

TO: The Vermont Supreme Court
Honorable Paul L. Reiber, Chief Justice
Honorable John A. Dooley, Associate Justice
Honorable Denise Johnson, Associate Justice
Honorable Marilyn Skoglund, Associate Justice
Honorable Brian L. Burgess, Associate Justice

FROM: The Professional Responsibility Board

**RE: Annual Report of the Professional Responsibility Program
for FY 2006**

DATE: November 20, 2006

The Professional Responsibility Board is required by Administrative Order 9, Rule 1 E.(2) to provide to the Supreme Court "an annual report, including statistics and recommendations for any rule changes, which report shall be public." The following is the seventh annual report submitted in accordance with this mandate.

I. Report of Activities of Board

Pursuant to A.O. 9, Rule 1.A., the Board is appointed by the Supreme Court and consists of seven members; three of the members of the bar of this state, three public members and one judge or retired judge. The members of the Board as FY 2006 closed were:

Joan Loring Wing, Esq. - Chair
Steven A. Adler, Esq. - Vice-Chair
Honorable Dean Pineles
Ms. Marion Milne
George Nostrand, Esq.
Mr. Neal Rodar
Mr. Donald Keelan

The Board is responsible for overseeing the program and implementing, coordinating and periodically reviewing its policies and goals.

A. Policies

No new policies were adopted this fiscal year. The complete list of policies adopted and/or amended by the Board, can be found online at: <http://www.vermontjudiciary.org/Committees/boards/PRBPoliciesAdopted.mht>, and is also attached here as **Attachment A**.

B. Proposed Amendments to the Rules of Professional Conduct

The Board continued to keep abreast of the work of the study committee of the Civil Rules Committee. On March 4, 2005, numerous proposed amendments to Rules of Professional Conduct were circulated to members of the Bar for comment. The Civil Rules Committee is reviewing the comments, and it is anticipated that a final draft will be sent to the Supreme Court for promulgation.

C. Appointment of Hearing Panels

As the fiscal year began, the Board had ten active hearing panels. The following individuals completed their final term on hearing panels:

Hearing Panel No. 1

Barry Griffith, Esq. - Chair
Stephen Anthony (Tony) Carbine

Hearing Panel No. 3

Robert O'Neill, Esq., Chair
S. Stacy Chapman, Esq.
Ruth Stokes

Hearing Panel No. 5

Mark Sperry, Esq., Chair
Jane Woodruff, Esq.
Sara Gear Boyd

Hearing Panel No. 2

Lawrin Crispe, Esq. - Chair
Michael Filipiak

Hearing Panel No. 4

Paul Ferber, Esq., Chair
George Coppenrath

Hearing Panel No. 6

Judith Salamandra Corso, Esq., Chair
James Gallagher, Esq.
Toby Young

In addition, Mary Gleason Harlow, Esq., resigned when she was appointed a Family Court Magistrate, and Donald Keelan resigned when he was appointed a member of the Professional Responsibility Board.

In order to address the void created by the retirement of several hearing panel members, the Board reconstituted several new hearing panels as follows:

Hearing Panel No. 1

Larry Miller, Esq., Chair
Sue Ritter, Esq.
Diane Drake

Hearing Panel No. 3

Leo Bisson, Esq., Chair
Marianne Kennedy, Esq.
Paul Rumley

Hearing Panel No. 5

Robert P. Keiner, Esq., Chair
Elizabeth Miller, Esq.
Dr. Kim Montgomery

Hearing Panel No. 7

Richard H. Wadhams, Esq., Chair
Keith Kasper, Esq.
Sam Hand

Hearing Panel No. 9

Stephen Dardeck, Esq., Chair
Shannon Aldridge, Esq.
Barbara Carris

Hearing Panel No. 2

Jesse M. Corum, Esq., Chair
Theodore C. Kramer, Esq.
Christopher G. Chapman

Hearing Panel No. 4

Bruce C. Palmer, Esq., Chair
Robert M. Butterfield, Esq.
Florence Chamberlin

Hearing Panel No. 6

Alison J. Bell, Esq., Chair
Eric A. Johnson, Esq.
Lisa Ventriss

Hearing Panel No. 8

Eileen Blackwood, Esq., Chair
Peter Bluhm, Esq.
Tim Volk

Hearing Panel No. 10

Lon T. McClintock, Esq., Chair
Kristina Pollard, Esq.
Dr. Bob Bergman

D. Compliance Audits of Trust Accounts

The Professional Responsibility Program continued to apply an increased level of scrutiny to Client Trust Accounts. Approximately 100 lawyers were selected to respond to a questionnaire relating to the management of their client trust accounts and it was determined that 20% of the attorneys responding to the survey were out of compliance with the rules. The responses were reviewed by both Bar Counsel and Disciplinary Counsel, with Disciplinary Counsel following-up by working with several attorneys to correct deficiencies in their trust accounting systems. In addition, the Program worked to remind the Bar (1) that lawyers must take steps to inform their banks that Disciplinary Counsel must be notified whenever a check drawn on account containing client funds is presented against insufficient funds; and (2) that attorneys may only maintain IOLTA accounts at banks that pay the interest generated on such accounts to the Vermont Bar Foundation. Finally, the Board recommended that the Court increase the annual attorney licensing fee and dedicate a portion of the increased revenue for the Program to use to conduct further audits of attorney trust accounts.

E. Annual Training Meeting

The Professional Responsibility Board held its annual meeting in Stowe on Tuesday, June 13 with approximately 40 board members, staff, hearing panel members and assistance panel members attending. The morning agenda included presentations on a "Year in Review" and the "VBA/LAP" program. Chief Justice Paul Reiber, the Board's liaison, delivered the luncheon address. The afternoon session including a brief discussion on conflicts of interest and a "Mock Hearing," which included deliberations. Attorneys attending this annual training were eligible for 3.5 CLE ethics credits.

F. Supervision of the Program's Case Docket and Review of Case Management Procedures

Each month the Program Administrator provided the Board with a caseflow statistics report. The Board reviewed the caseflow reports at each Board meeting.

II. Report of Activities of Bar Counsel

Bar Counsel's powers and duties are set forth at Rule 3.B. of Administrative Order 9:

Bar Counsel shall administer the dispute resolution program; respond to inquiries from lawyers regarding ethics and law practice; consult and coordinate with state and local bar associations, the Judicial Conduct Board, the Board of Bar Examiners and other related organizations regarding matters concerning attorney conduct and professional responsibility; confer periodically with the Board to review program operations; provide administrative and legal support to the Board and assistance panels; and perform such other functions as are necessary to accomplish the goals of the program.

A. Administration of the Dispute Resolution Program

Bar Counsel's first duty is to administer the dispute resolution program which operates informally through the resolution of telephonic and electronic inquiries and formally within the framework of the Assistance Panels. Administrative Order 9, Rule 3.B.(1), and 4.

1. Informal Resolution of Disputes

The informal method is the first level of non-disciplinary resolution which the public is likely to encounter.

Bar Counsel receives informal inquiries via telephone or email about lawyer conduct from clients, opposing parties, other members of the public, lawyers, and judges. Those who are concerned about a lawyer's conduct, but have not yet filed a complaint, may contact Bar Counsel for information and assistance. Where there are minor disputes that can be mediated or resolved easily, Bar Counsel will do so. In all cases, Bar Counsel explains to the caller his or her options and choices, including the filing of a formal complaint, mediation, fee arbitration, private litigation, etc.

a. Inquiries From Members of the Public

The handling of telephonic or electronic inquiries from members of the public is essentially a Consumer Assistance Program. That is, the goal of the program is to resolve minor issues between lawyer and client, without subjecting either party to the disciplinary process.

Anyone who calls either the Burlington or Montpelier Office with a concern or complaint about a lawyer's conduct is briefly interviewed by one of the staff members who reduces the caller's concern to writing, and e-mails it to Bar Counsel. Unless it is clear that the complainant ought to file a complaint promptly, in which case complainant will be so advised, Bar Counsel then contacts the caller personally to discuss the concerns and tries to resolve the matter if appropriate.

The types of inquiries received are as varied as are the resources needed to respond to them. Some are resolved in 20 minutes. Some involve multiple phone conferences over a few weeks.

Common inquiries include a client who is concerned about the attorney's bill or about the way an attorney handled a closing or a telephone call but is unsure of how to approach the attorney without jeopardizing the relationship. Sometimes the client is calling because she wants to find a new attorney but needs help making the transition and retrieving her file. The majority of concerns involve neglect and lack of communication. Many callers are either frightened or angry. Bar Counsel responds by working with both parties to mediate a resolution whenever possible.

Bar Counsel also receives inquiries from members of the public where more active intervention is necessary such as tracking down old files from former attorneys or responding to cross-complaints of people in particularly emotional situations: criminal cases, family court, and probate.

Not all informal inquiries can or should be resolved at this stage. Some inquiries raise factual issues that can only be resolved through investigation by Disciplinary Counsel. Some raise disciplinary issues, some cannot be resolved informally without written material, some require more resources than are available to Bar Counsel. In these instances, Bar Counsel generally refers the caller to Disciplinary Counsel. Eventually, some of these cases end up in the formal dispute resolution program through the Assistance Panels.

This year Bar Counsel received 232 new inquiries from all sources, with an additional 2 carried over from the previous fiscal year. Bar Counsel addressed,

resolved and closed 230 of them during FY2006. Members of the public filed 135 of these inquiries, roughly 60% of all received inquiries. Bar Counsel resolved the issue for the caller in approximately 55% of the calls, i.e., 73 of the 135 inquiries. In 10% of the cases, (16 of the 134) the callers needed different services than we provide and were thus referred to the appropriate agency or other programs such as VBA Lawyer Referral Service, the VBA's Lawyer Assistance Program, the VBA's Fee Dispute Committee, the Judicial Conduct Board, or the Secretary of State.

The remaining 35% - 45 callers - were advised that a formal complaint should be submitted. In many of those cases, Bar Counsel assisted callers with information as to where to file a complaint and how to do so. In cases where the caller was not particularly organized or literate, Bar Counsel assisted the caller in marshaling the evidence and honing in on the particular grievances which appeared to have some vitality.

Chart 1: Resolution of Informal Inquiries

| | 2001¹ | 2002 | 2003² | 2004³ | 2005 | 2006 |
|--|-------------------------|-------------|-------------------------|-------------------------|-------------|-------------|
| Total Inquiries Rec'd From: All Sources | 169 | 201 | 145 | 119 | 245 | 234 |
| New From Public | 127 | 137 | 84 | 73 | 137 | 135 |
| New From Lawyers | 42 | 64 | 61 | 46 | 108 | 97 |
| Pending from Previous Fiscal year | | | | | | 2 |
| DISPOSITION: Total Cases Closed | 169 | 201 | 145 | 119 | 245 | 230 |
| Issues Resolved: All Sources | 119 | 111 | 90 | 81 | 157 | 160 |
| From Public | 89 | 54 | 40 | 45 | 65 | 73 |
| From Lawyers | 30 | 57 | 50 | 36 | 92 | 87 |
| Advised to File Complaint: All Sources | 42 | 84 | 49 | 30 | 67 | 46 |
| From Public | 38 | 81 | 39 | 25 | 57 | 45 |
| From Lawyers | 4 | 3 | 10 | 5 | 10 | 1 |
| Other Disposition: All Sources | 8 | 6 | 6 | 8 | 21 | 24 |
| From Public | 0 | 2 | 5 | 3 | 15 | 16 |
| From Lawyers | 8 | 4 | 1 | 5 | 6 | 8 |
| Cases Carried Over to Next FY | | | | | | 4 |

¹ Statistics were gathered for 11 months. No statistics were kept for the first month of fiscal 2001.

² Statistics for public inquires are for 9 months of FY2003. Bar Counsel was on leave for three months that year and services were suspended due to lack of staff to replace her.

³ Service not offered to general public for approximately 5 months and not offered to attorneys for approximately 3 months due to staff shortage.

b. Inquiries from Members of the Bar

Administrative Order No. 9, Rule 9 Prevention and Education states:

Inquiries from attorneys regarding ethical issues or practice questions shall be referred to bar counsel, who may provide referrals, educational materials, and preventive advice and information to assist attorneys to achieve and maintain high standards of professional responsibility.

Bar Counsel receives many inquiries from members of the bar, most of which involve questions about the attorney's own ethical dilemmas and situations where the attorney is seeking advice or confirmation.

Most inquiries come from lawyers who are sole practitioners. Very few come from lawyers in larger firms or from government lawyers, presumably because they have resources that sole practitioners do not have. The range of questions spread over every aspect of substantive law, although litigators and family law lawyers make up the bulk of lawyers seeking help. While the queries are far ranging, the most common concern conflicts of interest. Some of them require immediate attention, but the majority are not time sensitive. Some require extensive research; others can be answered and resolved in 10 minutes.

Lawyers also call with questions or complaints about other attorneys' conduct, wondering whether they are obligated to file a formal complaint. Generally, the complained of conduct does not rise to the level requiring a mandatory report to Disciplinary Counsel. Nevertheless, the lawyers and Bar Counsel discuss what action the lawyers might take to address the questioned conduct.

The number of lawyer-made inquiries continued at the range of 80 to about 100 per year. While the first three years averaged about 60-some lawyers a year, this year 97 lawyers made inquiries. See Table 2, below. Of these, Bar Counsel resolved the issues to the callers satisfaction in a little more than 90% of the cases. In only one of the cases did it appear that a formal written complaint was necessary. Other dispositions, i.e., referral to other agencies, were reached in 8 of the total 97 cases.

After five years of this program, many lawyers still are not aware of Bar Counsel's availability to assist them with ethical issues. When those who hear about it through the grapevine call Bar Counsel, they are invariably grateful for the chance to talk about ethics before approaching whatever problem it is that has led to their calls. Announcement of this on-going project through the e-mail list of all Vermont lawyers would help resolve that problem.

2. Formal Resolution: Assistance Panels

The second part of the alternative dispute resolution program is the Assistance Panel program which exists by virtue of A. O. No. 9, Rule 4. Its process is best described at Rule 4.B., which provides:

(1) The assistance panel shall review all complaints referred to it by bar counsel or disciplinary counsel and provide a process to resolve such complaints. The panel may meet with the person filing the complaint and the attorney who is the subject thereof, and, with the concurrence of the attorney, may impose conditions as an alternative to discipline. Any terms or conditions shall be stated in writing, and may include, but shall not be limited to, participation in law office management training, continuing legal education, psychological counseling, substance abuse programs, and referral to fee arbitration. The panel may transfer any matter to disciplinary counsel which, in its

view, is more appropriate for disciplinary proceedings.

(2) Upon the imposition of conditions, the complaint may be conditionally closed. Upon motion of the attorney and proof of successful completion of any terms or conditions, the complaint will be dismissed.

(3) If an attorney refuses to participate in the assistance program, or fails to comply with any terms or conditions, the complaint may be referred to disciplinary counsel for further action.

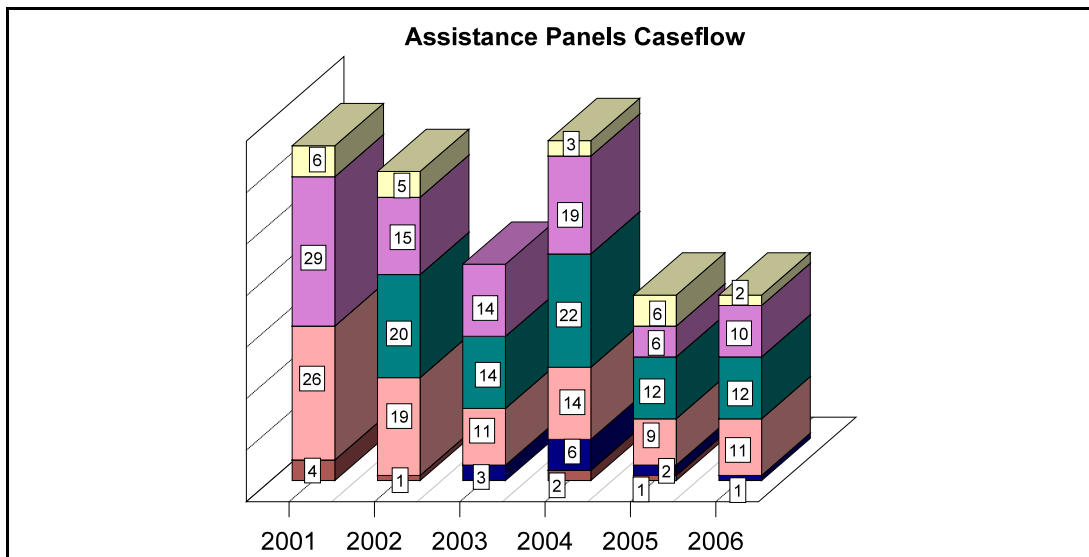
The Assistance Panels are comprised of volunteers from across the state of Vermont. Each has received education about mediation through the Program's annual meetings; many are trained mediators. One Board member serves on each Assistance Panel as does at least one member of the public. There are nine lawyers and five non-lawyers who are available to serve on these panels of three, in addition to the seven Board members.

When a referral is made by the Disciplinary Counsel to the Assistance Panel, Bar Counsel confers with the participants and provides information about the process. Bar Counsel composes the panel and schedules the cases to be heard at different locations throughout the state for the geographical convenience of the complainants and of the respondents, and always with various conflicts of interests in consideration.

FY2006 began with two cases pending from the previous year. During the year, nine other cases were referred by Disciplinary Counsel and one case was referred by a Hearing Panel for a total docket of twelve cases.

Twelve Assistance Panels were convened this year. They heard and disposed of 11 cases. The remaining case was held open pending satisfaction of conditions imposed by the assistance panel.

CHART 2: ASSISTANCE PANEL CASEFLOW



At the conclusion of each hearing, a questionnaire is distributed to each participant. This year 21 questionnaires were distributed, of which 10 were returned.

Eight Respondents and two Complainants responded. The majority of the Respondents reported being satisfied or very satisfied with the impartiality and skill of the panel at moving the parties toward agreement. All of the questionnaires and the comments received were reviewed by the entire Board.

In addition to Board members, the following volunteers⁴ were members of Assistance Panels during FY2006:

| | |
|------------------------------|---------------------|
| Joseph F. Cahill, Jr., Esq.* | Irene Carbine* |
| Emily Gould, Esq.* | Alice Estey* |
| Robert Fairbanks, Esq.* | Susan Fay* |
| Larry Mandell, Esq. | Rachel Siegel* |
| Katherine Mosenthal, Esq.* | R. Brownson Spencer |
| Susan Palmer, Esq. | |
| Alan Rome, Esq.* | |
| Janet Shaw, Esq.* | |
| John Webber, Esq.* | |

B. Liaison with other Organizations and Attorney Education

Bar Counsel is also charged with the responsibility for working with other organizations regarding matters concerning attorney conduct and professional responsibility. The most significant project in FY2006 was Bar Counsel's report to the Board re a proposed Lawyer Assistance Program, based on the ABA Model Rules and the rules of other states. This report was sent to the VBA along with the Board's recommendation that a more structured, comprehensive LAP should be created, not under the Board as proposed but under the auspices of the VBA. Bar Counsel conferred at some length with the Executive Director of the VBA, as well as with managers of the VBA, as to how the Vermont LAP, currently chaired by Attorney John Webber, could be expanded.

Bar Counsel also worked with state and local professional organizations to present continuing legal education programs to Vermont lawyers. She participated in a panel discussion concerning Lawyer Assistance Panels at the VBA's mid-winter meeting. Bar Counsel also provided legal support to the Board during the year. This included participating with Disciplinary Counsel in the review of information provided by Vermont lawyers through a random review of lawyer accounting systems. Bar Counsel is working with the staff of other lawyer regulatory programs, such as licensing, continuing education and bar examination, to begin a program of inter-agency co-operation and consultation. As part of this effort, Bar Counsel has begun a project to reshape the Judiciary's website concerning lawyer regulation and discipline so that it is more accessible by users. Finally, Bar Counsel wrote an article, published in the VBA journal, concerning attorney liens, which in turn prompted three attorneys to contact Bar Counsel for assistance.

C. Publishing of Decisions

Rule 13 provides that Bar Counsel is responsible for notifying various state and federal agencies of the imposition of public discipline. The rule also requires Bar Counsel to notify the courts within the state of Vermont and the local newspaper when a lawyer has been publicly disciplined. Bar Counsel's office also publishes each hearing panel decision online at www.vermontjudiciary.org. The decisions are also distributed to other publishers and are maintained in a loose-leaf binder for public

⁴ The asterisk denotes the volunteers who participated in hearings during FY2006.

access as required by Rule 13 E. This year, Bar Counsel published 14 decisions. In addition, Bar Counsel published a digest, with each decision summarized, also available for viewing on the Judiciary's homepage. The digest can be found online at http://dol.state.vt.us/GOPHER_ROOT4/PROF_CONDUCT_BD/summaryb.txt.

III. Report of Activities of Disciplinary Counsel

A. Introduction

Disciplinary Counsel administers the disciplinary side of the Professional Responsibility Program. In FY 2006, the administration of the disciplinary program included the screening of new complaints, the formal investigation of complaints that were not resolved at the screening phase, and the prosecution of disciplinary cases. In addition, Disciplinary Counsel spent a significant amount of time working with both the Professional Responsibility Board and the Bar on issues related to attorney ethics.

Throughout FY 2006, Disciplinary Counsel's office consisted of two full-time attorneys, Disciplinary Counsel and Deputy Disciplinary Counsel, and a part-time administrative assistant. The office worked closely with the Board, Bar Counsel, and the Board's Program Administrator.

B. The Investigation and Prosecution of Ethics Complaints

Disciplinary Counsel's core function is to investigate and prosecute disciplinary complaints. In FY 2006, the Professional Responsibility Program opened 275 new files, compared to 264 in FY2005. The files were opened for the following reasons:

1. 221 were opened upon the receipt of a written complaint against an attorney licensed to practice law in Vermont;
2. 41 were opened upon the receipt of a notice of overdraft to an attorney trust account⁵;
3. 7 were opened by Disciplinary Counsel
4. 4 were opened after attorneys self-reported, two of which related to either misuse or overdraft of attorney trust accounts
5. 1 was opened against an attorney licensed in Vermont, who had been disciplined by another jurisdiction resulting in a Petition for Reciprocal Discipline; and
6. 1 was opened after an attorney failed to cooperate with a disciplinary investigation.

⁵ Attorney trust accounts must be maintained in financial institutions approved by the PRB. See *V.R.P.C. 1.15C(a)*. In order to be on the list of approved institutions, a bank must execute an agreement with Disciplinary Counsel in which it agrees to notify Disciplinary Counsel whenever an instrument is presented against a trust accounts that does not contain sufficient funds to honor the instrument. See *V.R.P.C. 1.15C(b)*.

C. Screening

Upon receipt, an ethics complaint is "screened" by Disciplinary Counsel or Deputy Disciplinary Counsel. *See A.O. 9, Rule 10.* The screening process is rather informal and is intended to determine the nature of the complaint and whether it can be resolved through non-disciplinary methods. Indeed, the screening attorney may attempt to resolve any complaint that does require formal action by an assistance panel or the disciplinary program.

In general, if a complaint alleges misconduct that might require a disciplinary sanction, the complaint is referred for a formal investigation by Disciplinary Counsel. Otherwise, the screening attorney either dismisses the complaint or refers it to an Assistance Panel for non-disciplinary resolution.

In FY 2006, 270 complaints were screened by counsel for the Professional Responsibility Program.⁶ Disciplinary Counsel screened 263, and 7⁷ cases were assigned to Conflict Counsel for screening.

As FY 2006 ended, 12 cases had not yet been screened, 180 cases were referred for a formal investigation by Disciplinary Counsel; and 83 cases were dismissed at the screening level.

1. Complaints Dismissed at Screening

If a complaint does not allege conduct that appears to require a disciplinary sanction, it is dismissed at screening. Upon dismissal, each complaint is assigned a "dismissal code." Each dismissal code represents a different reason for the decision to dismiss a particular complaint. The 83 complaints that were dismissed at screening in FY 2006 were dismissed for the following reasons:

| | | | |
|--------|----|----|---|
| CBC-1: | 5 | -- | Resolved by Screening Attorney |
| CBC-2: | 69 | -- | No Cause of Action |
| CBC-3: | 2 | -- | Insufficient Evidence to Open Investigation |
| CBC-4: | 3 | -- | Referred to Fee Dispute Program |
| CBC-5: | 3 | -- | Petition for Post-Conviction Relief |
| CBC-6: | 0 | -- | Complainant Seeks New Attorney |
| CBC-7: | 1 | -- | Lack of Disciplinary Jurisdiction |
| CBC-8: | 0 | -- | Disciplined in Another File |

If a complaint is dismissed at screening, the complainant may appeal the dismissal to the Chair of the Professional Responsibility Board. *A.O. 9, 10(D).* The complainant is advised, in writing, of the reason for the decision to dismiss. The complainant is also advised of his or her right to appeal the decision, within 60 days, to the Chair of the Board. By contrast, if Disciplinary Counsel dismisses a complaint after the conclusion of a formal investigation, the complainant has no right to appellate review.

In FY 2006, 29 complainants appealed Disciplinary Counsel's decision to dismiss

⁶ The total includes 263 of the 275 new files that were opened in FY 2006, as well as 7 files that was opened in FY2005 but were not screened until FY 2006.

⁷ If Disciplinary Counsel has a conflict that prohibits his office from screening a particular complaint, the Board's Program Administrator refers the complaint to private counsel for screening.

a complaint at screening; 25 of the appeals were upheld by the chair; 4 cases were referred to Disciplinary Counsel for further investigation. All 4 of those cases were subsequently dismissed.

D. Formal Investigations by Disciplinary Counsel

As mentioned above, a complaint is referred for a formal investigation by Disciplinary Counsel if it alleges misconduct that appears to require a disciplinary sanction. The first step in the investigation is to require the attorney who is the subject of the complaint to file a written response to the allegations. Disciplinary Counsel reviews the response and then conducts whatever additional investigation is appropriate.

Upon concluding an investigation, Disciplinary Counsel has three options: (1) dismiss the complaint; (2) refer the complaint to an Assistance Panel for non-disciplinary resolution; or (3) ask a hearing panel to review for probable cause Disciplinary Counsel's decision to file formal disciplinary charges against the attorney.

As FY 2006 began, Disciplinary Counsel was investigating 84 complaints. Another 184 were referred to Disciplinary Counsel during the fiscal year.

1. Requests for Review for Probable Cause

Upon concluding an investigation, Disciplinary Counsel does not have the unilateral authority to file formal disciplinary charges against an attorney. Rather, if Disciplinary Counsel decides that formal charges are appropriate, he must ask a hearing panel to review his decision for probable cause.

By rule, a Request for Review for Probable Cause must be in writing and must include an Affidavit from Disciplinary Counsel that recaps the investigation and sets forth the factual basis for the decision to file formal charges. The process is *ex parte* in that the responding attorney does not submit material or argument directly to the panel. Moreover, Disciplinary Counsel does not appear or otherwise participate when a panel convenes to consider a Request for Review for Probable Cause.

If a panel finds that Disciplinary Counsel's decision to file formal charges is supported by probable cause, Disciplinary Counsel is authorized to file a Petition of Misconduct. If a panel finds that there is no probable cause to file formal charges, Disciplinary Counsel dismisses the complaint. Per Board rule, if a probable cause request is denied, Disciplinary Counsel may not submit the case for probable cause review again unless he discovers new evidence that was not available when the first request was submitted.

In FY 2006, Disciplinary Counsel concluded 15 investigations that resulted in a decision to file formal disciplinary charges against the respondent. The investigations involved 11 attorneys. In each of those 15 cases, Disciplinary Counsel asked a panel to review for probable cause the decision to file formal disciplinary charges against the respondent.

Each of the 15 requests was granted. As the fiscal year end, ten of the cases had resulted in the commencement of formal disciplinary proceedings, while four were pending further action by Disciplinary Counsel. One case was dismissed after the hearing panel found that probable cause existed on one count, but not the others recommended by Disciplinary Counsel.

2. Formal Disciplinary Proceedings

By rule, formal disciplinary proceedings can be commenced in one of two ways: the filing of a petition of misconduct, or, the filing of a stipulation of facts. A.O. 9, Rule 11(D)(1). In FY 2006, Disciplinary Counsel commenced formal disciplinary proceedings in 18 cases. The 18 cases involved 15 different attorneys.

a. Petitions for Interim Suspension

Rule 18 of Administrative Order 9 requires Disciplinary Counsel, upon the "receipt of sufficient evidence" showing that an attorney has violated the ethics rules and presently poses a substantial threat of harm to the public, to transmit the evidence to the Court along with a proposed order for the interim suspension of the attorney's license to practice law.

In FY 2006, Disciplinary Counsel filed one petition for an interim suspension. The petition involved one attorney who was the subject of four separate complaints. The interim suspension was granted and as the fiscal year ended, the investigation were still ongoing.

b. Petitions of Misconduct

Disciplinary Counsel's charging document is known as a "Petition of Misconduct." The petition must be sufficiently clear so as to notify the attorney of the alleged misconduct and the rules allegedly violated. An attorney has twenty days to answer a petition. Once an Answer is filed, each party has the right to conduct discovery in advance of a disciplinary hearing. In FY 2006, Disciplinary Counsel filed eight petitions of misconduct. The petitions involved six different attorneys. As FY 2006 closed, six of the petitions remained pending before hearing panels awaiting formal hearings. The other two were withdrawn after the respondent agreed to transfer his license to disability inactive status"

c. Stipulations

As an alternative to a Petition of Misconduct, Disciplinary Counsel and a respondent may commence formal disciplinary proceedings by filing a Stipulation of Facts. From there, the parties may either join to recommend a particular sanction or present argument as to the appropriate sanction.

In FY 2006, there were 9 cases in which Disciplinary Counsel joined with a respondent to commence formal proceedings via stipulated facts. The cases involved 9 different lawyers. In all of the cases, the parties also joined to recommend a particular sanction. In addition, the parties may join to recommend that a lawyer suffers from a disability that warrants the transfer of his or her license to disability inactive status.

In FY 2006, there were seven cases in which Disciplinary Counsel and a respondent commenced formal disciplinary proceedings by filing stipulated facts and joint recommendations as to a particular sanction. The cases involved seven different attorneys. Four of the cases were closed after a hearing panel issued a decision accepting the proposed sanction. Two remained pending before hearing panels as the fiscal year closed. In the seventh, a hearing panel rejected the proposed sanction and, instead, referred the matter to an assistance panel for non-disciplinary resolution.

In addition, Disciplinary Counsel investigated three separate complaints against a single attorney. Each of those cases resulted in the parties stipulating that the attorney's license should be transferred to disability inactive status.

Finally, in FY 2006, Disciplinary Counsel appeared before a hearing panel to argue for a particular sanction in a case that had been commenced by stipulated facts in FY2005. The case resulted in the respondent being disbarred.

3. Other Disciplinary Proceedings

Besides commencing formal proceedings by petition or stipulation, there are two other methods by which an attorney can be disciplined. Each method was used in FY 2006.

a. Affidavits of Resignation

Rule 19 of Administrative Order 9 allows an attorney to resign from the Bar while under disciplinary investigation. To do so, the attorney must file with the Professional Responsibility Board an Affidavit of Resignation in which the attorney swears that each of the four elements set out in Rule 19 is present. Then, Disciplinary Counsel must file a Statement of Additional Facts that supports a finding that the attorney violated the Rules of Professional Conduct. If the Board accepts an Affidavit of Resignation, it may file its acceptance with the Court, or, in the alternative, assign the matter to a hearing panel for further inquiry.

In FY 2006, two attorneys filed Affidavits of Resignation with the Board. In each case, Disciplinary Counsel filed a Statement of Additional Facts that supported a finding that the attorney had violated the Rules of Professional Conduct. The Board accepted each Affidavit and, in each case, the Supreme Court entered an Order disbarring the attorney.

b. Reciprocal Discipline

Rule 20 of Administrative Order 9 requires Disciplinary Counsel to notify the Board and the Court whenever an attorney admitted to practice law in Vermont has been disciplined in another jurisdiction. In FY 2006, Disciplinary Counsel notified the Board and the Court that an attorney admitted to practice law in Vermont had been disbarred in another jurisdiction. The Court imposed the reciprocal discipline of disbarment.

4. Petition for Interim Suspension

Rule 18 of Administrative Order 9 provides a mechanism by which Disciplinary Counsel may petition the Court for the interim suspension of an attorney's license. If granted, the suspension remains in effect pending resolution of the underlying disciplinary case.

In FY 2006, Disciplinary Counsel petitioned for the interim suspension of an attorney's license. The petition was filed following the receipt of four separate complaints against the attorney. The Court granted the request for an interim suspension. As the fiscal year closed, the underlying cases were pending before a hearing panel.

5. Referrals to Non Disciplinary Resolution

Upon concluding an investigation, and as an alternative to commencing formal disciplinary proceedings, Disciplinary Counsel may refer a case to an Assistance Panel for non-disciplinary resolution. In essence, the Assistance Panels are the Professional Responsibility Program's version of court diversion. In FY 2006, Disciplinary Counsel referred nine cases to Assistance Panels, involving nine different lawyers.

6. Dismissals

If Disciplinary Counsel's investigation indicates that neither formal charges nor a referral to an Assistance Panel is appropriate, a case is dismissed. In FY 2006, Disciplinary Counsel investigated and dismissed 189 complaints. The reasons for the dismissals are set out in below:

| | | |
|----------|----|------------------------------------|
| CDC1: 20 | -- | Resolved |
| CDC2: 82 | -- | No Cause of Action |
| CDC3: 45 | -- | Insufficient Evidence |
| CDC4: 4 | -- | Refer to Fee Dispute |
| CDC5: 3 | -- | Lack of Jurisdiction |
| CDC6: 5 | -- | Screener Dismissal Affirmed |
| CDC7: 2 | -- | Transferred to Disability/Inactive |
| CDC8: 1 | -- | Denial of Probable Cause |
| CDC9: 27 | -- | Disciplined in Another File |
| CDC10: 0 | -- | Post Conviction Relief Issue |

E. Other

Throughout FY 2006, Disciplinary Counsel devoted time and resources towards projects outside the investigation and prosecution of ethics complaints.

1. Random Audits of Trust Accounts

The Professional Responsibility Program continued to apply an increased level of scrutiny to Client Trust Accounts. Approximately 100 lawyers were selected to respond to a questionnaire relating to the management of their client trust accounts. The responses were reviewed by both Bar Counsel and Disciplinary Counsel, with Disciplinary Counsel following-up by working with several attorneys to correct deficiencies in their trust accounting systems.

2. Advertising

In FY 2006, Disciplinary Counsel launched a project designed to provide further scrutiny to lawyer advertising. Historically, Disciplinary Counsel's office has been complaint driven. Very few, if any, complaints are filed about advertisements for lawyer services. In that some of the current advertisements appear to violate the Rules of Professional Conduct, Disciplinary Counsel decided not to wait for complaints to be filed. Rather, Disciplinary Counsel identified approximately 15 ads that appear to violate the Rules. Disciplinary Counsel forwarded copies of each ad to Bar Counsel. Bar Counsel contacted the attorneys responsible for the ads and provided each with an opportunity to change the ads. The project was on-going as the fiscal year ended.

3. Continuing Legal Education

In FY 2006, Disciplinary Counsel appeared at numerous seminars to provide CLE instruction. Among others, Disciplinary Counsel presented at several seminars sponsored by the Vermont Bar Association, spoke to two classes at the Vermont Law

School, and appeared at CLE seminars that were sponsored by groups other than the VBA.

IV. CONCLUSION

In this past year, in addition to the activities set out in this report, the Program has worked closely with the Supreme Court and our own audit committee to develop an expanded audit program and to incorporate that expanded audit program as a part of the ongoing activities of the Program. In previous years, an audit program had not been funded, but it is expected the program will be funded for its program in the next fiscal year.

The Program expects also to work closely with the Vermont Bar Association as the Bar adopts an Employee Assistance Program. The Professional Responsibility Program anticipates the VBA Employee Assistance Program will be a valuable resource for referrals from this Program in connection with both disciplinary and non-disciplinary cases.

As they have in past years, the volunteers serving on hearing panels and assistance panels have contributed immeasurably to the Program. Without them we cannot fulfill our mandate. The Board and the Program acknowledge again, with gratitude, the very great contribution to the Program and to our profession made by these volunteers.

ATTACHMENT A

POLICIES ADOPTED FOR FISCAL YEAR 2000

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1. Inasmuch as the open meeting law at 1 V.S.A. §312 does not apply to the Judiciary, the Board concluded that it is not required to open its meetings to members of the press. However, because the PRB would like to educate the public on the function of the Professional Responsibility Program, it granted the request of a member of the media to attend that part of the September meeting in which Disciplinary Counsel and Bar Counsel presented a general overview of the new program. Left unresolved was the issue of access to meeting minutes. (September 1, 1999).
2. All inquiries from lawyers to Bar Counsel regarding ethics and law practice, as envisioned by A.O. 9, Rule 3 B(1) are confidential. (October 7, 1999).
3. The Board amended the record destruction policy first adopted by the Professional Conduct Board in 1998. The new policy is as follows:
 1. COMPLAINTS WHERE NO INVESTIGATION IS INITIATED BY COUNSEL. Files pertaining to these complaints will be destroyed after one year. Counsel will so advise complainants so that complainants can request return of documents prior to destruction. (September 17, 2004; Amended to reflect "Counsel.")
 2. COMPLAINTS WHICH ARE DISMISSED BY DISCIPLINARY COUNSEL AFTER INVESTIGATION OR REFERRED TO THE ASSISTANCE PANELS. Files regarding these complaints will be sent to public records for storage with an order to destroy after five years.
 3. COMPLAINTS WHICH RESULT IN IMPOSITION OF DISCIPLINE OR TRANSFER TO DISABILITY STATUS. Files regarding these complaints will not be destroyed. (October 7, 1999).
4. The Board will review all decisions of the hearing panels, but not before those decisions are filed. When a hearing panel report is sent to the Supreme Court, the Board will be given a copy electronically. Review of decisions will be put on the agenda for the next meeting. (January 21, 2000). (September 17, 2004; Amended to reflect "filed" rather than "published.")
5. After Bar Counsel screens the complaint and makes a determination that the matter shall be referred to Disciplinary Counsel, Disciplinary Counsel will be provided with a copy of the complaint only. Copies of Respondent's response, Bar Counsel's notes, memos, communications, intake sheets, etc. will not be provided to Disciplinary Counsel. (January 21, 2000). The Board agreed to revisit this issue after one year. It reaffirmed this policy on May 8, 2000, as follows: "Other than the complaint, any communication, written or otherwise, and any investigation performed by Office of Bar Counsel should not be communicated in any way to Disciplinary Counsel Office." This policy was rescinded by the Board on January 30, 2003.
6. All proceedings before Assistance Panels pursuant to Rule 4.B.(1) are confidential. If Counsel refers a file to an Assistance Panel, the panel will receive the intake sheet, Counsel's notes, annotations, and all information that is in the file. (January 21, 2000). (September 17, 2004; Amended to reflect "Counsel" and changes instituted by rescinding of Policy No. 5).

7. Until the Supreme Court can address the inconsistency in A.O. 9, at Rule 12, Rule 11.D., and Rule 8(A)(5), the Board concludes that all proceedings initiated by a stipulation recommending admonition shall remain under seal. In event the hearing panel rejects the recommended admonition, the stipulation can be withdrawn and the file remains sealed. (January 21, 2000).
8. If the Assistance Panel refers a matter to Disciplinary Counsel, Disciplinary Counsel must resolve it. The case may not be referred back to an Assistance Panel a second time. (January 21, 2000).
9. A member of the PRB does not need to be present at every meeting of an Assistance Panel. A designee may be used. Pursuant to Rule 4. A., the Chair of the Board will appoint substitute members of Assistance Panels as necessary and will so notify Respondents and Complainants. (May 8, 2000).
10. All correspondence and decisions by Hearing Panels are to be on Professional Responsibility Program stationery. (May 8, 2000).
11. In the event Disciplinary Counsel brings a new complaint against a respondent who has failed to co-operate in the investigation of an existing complaint, a new docket number will be assigned to that matter while the original complaint would retain its original file number. (May 8, 2000).

POLICIES ADOPTED
FOR FISCAL YEAR 2001

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12. Complainants will be allowed sixty days to appeal Counsel's dismissal of their complaint. Counsel informs the Complainant of this deadline and advises of a deadline in which to respond. This information has been added to the current language used in the dismissal letters sent out by Counsel. (November 30, 2000). (September 17, 2004; Amended to reflect "Counsel.")
13. Bar Counsel will inform participants in case referred to Assistance Panels that failure to carry out a directive of the Assistance Panel could be grounds for a separate disciplinary violation. (February 16, 2001).
14. A probable cause decision will follow the standard form and will only indicate whether or not PC was found. There will be no written decisions. (April 26, 2001).
15. Second requests for PC are only submitted if the presence of different or new information is to be brought to the panel's attention. (April 26, 2001).
16. Respondent will be notified when the Complainant appeals Counsel's decision to dismiss. (June 14, 2001). (September 17, 2004; Amended to reflect "Counsel.")

POLICIES ADOPTED
FOR FISCAL YEAR 2002

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17. Copies of approved final minutes will be sent to the Court Administrator and to the Chief Justice. The minutes will remain confidential. (July 18, 2001). The Board amended this policy to also include the Board's liaison. (October 29, 2002).
18. Each Assistance Panel Chair has the discretion of allowing persons other than the parties to the complaint at an assistance panel meeting. If the situation arises

wherein a complainant or respondent contacts the Program to ask if a support person is allowed at the hearing, that person should be directed to the Chair of the panel so that he/she may make that determination. (August 30, 2001).

19. Filed Hearing Panel Decisions wherein private discipline is imposed will not be redacted to reflect gender neutrality. (August 30, 2001).
20. When Counsel refers a complaint to Disciplinary Counsel's office, the Respondent will be given 20 days in which to respond. (December 7, 2001). (September 17, 2004; Amended to reflect "Counsel.")
21. All finalized published decisions of the Board will be distributed electronically to assistance and hearing panel members. (March 1, 2002).
22. When formal proceedings are commenced by the filing of stipulated facts and a hearing panel determines that a hearing is not necessary, the hearing panel shall issue a decision containing its findings of fact, conclusions of law, and the sanction imposed, if any, within sixty days of the filing of the stipulated facts.

The sixty day time period is directory and not jurisdictional. A hearing panel's failure to observe the sixty day time period does not justify the abatement or dismissal of the disciplinary or disability proceeding. (May 2, 2002).

23. All probable cause requests will be assigned to one panel for the next year. After one year, the hearing panels will rotate and another panel will receive probable cause requests for the following year. The Chair will determine which hearing panel is first in the rotation. (May 2, 2002).

POLICIES ADOPTED
FOR FISCAL YEAR 2003

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24. The Board agreed, and it was decided, that assistance panels will not have access to a respondent's disciplinary history. (September 19, 2002).
25. The Board amended Policy No. 17 so as to authorize distribution of its Minutes to the Chief Justice, the Court's liaison to the Board, and the Court Administrator. (October 29, 2002).
26. The Board repealed Policy No. 5. All information obtained during the screening process may be shared with Disciplinary Counsel. (January 30, 2003).

POLICIES ADOPTED
FOR FISCAL YEAR 2004

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27. Disciplinary Counsel may investigate any conduct that comes to his or her attention that appears to constitute misconduct that might require a disciplinary sanction. (September 12, 2003).
28. Hearing panel members are prohibited from representing respondents. (March 31, 2004).

NO NEW POLICIES ADOPTED
FOR FISCAL YEAR 2005

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_____ No new policies were adopted; however, amendments were made to Policies 3, 4, 6, 12, 16 and 20 to reflect language that more accurately described the processes in which complaints are handled.

NO NEW POLICIES ADOPTED
FOR FISCAL YEAR 2006

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No new policies were adopted.

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

Decisions of the Hearing Panels are subject to appeal or Supreme Court review within 30 days of issue.

| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|---|------------------------|------------------------------------|----------------------------|---|
| 1 | <i>In re Andrew Lichtenberg</i> PRB 2000.038 | Not Applicable | Reinstatement | 12/03/99 | Upon successful petition of Respondent, previous suspension order lifted by the Supreme Court on January 5, 2000. E.O. 99-533. |
| 2 | <i>Unidentified Lawyer</i> PRB 1999.149 | DR 1-102(A)(7) | Admonition by Disciplinary Counsel | 02/28/00 | Respondent possessed marijuana. No review by Court undertaken. |
| 3 | <i>Unidentified Lawyer</i> 1998.028 | DR 4-101(B)(1) | Admonition by Disciplinary Counsel | 04/13/00 | Respondent sold a computer to a non-lawyer, knowing that it contained confidential client files. No review by Court undertaken. |
| 4 | <i>Unidentified Lawyer</i> 1999.009 | DR 4-101(B)(1) | Admonition by Disciplinary Counsel | 04/20/00 | Respondent disclosed the secrets of one client to a second client without disclosing the first client's name. Respondent provided so many details about the first client's situation that second client was able to identify the first client. When the second client told respondent she thought she knew the person, the Respondent confirmed the first client's identity. No review by Court undertaken. |
| 5 | <i>Unidentified Lawyer</i> 1997.049 | DR 6-101(A)(3) | Admonition by Disciplinary Counsel | 04/21/00 | Respondent neglected a legal matter entrusted to him by failing to complete service of a complaint within sixty days of filing, thus resulting in the Court granting a motion to dismiss. Respondent promptly referred client to malpractice carrier. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|---|---|------------------------------------|----------------------------|--|
| 6 | <i>In re David Singiser</i> 1999.020 1999.038 1999.051 1999.054 1999.090 1999.104 | DR 1-102(A)(5) DR 1-102(A)(7) DR 1-110(A)(2) DR 6-101(A)(3) DR 9-102(B)(3) DR 1-102(A)(4) DR 2-110(C) | Disbarment | 5/31/00 | Respondent abandoned his clients, failed to provide accountings of client funds, made misrepresentations to the court, and failed to respond to Disciplinary Counsel. No review by Court undertaken. |
| 7 | <i>In re Katherine Kent</i> 1999.039 1999.052 1999.053 1999.094 | DR 1-102(A)(5) DR 1-102(A)(7) DR 2-110(A)(2) DR 6-101(A)(3) | 2 Year Suspension | 05/31/00 | Respondent neglected her client, failed to return a file to him, improperly withdrew from representation, and abandoned her client. Respondent failed to respond to a request from Disciplinary Counsel for information and failed to advise the Board of Bar Examiners of a correct and current address. No review by Court undertaken. |
| 8 | <i>Unidentified Lawyer</i> 1999.172 | DR 6-101(A)(3) | Admonition by Disciplinary Counsel | 06/01/00 | Respondent failed to file a Quit Claim Deed which awarded to the client the marital residence, free and clear of her ex-husband's interests. No review by Court undertaken. |
| 9 | <i>Unidentified Lawyer</i> 2000.015 | DR 7-104(A)(1) | Admonition by Disciplinary Counsel | 06/08/00 | Respondent communicated with an adverse represented party, on the subject matter of the litigation, without receiving permission from opposing counsel. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|--|------------------------------------|----------------------------|--|
| 10 | <i>In re Sheldon Keitel</i> 1999.121 | Hearing Panel found violations of DR 7-10(C)(6) and DR 7-102(A)(1) by default judgment and recommended public reprimand. Supreme Court ordered further review on its own motion. | Dismissed | 07/05/00 | Supreme Court declined to find that Respondent, a lawyer on inactive status appearing pro se, violated DR 7-102(A)(1) (prohibiting a lawyer from taking any action "on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another") or DR 7-106(C)(6)(prohibiting a lawyer "appearing in his professional capacity before a tribunal") when he wrote a letter to the family court stating that the magistrate in his divorce case had his "head up his ass." The Court, nevertheless, required the Board of Bar Examiners to consider this conduct should Respondent ever choose to reactivate his license to practice law. Supreme Court entry order filed March 2, 2001. |
| 11 | <i>Unidentified Lawyer</i> 1998.021 | DR 1-102(A)(5) | Admonition by Disciplinary Counsel | 07/21/00 | Prosecutor failed to disclose to defense counsel or the court that prosecutor's deputy had previously represented the defendant in a related matter. No review by Court undertaken. |
| 12 | <i>Unidentified Lawyer</i> 1997.028 | DR 6-101(A)(3) | Admonition by Disciplinary Counsel | 07/25/00 | Respondent neglected a client's case for two years, missing a statute of limitations, and causing clients' to lose their cause of action. No review by Court undertaken. |
| 13 | <i>In re Joseph Wool</i> 1999.180 1999.189 2000.050 2000.061 2000.077 2000.082 2000.087 | DR 1-102(A)(5) Rule 8.4(d) Rule 7(D) of A.O. 9 | Public Reprimand | 12/04/00 | Respondent failed to comply with probationary terms imposed by the Supreme Court in 1999, requiring Respondent to submit written reports to Disciplinary Counsel every 60 days. Respondent failed to cooperate with Disciplinary Counsel's investigation of four new complaints, all filed after the 1999 probation order requiring that no new disciplinary violations be committed. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|--|---|----------------------------|---|
| 14 | <i>In re Craig Wenk</i> 1996.050 | DR 6-101(A)(3) DR 7-101(A)(2) DR 1-102(A)(4) | Six Month Suspension | 10/16/00 | Respondent failed to communicate properly with his client over a three year period and gave his client false information about the status of client's case in court when, in truth, Respondent had never filed the law suit. No review by Court undertaken. |
| 15 | <i>Unidentified Lawyer</i> 2000.019 | Rule 8.4(d) | Admonition by Hearing Panel | 10/24/00 | Respondent failed to co-operate with Disciplinary Counsel's investigation, ignoring two letters requesting a response to a complaint filed by another lawyer. No review by Court undertaken. |
| 16 | <i>Unidentified Lawyer</i> 1995.019 | Rule 7(D) of A.O. 9 | Admonition by Disciplinary Counsel and 6 Month Probation | 01/24/01 | Respondent did not respond to request from PCB counsel seeking information about Respondent's compliance with conditions imposed by a PCB hearing panel sitting as an alternative dispute resolution (NDR) panel. In fact, Respondent did not comply with NDR panel's conditions. Hearing Panel found that Respondent violated Rule 7(D) by failing to furnish information to Disciplinary Counsel or a Hearing Panel. No review by Court undertaken. |
| 17 | <i>In re Joseph Wool</i> 2000.164 2000.171 2000.196 2000.209 | Rule 1.15(b) Rule 1.16(d) Rule 8.4(c) Rule 8.4(h) Rule 1.3 | Suspension of 1 year & Reimbursement of Retainers | 05/24/01 | Respondent failed to render an accounting of retainers received from clients, failed to refund advance payments that were not earned, failed to represent clients in a diligent manner and neglected a client's case. No review by Court undertaken. |
| 18 | <i>Unidentified Lawyer</i> 1997.011 | None | Dismissed | 05/31/01 | Insufficient evidence of misrepresentation or conduct prejudicial to the administration of justice in the way prosecutor answered inquiry from defense counsel re: the identity of person participating in deposition. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|--|---|----------------------------|--|
| 19 | <i>In re Arthur Heald</i> 2000.197 2001.051 | Rule 1.3 Rule 1.4(a) Rule 8.4(d) | Suspension of 2 months & Reimbursement of Legal Fees and Expenses Incurred by Complainant | 06/05/01 | Respondent publicly reprimanded and ordered to reimburse legal fees after he neglected to remit his client's withholding taxes in a timely manner, resulting in the assessment of an IRS penalty. Respondent failed to respond to his client's requests for help in rectifying this error. Client incurred substantial expenses in bringing suit against Respondent. Per Supreme Court Entry Order, Hearing Panel decision reversed and public reprimand imposed on 1/18/02. |
| 20 | <i>Unidentified Lawyer</i> 2000.091 | Rule 1.11(c)(1) | Admonition by Disciplinary Counsel | 07/13/01 | Respondent improperly presided at a Town Board meeting during which that Board considered the merits of a matter in which Respondent had served as private counsel. No review by Court undertaken. |
| 21 | <i>Unidentified Lawyer</i> 2000.217 | DR 6-101(A)(3) | Admonition by Hearing Panel | 07/23/01 | Respondent neglected a foreclosure action entrusted to him. No review by Court undertaken. |
| 22 | <i>In re Sigismund Wysolmerski</i> PRB 2001.171 | Not applicable | Reinstatement | 08/15/01 | Respondent readmitted to the Vermont Bar per Entry Order of the Supreme Court on August 30, 2001. E.O. 2001-381. |
| 23 | <i>Unidentified Lawyer</i> 2001.022 | DR 4-101(B)(1) | Admonition by Hearing Panel | 08/20/01 | Respondent disclosed to a relative of a murder victim an unsolicited letter from the pre-trial detainee charged with that murder. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

Decisions of the Hearing Panels are subject to appeal or Supreme Court review within 30 days of issue.

| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|---|---|--|----------------------------|---|
| 24 | <i>Unidentified Lawyer</i> 2001.176 | Rule 1.3 | Admonition by Disciplinary Counsel | 09/12/01 | Respondent failed to explore with his client whether there might be any defenses to a collection action. Respondent further acted without diligence or promptness when Respondent neglected to file any opposition to a Motion for Summary Judgment. Little or no injury resulted. No review by Court undertaken. |
| 25 | <i>In re Kjaere Andrews</i> 2001.014 | Rule 1.5(b) Rule 1.15(a) Rule 1.15(A) Rule 1.16(d) | Suspension of 6 mos. and 1 day; Respondent to reimburse client for unearned fees | 10/01/01 | Respondent spent client funds for personal use and attempted to double her agreed upon hourly rate retroactively. No review by Court undertaken. |
| 26 | <i>In re William Frattini</i> 2001.078 | | Disbarment | 08/31/01 | Respondent was convicted of three criminal offenses in the state of Maine for violations of embezzlement from a financial institution, mail fraud and tax evasion. Supreme Court Entry Order 2001-397 accepts resignation on 9/26/01. |
| 27 | <i>Unidentified Lawyer</i> 1998.020 | DR 1-102(A)(5) | Admonition by Hearing Panel | 10/15/01 | Respondent negligently failed to disclose to defense counsel or to the Court the fact that Respondent had previously represented the defendant being prosecuted by Respondent's Office. No review by Court undertaken. |
| 28 | <i>In re David Sunshine</i> 2001.001 and 2001.075 | DR 6-101(A)(3) Rule 1.3 Rule 8.4(d) Rule 8.4(c) | 4 month suspension commencing 1/1/02; followed by 2 year probation | 12/05/01 | Respondent neglected two different client's cases, resulting in the dismissal and barring of the client's claims. Respondent also deceived one client by failing to disclose to him that his case had been dismissed and by leading him to believe that the case would soon go to trial. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|-------------------------------|--|----------------------------|--|
| 29 | <i>Unidentified Lawyer</i> 2001.200 | None | Dismissed | 12/12/01 | A petition of misconduct for failing to respond to Disciplinary Counsel's request for information in violation of A.O. 9, Rule 7D was dismissed after Respondent provided evidence of reasonable grounds to justify his inaction. No review by Court undertaken. |
| 30 | <i>Unidentified Lawyer</i> 2000.167 | Rule 1.3 | Admonition by Disciplinary Counsel | 01/15/02 | Respondent failed to respond to client or to probate court's many requests for action over a two month period due to conflicting trial court responsibilities. No review by Court undertaken. |
| 31 | <i>In re Norman Blais</i> 1998.033, 1999.043 & 2000.042 | DR 6-101(A)(3) DR 1-102(4) | 5 Month Suspension 18 Month Probation | 02/14/02 | Respondent neglected five client matters and failed to file claims in court, thereby allowing the statute of limitations to expire in two cases. In addition, Respondent also made misrepresentations to three of his clients. Supreme Court Entry Order filed December 19, 2002. |
| 32 | <i>Unidentified Lawyer</i> 2001.184 | Rule 8.4(h) | Admonition by Disciplinary Counsel | 3/25/02 | Respondent was rude and made unjustified comments about another attorney's youth, which presumably implied criticism because of lack of experience. Respondent also inappropriately handled the transfer of a file and the claim of an attorney's lien. No review by Court undertaken. |
| 33 | <i>In re Thomas Daly</i> 2001.189 | None | Dismissed | 5/13/02 | A petition of misconduct for violating Rules 1.5 and 1.15(b) of the Vermont Rules of Professional Conduct was dismissed because of lack of jurisdiction over the Respondent for conduct alleged to have occurred prior to his admission to the Vermont Bar. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

Decisions of the Hearing Panels are subject to appeal or Supreme Court review within 30 days of issue.

| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|--|--|----------------------------|---|
| 34 | <i>In re Andrew Goldberg</i> 2000.081 | DR 6-101(A)(3) DR 6-101(A)(1) DR 1-102(A)(5) | Public Reprimand Transfer to "Inactive" Status for 4 Months If license is reactivated; 2 year probation also imposed | 5/14/02 | A solo practitioner with only three years experience undertook representation in a products liability case in which he had no experience or expertise. He subsequently neglected the case, causing it to be dismissed. Complainant recovered for damages through a legal malpractice action. A public reprimand was imposed due to several mitigating circumstances including Respondent having left the practice of law with no plans to return to Vermont and with strong probationary conditions imposed in the event he should seek to reactivate his license to practice. No review by Court undertaken. |
| 35 | <i>In re Thomas Bailey</i> 2002.118 | Rule 1.3 Rule 1.4 Rule 8.4(c) Rule 8.4(d) | Disbarred | 5/17/02 | Respondent neglected a legal matter entrusted to him by failing to pursue an accident claim for his client, as agreed to, and subsequently allowing the statute of limitations to lapse. Supreme Court Entry Order 02-228 accepts resignation on 5/31/02. |
| 36 | <i>Unidentified Attorney</i> 2001.117 | Rule 1.4(a) Rule 8.4(d) | Admonition with 18 month Probationary Period | 6/14/02 | Respondent who did not return her client's calls regarding the status of a six-month overdue QDRO in a post-divorce matter was disciplined for failing to keep her client reasonably informed. No review by Court undertaken. |
| 37 | <i>Unidentified Attorney</i> 2000.161 | Rule 8.4(d) | Admonition with 18 month Probationary Period | 6/14/02 | Respondent failed to comply with an agreement reached with a Assistance Panel. No review by Court undertaken. |
| 38 | <i>Unidentified Attorney</i> 2002.214 | Rule 7.3 | Admonition by Disciplinary Counsel | 07/30/02 | Respondent sent written solicitations for legal work not identified as advertising material. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

Decisions of the Hearing Panels are subject to appeal or Supreme Court review within 30 days of issue.

| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|--|----------------------------|------------------------------------|----------------------------|--|
| 39 | <i>In re Raymond Massucco</i> 1998.050 | DR 6-101(A)(3) DR 2-106 | Public Reprimand | 08/14/02 | Respondent neglected an estate matter that caused the heirs to experience unnecessary stress, anxiety and emotional turmoil as well as extensive litigation in the probate court. In addition, Respondent charged excessive fees. No review by Court undertaken. |
| 40 | <i>Unidentified Attorney</i> 2002.201 | Rule 1.4(a) | Admonition by Disciplinary Counsel | 9/17/02 | Respondent failed to comply with his client's reasonable request for an accounting of his fee. No review by Court undertaken. |
| 41 | <i>In re Robert Andres</i> 2002.110 | Rule 1.3 | Two Months Suspension | 9/18/02 | Respondent failed to act with reasonable diligence and promptness in a criminal case by failing to attend a pretrial hearing and he intentionally abandoned his client's case by failing to respond to a motion for summary judgment. Supreme Court Entry Order 2002-428 dated August 6, 2004, adopts hearing panel's ruling. 2004 VT 71 |
| 42 | <i>In re Frederick S. Lane III</i> 2002.205 | Rule 8.4(b)(c) & (h) | Disbarment | 10/09/02 | While serving as Treasurer of the Chittenden County Democrats, Respondent temporarily used the Party's funds under his control for personal purposes. Supreme Court Entry Order 2002-431 accepts resignation on 10/9/02. |
| 43 | <i>In re Howard Sinnott</i> 2001.190 | Rule 1.5(a) | Public Reprimand & Restitution | 10/22/02 04/07/03 | Respondent, who voluntarily left the practice of law, was reprimanded and ordered to reimburse to \$1200 to his client for charging an unreasonable fee when he used a standard flat rate but did nothing to advance his client's cause. Supreme Court E.O. 2003-170 dated 2/12/04 declined to reach the issue of whether respondent's fee agreement was a non-refundable fee. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

Decisions of the Hearing Panels are subject to appeal or Supreme Court review within 30 days of issue.

| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|---|----------------------------|--|----------------------------|---|
| 44 | <i>In re Robert DiPalma</i> 2002.031 | Rule 1.3 DR 6-101(A)(3) | Public Reprimand 2 Years Probation | 10/29/02 | Respondent neglected a client litigation matter for several months, resulting in the suit being dismissed, and failed to keep his client informed about the status of his case. No review by Court undertaken. |
| 45 | <i>Anonymous Attorney</i> 1999.065 and 2000.122 | DR 7-102(A)(1) | Admonition by Disciplinary Counsel | 10/29/02 | Respondent filed pleadings containing intemperate language which was unprofessional, uncivil and intended solely to harass and embarrass the opposing party and her counsel. No review by Court undertaken. |
| 46 | <i>Anonymous Attorney</i> 2001.165 | Rule 4.3 | Admonition by Disciplinary Counsel | 11/20/02 | Respondent interviewed a municipal employee against whom he knew he might bring a tort action. Based on Respondent's assurances that he wasn't going to sue the town, the employee obviously understood that there was no liability on his own part either, a misunderstanding which Respondent did not correct. The employee made several incriminating statements which Respondent later used in a suit against the employee personally. No review by Court undertaken. |
| 47 | <i>Anonymous Attorney</i> 2002.203 | Rule 1.3 | Admonition by Disciplinary Counsel | 12/12/02 | Respondent completed a real estate closing, withheld tax funds, but forgot to file the tax withholding with the Tax Department for seven months until his client brought the error to his attention. No review by Court undertaken. |

DIGEST OF PROFESSIONAL RESPONSIBILITY BOARD DECISIONS

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| <u>Decision Number</u> | <u>Case and PRB Docket Number</u> | <u>Violation Found</u> | <u>Sanction Imposed by Panel</u> | <u>Panel Decision Date</u> | <u>Summary</u> |
|------------------------|---|-------------------------------|---|----------------------------|---|
| 48 | <i>In re Norman Blais</i> 2002.108 | Rule 1.3 Rule 1.4(a) | Six Month Suspension 12 Month Probation (Minimum) concurrent with sanction imposed in PRB 31 | 12/30/02 | Respondent neglected a client's personal injury case and failed to keep his client reasonably informed about the status of her case. No review by Court undertaken. |
| 49 | <i>In re Thomas Daly</i> 2002.042 | Rule 8.4(d) | 3 Year Suspension <i>Effective May 21, 2003</i> | 03/07/03 | Respondent engaged in conduct prejudicial to the administration of justice by failing to supplement his Petition for Admission to the Vermont Bar to reveal that he was the defendant in a consumer fraud complaint and that his firm was the subject of an inquiry by the New York Committee on Professional Standards. No review by Court undertaken. |
| 50 | <i>In re Anne Whitten</i> 2000.040 | None | Dismissed | 3/13/03 | A Petition of Misconduct alleging a violation of DR 7-104(A)(1) (causing another to communicate with a represented party) was dismissed upon motion of Special Disciplinary Counsel due to failure to meet burden of clear and convincing evidence. |
| 51 | <i>In re Charles Capriola</i> 1999.035 & 1999.036 | DR 5-104(a) DR 1-102(A)(7) | Public Reprimand | 4/7/03 | Respondent borrowed money from two different clients without advising either client that his interests in the loan differed from their interests. No review by Court undertaken. |

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|------------------------|--|------------------------------|---|--|---|
| 52 | <i>In re Robert Andres</i> 2002.043 & 2003.031 | Rule 8.4(h) | 3 Year Suspension effective 4/28/03 | 4/7/03 | Respondent engaged in conduct adversely reflecting on his fitness to practice law in violation of Rule 8.4(h) because his conduct of engaging in simple assault, disregarding terms of his probation and violating a court order demonstrated a pattern of disregard for the law. Supreme Court Entry Order 2003-171 dated September 29, 2004, adopts hearing panel's ruling. |
| 53 | <i>In re Lance Harrington</i> 2002.144 | DR1-102(A)(3) Rule 8.4(b) | 3 Year Suspension effective 1/9/03 | 4/14/03 | Respondent entered into fee agreements that led to a federal investigation. Respondent was convicted of submitting false information to the Social Security Administration stating that his fee agreements complied with the law, when in fact he knew they did not. No review by Court undertaken. |
| 54 | <i>In re Arthur Heald</i> 2003.141 & 2003.142 | Rule 8.4(d) | 30 Day Suspension, commencing 45 days from date of decision | 5/5/03 | Respondent, who has a significant disciplinary history, was suspended after he failed to respond to a complaint filed against him and then failed to file an answer to a petition of misconduct. No review by Court undertaken. |
| 55 | <i>Anonymous Attorney</i> 2002-093 | Rule 7.1(c) Rule 7.1(b) | Admonition by Disciplinary Counsel | 6/4/03 Amended 11/19/03 | Respondent placed an advertisement in the Yellow Pages stating that the lawyers in the firm were " the experts in...." enumerated areas of law, thereby impermissibly comparing their services to those of other lawyers and making a misleading statement that could not be proven. Affirmed by Supreme Court Entry Order 2003-159 on January 11, 2005. 2005 VT 2 |

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|------------------------|------------------------------------|------------------------------|------------------------------------|----------------------------|---|
| 56 | <i>Anonymous Attorney</i> 2003-183 | Rule 1.3 | Admonition by Disciplinary Counsel | 6/9/03 | Respondent, who was the closing agent, failed to disburse three checks following a real estate closing, one of which was to the clients' credit card company. Such delay resulted in late fees and interest accruing on the clients' account. |
| 57 | <i>Anonymous Attorney</i> 2002-219 | Rules 1.3 & 1.4(a) | Admonition & 3 Year Probation | 7/7/03 | Respondent failed to act with reasonable diligence and promptness in the handling of an application for a building permit and failed to keep her client informed of the status of this matter. No review by Court undertaken. |
| 58 | <i>Norman Blais</i> 2004-010 | Not Applicable | Reinstatement | 10/1/03 | Respondent readmitted to the Vermont Bar per Entry Order of the Supreme Court on October 21, 2003. E.O. 2003-444. |
| 59 | <i>Anonymous Attorney</i> 2003-271 | Rule 7.5(d) | Admonition by Disciplinary Counsel | 10/24/03 | Respondent used law office letterhead which indicated that he had associates when in fact, he did not. No review by Court undertaken. |
| 60 | <i>Anonymous Attorney</i> 2003-202 | Rules 1.3, 1.4(a) and 1.5(b) | Admonition by Disciplinary Counsel | 10/29/03 | Respondent failed to act with diligence, to keep his clients informed of the status of their case and to communicate clearly about his fees in connection with his handling of a collection matter. No review by Court undertaken. |
| 61 | <i>Anonymous Attorney</i> 2004-066 | Rules 1.15 and 1.15A | Admonition by Disciplinary Counsel | 1/26/04 | Respondent deposited client funds in wrong trust accounts and failed to reconcile accounts for over two months. No review by Court undertaken. |

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|------------------------|---|--|--|----------------------------|---|
| 62 | <i>Anonymous Attorney</i> 2004-082 | Rule 1.15(a) | Admonition by Disciplinary Counsel | 1/28/04 | Respondent disbursed \$95,000 in funds in connection with a real estate closing on the assumption that his client's wire transfer of funds had been received when, in fact, it had not, thus causing the use of other client's funds to cover the overdrafts created by the disbursements. No review by Court undertaken. |
| 63 | <i>In re Kenneth Levine</i> 2002-246 | Rule 8.4(c) Rule 3.3(a)(1) | 3 Year Suspension 30 day Suspension | 3/23/04 9/13/04 | Respondent filed a false affidavit in connection with an application to appear pro hac vice in a Vermont proceeding. The Hearing Panel initially imposed a 3 year suspension which was reduced to a 30 day suspension following Respondent filing a Motion to Reconsider. |
| 64 | <i>In re George Rice</i> 2001-168 | Rule 1.2(d) Rule 8.4(c) Rule 4.4 | 90 Day Suspension | 5/3/04 9/13/04 | Respondent, who intentionally hid his client's life insurance benefits in his own name to prevent attachment by known creditors, was suspended from practice for 90 days. Upon appeal, the Hearing Panel amended this Decision on September 13, 2004, to provide for the suspension to commence on December 16, 2004. |
| 65 | <i>In re Mark Furlan</i> 2003-048 2003-051 | Rule 1.3 Rule 1.4(a) Rule 1.4(b) | Public Reprimand 12 Month Probation | 5/5/04 | Contract public defender who took no action on behalf of two incarcerated clients and who failed to communicate with those clients or otherwise keep them adequately informed as to the status of their cases was publicly reprimanded and placed on probation for one year. No review by Court undertaken. |
| 66 | <i>In re Arthur Heald</i> 2003-041 | Rule 1.15(a) Rule 1.15C(a) | Public Reprimand | 5/14/04 | For over five months, Respondent held escrowed funds in his client's file rather than depositing them in his trust account. No review by Court undertaken. |

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|------------------------|---|---|--|----------------------------|---|
| 67 | <i>In re Arthur Heald</i> PRB Docket No. 2004-104 | Rule 8.4(c) Rule 8.4(h) Rule 8.4(d) | Suspension of 3 years | 6/15/04 | Respondent failed to file state income tax returns, made a false statement on his licensing statement filed with the Board of Bar Examiners and failed to cooperate with disciplinary authorities. No review by Court undertaken. |
| 68 | <i>Unidentified Attorney</i> 2004-062 | Rules 1.3 and 1.4(a) | Admonition by Disciplinary Counsel | 7/23/04 | Respondent neglected to resolve an issue arising out of a real estate closing and failed to communicate with his client in a timely manner. No review by Court undertaken. |
| 69 | <i>Unidentified Attorney</i> 2004-206 | Rule 3.5(b)(1) | Admonition by Disciplinary Counsel | 7/26/04 | Respondent had an <i>ex parte</i> conversation with an acting judge on the subject of a pending matter. No review by Court undertaken. |
| 70 | <i>Unidentified Attorney</i> 2002-194 | Rules 7.1 and 7.5(d) | Admonition by Disciplinary Counsel | 7/27/04 | Respondent used law office letterhead which indicated that he had associates when in fact, he did not. No review by Court undertaken. |
| 71 | <i>In re Mark Stephen</i> 2004-053 | DR 6-101(A)(3) Rules 1.3 and 1.4 | Public Reprimand | 9/8/04 | Respondent neglected for several years to resolve benefit issues remaining in a worker's compensation case after resolution of the client's permanent disability and failed to communicate with her. No review by Court undertaken. |
| 72 | <i>Unidentified Attorney</i> 2004-007 | Rule 3.5(c) | Admonition by Hearing Panel and 1 year probation | 12/23/04 | Respondent was discourteous to an acting judge during a status conference. New review by Court undertaken. |

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|------------------------|---|-------------------------|--|----------------------------|---|
| 73 | <i>In re: James P. Carroll</i> 2004-059 | Rule 1.3 Rule 1.4(a) | Public Reprimand by Hearing Panel | 1/7/05 | In a contested estate matter, Respondent failed to pursue his client's case and failed to respond to his client's inquiries and to keep his client informed over a three year period in which Respondent did little or nothing to advance the client's case despite the client's 83 or more phone calls to Respondent's office, most of which were not returned. No review by Court undertaken. |
| 74 | <i>Unidentified Lawyer</i> 2005-117 | Rule 4.5 | Admonition by Disciplinary Counsel | 3/28/05 | As part of his demand letter in a civil dispute, Respondent threatened to report the matter to the State's Attorney if his settlement demand was not met. No review by Court undertaken. |
| 75 | <i>In re: Robert Andres</i> 2004-204 | Rule 3.5(c) | Public Reprimand | 3/28/05 | Respondent made discourteous and inappropriate remarks about a judge in pleadings when he compared her to a crack cocaine user. No review by Court undertaken. |
| 76 | <i>In re: Vaughan H. Griffin, Jr.</i> 2004-122 | Rule 8.4(c) | 30 Month Suspension | 5/12/05 | During a fee dispute with a former client, Respondent created a fictitious fee agreement and forged his client's signature to it, thereby creating a promise to pay which did not, in fact, exist. No review by Court undertaken. |
| 77 | <i>In re: E. Michael McGinn</i> 2005-069, 2005-080 and 20050-094 | Rules 8.4(b)(c)(d)(h) | Disbarment | 6/16/05 | Respondent misappropriated and diverted to his own use and benefit a portion of the funds that were entrusted to him in the course of his real estate practice. In an attempt to cover up these embezzlements, Respondent used funds he received in connection with later transactions to pay out moneys owed on earlier transactions. Supreme Court Entry Order 2005-237 accepts resignation on 6/28/05. |

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|------------------------|---|---|--|----------------------------|--|
| 78 | <i>Unidentified Lawyer</i> 2004-208 | Rule 3.4(f) | Admonition by Disciplinary Counsel | 9/30/05 | Respondent was admonished for "requesting a person other than a client to refrain from voluntarily giving relevant information," Rule 3.4(f), when, after opposing counsel wrote a letter to 31 of Respondent's witnesses asking for an informal interview or a deposition, Respondent wrote to the witnesses stating that it was his client's request "that you not speak with [opposing counsel] or anyone from his office in an informal interview." No review by Court undertaken. |
| 79 | <i>In re: Howard Sinnott</i> PRB Docket No. 2002-240 | Rules 8.4(b), 8.4(c), 8.4(d) and 8.4(h) | Disbarment | 8/12/05 | Respondent, having been convicted of interstate transportation of stolen property in violation of U.S.C. § 2341 by transmitting over \$500,000 that he knew had been stolen, converted, or taken by fraud from clients, was disbarred by Supreme Court following Respondent's resignation by affidavit. Supreme Court Entry Order 2005-337 entered on 8/25/05. |
| 80 | <i>Unidentified Lawyer</i> PRB 2004-132 | Rules 1.3, 1.4(a) and 8.4(c) | Admonition by Hearing Panel 1 Year Probation | 8/18/05 | Respondent neglected client matters, failed to communicate adequately, and deceived a client, for all of which, due to mitigating circumstances, he was admonished by the hearing panel. No review by Court undertaken. |
| 81 | <i>Unidentified Lawyer</i> PRB Docket No. 2005-202 | | Dismissed by Hearing Panel; Referred to an Assistance Panel | 11/22/05 | Hearing Panel dismissed case and recommended referral to an Assistance Panel after finding that a single instance of a missed court date due to a calendaring error, without more, does not show a lack of "reasonable diligence or promptness" in violation of Rule 1.3. No review by Court undertaken. |

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|------------------------|---|-----------------------------------|------------------------------------|----------------------------|---|
| 82 | <i>In re: Robert Farrar</i> PRB 2005.203 | Rules 1.3 and 1.4(a) | Public Reprimand | 11/28/05 | Respondent failed to take any action on his client's behalf from the time of the denial of an appeal by the Supreme Court in October 2001 through the conclusion of contempt proceedings in June 2002. Respondent also failed to communicate with his client during a critical period of time. No review by Court undertaken. |
| 83 | <i>In re George Harwood</i> PRB 2005-184 | Rules 1.15(a), 8.4(c), and 8.4(d) | Disbarment | 12/6/05 | Respondent commingled and misappropriated client funds and made false statements in his sworn response to Disciplinary Counsel's trust account management survey. Disbarred by Vermont Supreme Court. E.O. 2005-534. 2006 VT 15. |
| 84 | <i>In re: Brian P. Dempsey</i> PRB Docket Nos. 2005-200 & 2005-201 | | Disability/Inactive Status | | Respondent transferred to Disability/Inactive Status per Entry Order of the Supreme Court on December 20, 2005, effective immediately. E.O. 2005-519. |
| 85 | <i>In re: Anonymous Attorney</i> PRB 2005.188 | Rule 7.1 | Admonition by Disciplinary Counsel | 12/28/05 | Respondent engaged in false and misleading advertising when she and her partner advertised themselves as the "County's Premier Criminal Defense firm," a statement which she cannot factually establish. See companion case PRB Decision 86. No review by Court undertaken. |
| 86 | <i>In re: Anonymous Attorney</i> PRB 2005.250 | Rule 7.1 | Admonition by Disciplinary Counsel | 12/28/05 | Respondent engaged in false and misleading advertising when she and her partner advertised themselves as the "County's Premier Criminal Defense firm," a statement which she cannot factually establish. See companion case PRB Decision 85. No review by Court undertaken. |

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|------------------------|--|-------------------------|------------------------------------|----------------------------|---|
| 87 | <i>In re: Thomas Daly</i> PRB Docket No. 2006.001 | | Disbarment | 3/10/06 | Respondent, having been indicted for conspiracy to defraud, interstate transportation of stolen money, and making a false tax return, and having pled guilty to two counts, was disbarred by Supreme Court following Respondent's resignation by affidavit. Supreme Court Entry Order 2006-143 entered on 4/20/06 was made retroactive to April 7, 2003, the date upon which his license to practice law was suspended. |
| 88 | <i>In re: John Ruggiero</i> PRB Docket Nos. 2005-058 & 2005-130 | | Disbarment on Consent | 3/10/06 | Respondent, having been convicted of mail fraud arising from a scheme to embezzle money from his trust account, was disbarred by Supreme Court following Respondent's resignation by affidavit. Supreme Court Entry Order 2006-154 entered on 4/20/06. |
| 89 | <i>In re: Andrew Lichtenberg</i> PRB Docket No. 2006.141 | | Reciprocal Disbarment | 2/28/06 | Respondent, who had been disbarred by the Hawaii Supreme Court for misappropriation of client funds and other misconduct, was reciprocally disbarred by Entry Order 2006-012 of the Vermont Supreme Court on 2/28/06. |
| 90 | <i>In re: Anonymous Attorney</i> PRB Docket No. 2005.191 | Rule 1.3 | Admonition by Disciplinary Counsel | 3/17/06 | Respondent failed to file a notice of appearance and to comply with court's scheduling order. No review by Court undertaken. |
| 91 | <i>Unidentified Attorney</i> PRB Docket No. 2006-127 | Rules 8.4(d) and 8.4(h) | Admonition by Disciplinary Counsel | 6/26/06 | Respondent revealed confidential juvenile information in the course of a cross examination. No review by Court undertaken. |