstatement Proceedings

Disposed of by Final Order.....4

Granted 3

Denied 0

Petition Withdrawn..... 1

Findings of Contempt0

Emergency Interim Suspension0

Temporary Suspensions (Guilty of Felony).....2

V. SUMMARY OF DISCIPLINARY COMMISSION ACTIVITIES

	2009-10	2008-09	2007-08	2006-07	2005-06
Matters Completed	1,542	1,456	1,541	1,463	1,599
Complaints Filed	40	62	47	34	42
Final Hearings	10	8	12	10	15
Final Orders	60	74	53	60	52
Reinstatement Petitions Filed	6	4	5	11	8
Reinstatement Hearings	2	5	6	6	3
Reinstatements Ordered	3	3	9	1	1
Reinstatements Deny/Dismiss	1	2	3	7	2

Income	\$2,043,831	\$1,715,474	\$1,765,488	\$1,984,450	\$1,870,208
Expenses	\$1,726,454	\$1,915,389	\$1,706,111	\$1,814,736	\$1,766,748

VI. AMENDMENTS TO RULES AFFECTING LAWYER DISCIPLINE

A. Admission and Discipline Rules

Admission and Discipline Rule 23.

On September 15, 2009, effective January 1, 2010, the Supreme Court amended Admis. Disc. R. 23, sections 1, 3, 4, 6, 10, 11, 11.2, 11.3, 12, 13, 14, 15, 16, 17, 17.1, 17.2, 18, 19, 20, 22, 28, and 30. Section 1 was amended to specify that the term “Clerk” shall mean the Clerk of the Indiana Supreme Court, Court of Appeals and Tax Court. This change also affected Sections 6, 10, 11.2 (n), 12, 17.2, and 18. Section 19 had only the word “lawyer” changed to “attorney.” Section 30 was amended to change a reference from Admis. Disc. R. 28 to Admis. Disc. R. 29.

Section 3, dealing with types of discipline and suspension, added resignation under Section 17, reinstatement, revocation or probation, and release from probation to the types of discipline that shall be reported. The Section also added that notice of disbarment, resignation under Section 17 or suspension of one year or more shall be communicated to the Clerk of the United States Supreme Court.

Section 4, dealing with Reinstatement, changed the date in which objections to reinstatement must be filed with the Court from ten (10) days to fifteen (15) days. Part (d) was also added to allow the Court to provide reinstatement on other terms and by other procedures.

Section 11, dealing with pre-hearing procedures, now allows for a respondent to, on a showing of good cause, petition the Court for a change of hearing officer within ten (10) days after the appointment.

Section 11.2, dealing with filing and service of pleadings, clarified where filing should occur (with the Clerk), and added the number of copies to be filed for motions for extension of time, appearances, motions to withdraw appearance, petition by the Commission for an order to show cause, and a motion by the Commission to dismiss a show cause proceeding. Part (h), dealing with calculation of time, was eliminated.

Section 11.3, dealing with computation of time, was added. Under the old Section 11.2(h), if service was made by mail, three (3) additional days were allowed. Under 11.3, in computing any period of time, the day of the act or event is not included. The last day of the period is included unless it’s a non-business day, which is defined as Saturdays, Sundays, and legal holidays. The extension of time when served by mail retained the additional three (3) day time period.

Section 13, dealing with Hearing Officers, clarified the duties of the Hearing Officer by deleting the previous requirement of conducting a hearing within sixty (60) days of being appointed and adding language to the effect that the hearing officer is to file a “Hearing Officer’s Report” making written findings of facts and conclusions of laws.

Section 14, dealing with proceedings before the Hearing Officer, deleted language about the number of copies of the answer that shall be filed with the court from Parts (a) and (b). Part

(f) was added to specify that within thirty (30) days of being appointed, the Hearing Officer is to schedule a date for a final hearing, which shall be within ninety (90) days of the same. The parts following (f) were re-lettered, and other minor changes were made.

Section 15, dealing with Supreme Court review, now allows the respondent or Commission, instead of a petition for review, to file a brief on sanctions within thirty (30) days of the Hearing Officer's Report, and provides for timing of opposing parties to file response briefs.

Section 17, dealing with resignations and consents to discipline on admission of misconduct, clarified the number of copies (5) of the affidavit that must be filed by respondents who resign. The section also added language about consents to discipline, stating that the Commission or respondent may file sanction briefs within thirty (30) days of delivery of the affidavit.

Section 17.1, dealing with termination of probation, reorganized the setup of the previous section and extended the time to object by the Commission. Now, at any time after fifteen (15) days prior to the expiration of probation, the respondent may file a Petition for Termination of Probation and an affidavit attesting to successful compliance with the terms of probation. The Commission then has fifteen (15) days to object, and if they do so, the respondent has another fifteen (15) days to respond. If no objection is made, the petition is deemed granted after fifteen (15) days after the petition was filed.

Section 20, dealing with immunity, now includes absolute immunity from civil suit for all oral or written statements made to the Commission and its staff. Previously, only written communications were covered.

Section 22, dealing with public disclosure, was amended to now include conditional agreements between the respondent and Commission as confidential and not open to public inspection.

Section 28, dealing with discipline imposed by other jurisdictions, changed every mention of "lawyer" to "attorney," and under part (c), changed the type of discipline that will be imposed in Indiana on the basis of discipline in another state. Previously, the Court would impose discipline identical to that ordered in the other state, but now, the Court shall suspend the attorney from the practice of law indefinitely unless one of the conditions in sections (1)-(4) were met. Additionally, Part (e) was added to lay out the reinstatement procedure for those on reciprocal discipline. An attorney suspended here may file a Motion for Reinstatement only after he or she has been reinstated in the state of original discipline. However, the suspension in Indiana will not be lifted until the attorney has been suspended here as long as they were suspended in their original state. The suspension in Indiana can begin on the same date as the foreign suspension if the attorney notifies the Commission promptly and states that he has suspended his Indiana practice as of the date of the foreign discipline. The Court may grant the reinstatement without appointment of a hearing officer, and if the attorney's reinstatement in the foreign state is subject to term of probation, so too will the attorney's reinstatement be subject to compliance.

B. Rule of Professional Conduct

On September 15, 2009, effective January 1, 2010, the Supreme Court amended Prof. Cond. R.

1.15 and 6.1. Rule 1.15 was amended to match a change made in Admis. Disc. Rule 2(f). Rule 6.1, dealing with pro bono publico service, was amended to define the terms poverty law, civil rights, public rights law, charitable organization representation, and administration of justice within the Rule. The Comments to the Rule were also amended to include two new comments on compensation of pro bono legal services and awards of attorney's fees. The amended Comments also address what would not fulfill the aspirational goals set forth in Comment 1, including, among others, legal services written off as bad debts and legal services performed for family members.

VII. OTHER DISCIPLINARY COMMISSION ACTIVITIES

Members of the Disciplinary Commission and its staff spent many hours during the reporting year engaged in education efforts related to the lawyer discipline process and professional responsibility. Some of those activities are highlighted in **Appendix H**.

VIII. FINANCIAL REPORT OF THE DISCIPLINARY COMMISSION

A report setting forth the financial condition of the Disciplinary Commission Fund is attached as **Appendix I**.

IX. APPENDICES

BIOGRAPHIES OF DISCIPLINARY COMMISSION MEMBERS

Fred Austerman is from Wayne County, Indiana. He is one of two non-lawyer members of the Disciplinary Commission. He is the President and CEO of Optical Disc Solutions, Inc. in Richmond, a company that provides DVD and compact disc replicating services and project management for a wide variety of media developers. Mr. Austerman attended Indiana University East and graduated from Indiana University/Purdue University in Indianapolis in 1983 receiving an undergraduate degree in business, specializing in accounting. He is married and has twin sons. He is serving his second five-year term on the Disciplinary Commission, ending on June 30, 2013, and served as Vice-Chair of the Commission during this year.

Corinne R. Finnerty, a Jennings County native, practices law in the partnership of McConnell Finnerty Waggoner PC in North Vernon. She received her undergraduate degree from Indiana University in Bloomington. In 1981, she graduated magna cum laude from Indiana University School of Law in Bloomington, where she was selected for membership in the Order of the Coif. She was admitted to practice law in Indiana that same year. She is also admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Seventh Circuit, and the United States District Courts for the Northern and Southern Districts of Indiana. Her bar association memberships include the Jennings County Bar Association, of which she is a past president, the Indiana State Bar Association, and the American Bar Association. Other professional memberships include the Indiana Bar Foundation, of which she is a Patron Fellow, the Indiana Trial Lawyers Association, and the American Association for Justice. Ms. Finnerty has previously been employed as Chief Deputy Prosecuting Attorney for Jennings County and the city attorney for North Vernon. In 1993, she was selected as one of forty-three outstanding women in the law at the annual meeting of the Indiana State Bar Association. Effective July 1, 2003, she was appointed by the Indiana Supreme Court to serve a five-year term on the Indiana Supreme Court Disciplinary Commission. Ms. Finnerty served as Chair of the Disciplinary Commission during this reporting year, having previously served as Vice-Chair and Secretary.

Maureen I. Grinsfelder, a native of Whitley County, retired on January 31, 2009 after fourteen years as Executive Director of the Questa Foundation for Education, Inc., a non-profit foundation that helps finance college for Allen County students. She is a graduate of the University of Michigan, where she was selected for membership in Scroll and Wyvern women's honor societies. For twenty-two years, she was employed by NBD Bank, NA and its predecessor banks in Fort Wayne, administering trusts, guardianships and estates. She was appointed to the Board of Trustees of the Indiana State Museum and Memorials and has served numerous boards of social service and arts organizations in Fort Wayne. She is a past president of Congregation Achduth Vesholom in Fort Wayne and a past vice-president of the Union for Reform Judaism Northeast Lakes Regional Council. She and her husband, Alan Grinsfelder, have four sons and nine grandchildren. She is serving her first five-year term on the Disciplinary Commission, which will expire on June 30, 2010.

R. Anthony Prather is a partner in the Indianapolis, Indiana office of Barnes & Thornburg LLP. He has a full-service practice representing management interests exclusively in all aspects of labor and employment law and litigation including workplace investigations, audits, supervisory training, defense of discrimination and retaliation claims, preparation of and defense of affirmative action plans. Mr. Prather also negotiates and drafts executive employment, separation

and non-compete agreements for clients. Mr. Prather defends management in federal and state courts, before the Equal Employment Opportunity Commission, the Indiana Civil Rights Commission, the Department of Labor, and the National Labor Relations Board. He provides legal advice and counsel to management regarding laws and regulations that impact employment relationships, such as Title VII of the Civil Rights Act, the Americans with Disabilities, the Age Discrimination in Employment Act, the Family Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Occupational Safety and Health Act, state wage payment statutes, and other federal and state employment discrimination statutes. Prior to joining Barnes & Thornburg, Mr. Prather was in-house counsel for Ameritech Corporation, Firestone Building Products Company, Firestone Industrial Products Company, and Firestone Polymers. Mr. Prather has significant trial experience representing employers in both individual and class action litigation. Most recently, he was lead counsel in *Scott v. Wabash National Corporation*, which involved an individual claim of violation of the Americans With Disabilities Act. Mr. Prather received his B.A. from Indiana University in 1980 and his J.D. from Indiana University School of Law – Bloomington in 1983. He is admitted to practice before the U.S. District Courts for the Northern and Southern Districts of Indiana, and the U.S. Court for Appeals for the 7th Circuit. Mr. Prather is a member of the Board of Visitors at Indiana University Maurer School of Law. He is also a member of the Board of Advisors for the Pike YMCA and the Bob Sanders Foundation. He was appointed to his second five-year term on the Disciplinary Commission effective July 1, 2009.

J. Mark Robinson is the managing attorney of the New Albany office of Indiana Legal Services, Inc. He received his B.S. in Civil Engineering from Purdue University in 1969, his law degree from the University of Louisville School of Law in 1973, and a Master of Divinity from the Louisville Presbyterian Theological Seminary in 1974. He was admitted to practice in the Commonwealth of Kentucky in 1974, the State of Indiana in 1975, and the United States District Courts for the Southern District of Indiana and the Western District of Kentucky. Mr. Robinson has served as in-house counsel to Chemetron Corporation, a staff attorney for the U.S. Army Corps of Engineers, and has spent the past twenty years with Indiana Legal Services. His professional memberships include the Clark and Floyd County Bar Associations; the Indiana State, Kentucky, and American Bar Associations. He is the past president of the Clark County Bar Association, past president of the Clark County Board of Public Defenders, has served Clark County in the Indiana State Bar Association House of Delegates for the past eleven years, and has served on the Indiana State Bar Association Board of Governors (2004-2006). He is also a Master Fellow of the Indiana Bar Foundation and present member of its board of directors. He was appointed a Sagamore of the Wabash in 1999. In his civic life, he serves as President of the Board of Directors of the River Ridge Development Authority, and is past trustee of the Southern Indiana Economic Development Council. As a Presbyterian minister, Mr. Robinson served small rural parishes in southeastern Indiana for thirty-two years. He served for six years on the Indiana Pro Bono Commission, and was appointed to a five-year term as a member of the Disciplinary Commission that expired on June 30, 2006. He was re-appointed to a second term on the Commission beginning July 1, 2006. He has previously served as Secretary, Vice-Chair and Chair of the Disciplinary Commission.

Anthony M. Zappia is the senior member of the 4-person law firm of Zappia Zappia & Stipp, located in South Bend, Indiana. He attended the University of Notre Dame where he received his B.A. in 1972, cum laude, in the School of Economics, and earned his law degree in 1976 from Valparaiso University. He is admitted to practice before the Supreme Court of Indiana and the United States District Court for the Northern District of Indiana. Mr. Zappia was a Deputy

APPENDIX A

Prosecuting Attorney in St. Joseph County from 1976 to 1986. He was also the attorney for the Mishawaka City Council from 1981 to 1986. He has served St. Joseph County as its County Attorney from 1986 until the present. He has been a member of the St. Joseph County Judicial Nominating Committee on two separate occasions, and is a member of the Indiana Supreme Court Committee on Character and Fitness. Mr. Zappia was President-Elect in 1989-1990 and President in 1990-1991 of the St. Joseph County Bar Association. He is a member of the Indiana State and American Bar Associations, Indiana Trial Lawyers Association, and Association of Trial Lawyers of America. Mr. Zappia's principal areas of practice are personal injury, criminal defense, domestic relations and civil litigation. He was appointed to an initial five-year term on the Disciplinary Commission that expired on June 30, 2006, and was reappointed to a second term beginning July 1, 2006. He is a former Chair, Vice-Chair and Secretary of the Disciplinary Commission.

Sally Franklin Zweig is a partner of the law firm of Katz & Korin P.C. in Indianapolis. She obtained her undergraduate degree from Washington University in St. Louis in 1971 and received her law degree from Indiana University School of Law at Indianapolis in 1986 and was admitted to practice that same year. Prior to her current affiliation she was a partner at Johnson Smith LLP where she chaired the Health Care Practice Group. She is admitted to practice in all Indiana state courts and both Indiana federal court districts, as well as the Seventh Circuit Court of Appeals and the Supreme Court of the United States. Ms. Zweig is a past President of the Board of Directors of the Indiana University-Indianapolis Law School Alumni Association and a past President of the Indianapolis Chapter of the American Inns of Court. She has been recognized as a Distinguished Fellow of the Indianapolis Bar Foundation and has served as a lecturer for the Bar Review presented by the Indianapolis Bar Association. She is also a Fellow of the Aspen Institute [1997] and the Oxford Center for Social Justice [1998]. Her civic service includes mayoral appointments to the Executive Board of the Greater Indianapolis Progress Committee and as past co-chair of the Race Relations Leadership Counsel of Indianapolis. She also presently serves on the board of directors of the Festival Musical Society. She was appointed to a first five-year term as a member of the Disciplinary Commission expiring on June 30, 2006, and reappointed to a second term beginning July 1, 2006. Ms. Zweig has served as Chair, Vice-Chair, Secretary, and Treasurer of the Commission.

William Anthony Walker is the Managing Attorney of The Walker Law Group, P.C., a firm of four attorneys, based in Gary, Indiana with an additional office in Michigan City, Indiana. Attorney Walker specializes in representing churches, schools, and government agencies. He is a graduate of the University of Massachusetts-Amherst where he received a degree in Social Thought and Political Economy. Attorney Walker continued his post-baccalaureate education studying political science at Clark Atlanta University and then law at DePaul University College of Law in Chicago. After completing law school, Attorney Walker clerked for the Honorable Robert D. Rucker then of the Indiana Court of Appeals and later entered private practice with the firm Meyer, Lyles & Godshalk in Northwest Indiana. Attorney Walker served as Legislative Counsel to the late Congresswoman Julia Carson in her Washington D.C. Office. He has previously been Chief of Staff of Radio One, Inc., a national broadcasting company targeting urban listeners, and Chief Operating Officer and Vice-President of Business and Legal Affairs for its gospel recording label, Music One. Attorney Walker presently serves as the Executive Producer of several radio programs airing on WLTH Radio in Merrillville, Indiana, and he hosts a weekly public affairs talk show. Attorney Walker serves on the boards of the Gary Public

APPENDIX A

Library, KIPP Lead Charter School, and is past chairman of the Urban League of Northwest Indiana. He is a former member of the Gary Police Foundation and Second Chance Foundation boards. Attorney Walker is licensed to practice law in New York, District of Columbia, Illinois, Indiana, Pennsylvania, and federal courts throughout the country. He belongs to various professional organizations including the American Bar Association, National Bar Association, Chicago Bar Association, the District of Columbia Bar Association, Indiana State Bar Association and is a former board member of the Lake County (Indiana) Bar Association. Mr. Walker is serving his first five-year term on the Disciplinary Commission, which will expire on June 30, 2014.

Catherine A. Nestricks is a partner in the Evansville office of Bamberger, Foreman, Oswald & Hahn, LLP. She concentrates her practice on commercial and business litigation, with an emphasis on lender liability defense, contracts, business torts, foreclosures and UCC disputes. She serves as co-chair of her law firm's litigation section. Cathy is a registered Indiana civil mediator. She was appointed by the Indiana Supreme Court to serve as a member of the Indiana Pro Bono Commission. She is a former president of the Evansville Bar Association, the Legal Aid Society of Evansville, and the Vanderburgh County Law Library Foundation. She has served on the Board of the Volunteer Lawyer Program of Southwestern Indiana. She is a member of the Indiana State Bar Association's Litigation Section and the Defense Trial Counsel of Indiana Commercial Litigation Committee. Cathy graduated from Hanover College in 1990 and from Indiana University School of Law in 1993. She is admitted to practice law in both Indiana and Kentucky. Ms. Nestricks is serving her first five-year term on the Disciplinary Commission, which will expire on June 30, 2014.

Type of Legal Matter	Number	% of Total
----------------------	--------	------------

APPENDIX D

Administrative Law	69	4.8%
Adoption	7	0.5%
Bankruptcy	125	8.8%
Collection	38	2.7%
Condemnation	0	0.0%
Contracts	92	6.4%
Corporate	11	0.8%
Criminal	408	28.6%
Domestic Relations	306	21.4%
Guardianship	12	0.8%
Other Judicial Action	19	1.3%
Patent, Copyright	7	0.5%
Personal Misconduct	78	5.5%
Real Estate	39	2.7%
Tort	93	6.5%
Probate	54	3.8%
Worker's Compensation	10	0.7%
Zoning	1	0.1%
Other	42	2.9%
UPL	17	1.2%
TOTAL	1428	100%

Alleged Misconduct	Number	% of Total
Action in Bad Faith	13	0.6%
Advertising	26	1.3%
Bypassing Other Attorney	21	1.0%
Communications/ Non-Diligence	526	25.6%
Conflict of Interest	110	5.3%
Conversion	51	2.5%
Disclosure of Confidences	16	0.8%
Excessive Fee	123	6.0%
Fraud	50	2.4%
Illegal Conduct	88	4.3%
Improper Influence	128	6.2%
Improper Withdrawal	344	16.7%
Incompetence	232	11.3%
Minor Disagreement	0	0.0%
Minor Fee Dispute	68	3.3%
Misinforming	112	5.4%
Overreaching	42	2.0%
Personal Misconduct	100	4.9%
Solicitation	7	0.3%
TOTAL	2057	100.0%

APPENDIX D

APPENDIX G

**PUBLIC AND BAR IMPROVEMENT AND EDUCATION ACTIVITIES
2009-2010**

This is not an exhaustive list of professional outreach programs presented by Commission staff. Other outreach activities may have occurred that are not accounted. However, this listing exhibits a robust commitment of the Disciplinary Commission staff to public education and improvement of the bar.

Author	<i>Two Case Studies in the Exercise of Discretion in Lawyer Discipline Systems</i> , 2009 JOURNAL OF THE PROFESSIONAL LAWYER 107 (American Bar Association, Center for Professional Responsibility, 2009)	Lundberg
Author	<i>Ethics Curbstone: Refunding Fees to Clients</i> , Vol. 53, No. 5 RES GESTAE 36 (December 2009)	Lundberg
Author	<i>Ethics Curbstone: Recent Rule Changes of Special Interest to Lawyers</i> , Vol. 53, No. 4 RES GESTAE 41 (November 2009)	Lundberg
Author	<i>Ethics Curbstone: A Preview of Upcoming U.S. Supreme Court Cases About Lawyers</i> , Vol. 53 No. 3 RES GESTAE 33 (October 2009)	Lundberg
Author	<i>Who's on First? Lawyer Discipline Jurisdiction Under Federalism</i> , Vol. 57, No. 4, USA BULLETIN (United States Department of Justice Executive Office for United States Attorneys, September 2009)	Lundberg
Author	<i>Ethics Curbstone: A Firm By Any Other Name is Just as Conflicted: Quasi-Law Firms and Imputed Conflicts of Interest</i> , Vol. 53 No. 2 RES GESTAE 36 (September 2009)	Lundberg
Author	<i>Ethics Curbstone: Of Marc Dreier and Roscoe Pound: A Rant on Professionalism</i> , Vol. 53 No. 1 RES GESTAE 30 (July/August 2009)	Lundberg
Author	<i>2009 Survey of the Law of Professional Responsibility</i> , 43 Ind. L. Rev. 919 (2010)	Kidd
July 13, 2009	Presenter: "Lawyer Discipline and Mortgage Foreclosure," Back Home Again in Indiana, Indiana Supreme Court, Indianapolis	Iosue
July 17, 2009	Presenter: "Lawyer Discipline and Mortgage Foreclosure," Back Home Again in Indiana, Indiana Supreme Court, Gary	Iosue
July 19, 2009	Presenter: "Pardon the Interruption," Indiana Continuing Legal Education Forum, French Lick	Kidd
July 24, 2009	Presenter: "Lawyer Discipline and Mortgage Foreclosure," Back Home Again in Indiana, Indiana Supreme Court, South Bend	Iosue
August 13, 2009	Presenter: "Ethics for Neutrals," School of Public and Environmental Affairs, Indianapolis	Kidd
August 21, 2009	Presenter: "Lawyer Discipline and Mortgage Foreclosure," Back Home Again in Indiana, Indiana Supreme Court, Bloomington	Iosue
August 21, 2009	Presenter: "Ethics for Neutrals," Indiana University School of Law-Indianapolis, Indianapolis	Kidd
August 25, 2009	Co-Presenter: "I Just Hung Out My Shingle...Now What?" Senior Counsel Division, Indianapolis Bar Association, Indianapolis	Rice
October 2, 2009	Presenter: "Five Key Areas of Ethics That Every Lawyer Should Not Only Know About, But Never Forget," Solo Practitioner/ Small Firm Seminar, Evansville Bar Association, Evansville	Lundberg

APPENDIX H

October 2, 2009	Presenter: "Ethical Concerns for Government Lawyers," Legislative Services Agency, Indianapolis	Kidd
October 6, 2009	Co-Presenter: "Vignettes of Legal Ethics," Indiana Continuing Legal Education Forum, Indianapolis	Kidd
October 8, 2009	Presenter: "Representing Persons of Limited Capacity," Elder Law Institute, Indiana Continuing Legal Education Forum, Indianapolis	Lundberg
October 12, 2009	Presenter: "Four Professional Responsibility Topics Highlighted by Recent Cases," Talk-to-a-Lawyer Today Program, Indiana State Bar Association, Indianapolis	Lundberg
October 14, 2009	Presenter: "Ethics: The Year in Review," Litigation Section, Indianapolis Bar Association, Indianapolis	Lundberg
October 21, 2009	Co-Presenter: "Legal Advertising Ethics Webinar," Law & Politics, Indianapolis	Kidd
October 23, 2009	Presenter: "The Prosecutor and the Lawyer Discipline System," Prosecutor's Applied Professionalism Course, Indiana Prosecuting Attorneys Council, Indianapolis	Lundberg
October 30, 2009	Co-Presenter: "Vignettes of Legal Ethics," Indiana Continuing Legal Education Forum, Fort Wayne	Kidd
November 5, 2009	Presenter: "Update on Ethics," Estate Section, Indiana State Bar Association, Indianapolis	Kidd
November 6, 2009	Presenter: "Recent Developments in Professional Responsibility," 15th Annual CLE Program, Boone Circuit Court/ Boone County Bar Association, Lebanon	Lundberg
November 10, 2009	Presenter: "Annual Updates," Benjamin Harrison Inn of Court, Fort Wayne	Pruden
November 12, 2009	Co-Presenter: "Vignettes of Legal Ethics," Indiana Continuing Legal Education Forum, Merrillville	Kidd
November 18, 2009	Presenter: "Trust Account Management," Applied Professionalism Course, Indiana Continuing Legal Education Forum, Carmel	Pruden
November 18, 2009	Presenter: "Trust Accounts and IOLTA," Applied Professionalism 2009, Indiana Continuing Legal Education Forum, Indianapolis	Lundberg
November 20, 2009	Panelist: "Bias and Discrimination in the Bar - Ethics and Legality," The Indiana Lawyer, Indianapolis	Lundberg
December 2, 2009	Presenter: "Trust Account Management," Applied Professionalism Course, Allen County Bar Association, Fort Wayne	Pruden
December 8, 2009	Presenter: "Update on Ethics," Indianapolis Bar Association, Indianapolis	Kidd
December 9, 2009	Presenter: "Trust Account Management," Applied Professionalism Course, Lake County Bar Association, Merrillville	Pruden
December 9, 2009	Co-Presenter: "Ethics Year In Review," Indiana Continuing Legal Education Forum, Indianapolis	Kidd
December 11, 2009	Panelist: "Ethics," Association of Corporate Counsel, Indiana Chapter, Indianapolis	Lundberg
December 17, 2009	Presenter: "Billing, Fees, and Trust Accounts," Indiana Lawyer, Indianapolis	Pruden
December 17, 2009	Presenter: "Emerging Topics from Recent Discipline Cases," Marion County Bar Association, Indianapolis	Lundberg

APPENDIX H

January 5, 2010	Presenter: "Ethics for Neutrals," Indiana University School of Law-Indianapolis, Indianapolis	Kidd
January 20, 2010	Presenter: "Trust Account Management," Applied Professionalism Course, Evansville Bar Association, Evansville	Pruden
February 23, 2010	Co-Presenter: "Professional Regulation and Procedure in Indiana," Indiana School of Law-Indianapolis, Indianapolis	Kidd
March 5, 2010	Presenter: "Relationship Between JLAP and Disciplinary Commission," Bench & Bar Conference, Lake County Bar Association, Merrillville	Pruden
March 18, 2010	Presenter: "Ethics for Neutrals," School of Public and Environmental Affairs, Indianapolis	Kidd
March 30, 2010	Presenter: "Ethics Update and Procedure," Indiana Department of Health, Indianapolis	Kidd
April 9, 2010	Presenter: "The Lawyer Discipline System," A Course in Applied Professionalism, Indiana Department of Child Services, Indianapolis	McKinney
April 13, 2010	Presenter and Course Director: "Trust Accounts Mae Easy," Trust Account Management School, Joint Program: Disciplinary Commission and Indiana Continuing Legal Education Forum, Indianapolis	Pruden, Ordway
April 16, 2010	Presenter: "Ethical Considerations in the Use of Legal Assistants," DTCL, Indianapolis	Pruden
April 28, 2010	Presenter: "Ethical Considerations in the Use of Legal Assistants," Indianapolis Bar Association, Indianapolis	Pruden
May 6, 2010	Presenter: "Jewish Ethics in a Modern Legal World," Bureau of Jewish Education, Indianapolis	Iosue
June 18, 2010	Presenter: "Avoiding Trouble in the First Place," Heartland Pro Bono Council, Indianapolis	Iosue
June 18, 2010	Co-Presenter: "Basics of Operating a Law Office," Indianapolis Bar Association, Louisville, KY	Kidd
June 19, 2010	Co-Presenter: "Update of Professional Responsibility," Indianapolis Bar Association, Louisville, KY	Kidd

APPENDIX H

INDIANA SUPREME COURT DISCIPLINARY COMMISSION FUND
Statement of Revenues and Expenses (Unaudited)
Fiscal Year Ending June 30, 2010

BEGINNING DISCIPLINARY FUND BALANCE		\$1,143,256
REVENUES:		
TOTAL REGISTRATION FEES COLLECTED		\$1,787,555
REVENUE FROM OTHER SOURCES:		
Court Costs	\$8,235	
Reinstatement Fees	3,000	
Investment Income	3,694	
Rule 7.3 Filing Fees	10,050	
Other	1,169	
TOTAL REVENUE		\$1,813,703
EXPENSES:		
OPERATING EXPENSES:		
Personnel	\$1,537,315	
Investigations/Hearings	50,361	
Postage and Supplies	17,825	
Utilities and Rent	137,492	
Travel	48,574	
Equipment	705	
Other Expenses	12,349	
TOTAL OPERATING EXPENSES		\$1,804,621
TOTAL EXPENSES		\$1,804,621