

**In the**

**SUPREME COURT OF MISSOURI**

**En Banc**

**May Session, 2016**

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**Report of the Office of the Chief Disciplinary Counsel for the year  
2015 together with the Financial Report of the Treasurer of the  
Advisory Committee Fund for 2015**

**ALAN D. PRATZEL  
Chief Disciplinary Counsel**

IN THE  
SUPREME COURT OF MISSOURI

EN BANC

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MAY SESSION, 2016

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REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR  
2015 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE  
ADVISORY COMMITTEE FUND FOR 2015

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To the Honorable Judges of The Supreme Court:

Comes now the Office of Chief Disciplinary Counsel, and respectfully reports to  
the Court on matters concluded during calendar year 2015 or pending on December 31,  
2015.

I.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY  
THE COURT DURING 2015 BASED ON PROCEEDINGS  
PROSECUTED BY THE OFFICE OF  
CHIEF DISCIPLINARY COUNSEL<sup>1</sup>**

**BARDING, JAMES DOUGLAS, Jefferson City, MO, Missouri Bar #46302**

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(a).  
Date of Order: October 19, 2015.

**BELL, ALLAN H., North Kansas City, MO, Missouri Bar #19459**

Suspension, suspension stayed, placed on probation for eighteen months:  
Violation of Rule 4-8.4(d). Date of Order: September 22, 2015.

**BERGMAN, ALLISON LAYTON, Kansas City, MO, Missouri Bar #45081**

Suspension, suspension stayed, placed on probation for two years: Violation of  
Rules 4-1.7, 4-1.8(j), 4-1.13(b), 4-1.13(d), and 4-8.4(c). Date of Order: May 26,  
2015.

**BOISSEAU, ELDON L., Wichita, KS, Missouri Bar #40913**

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(a).  
Date of Order: October 21, 2015.

**BURT, JAMES ALLEN, Nixa, MO, Missouri Bar #31480**

Public Reprimand: Violation of Rule 4-1.15. Date of Order: September 8, 2015.

**BUSCH JR., LARRY JOSEPH, Anthem, AZ, Missouri Bar #48607**

Suspended from the practice of law and no application for reinstatement shall be  
entertained by the Court for a period of six months and until reinstated in the State  
of Arizona: Rule 5.20 (Reciprocal – Arizona); Violation of Rules 4-1.2(a), 4-1.3,  
4-1.4, 4-1.5(a), 4-8.1(b), 4-8.4(c), and 4-8.4(d). Date of Order: September 22,  
2015.

**BYRD, ANDREW SCOTT, Lee's Summit, MO, Missouri Bar #65340**

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-3.2, 4-3.5(c), and 4-8.4(d).  
Date of Order: July 9, 2015.

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<sup>1</sup> Often there are attorneys with the same or similar names. It is important to note the bar number and location of the individual.

**CAHILL, VALERIAN CLYDE, St. Louis, MO, Missouri Bar #31770**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5(a), 4-1.15, 4-8.1(c), and 4-8.4(c). Date of Order: November 18, 2015.

**CLAMPITT, JAMES MARSHALL, Mexico, MO, Missouri Bar #51504**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-8.4(a) and 4-8.4(c). Date of Order: September 22, 2015.

**COHEN, CHARLES ELLIS, Indianapolis, IN, Missouri Bar #49086**

Suspension, suspension stayed, placed on probation for six months: Rule 5.20 (Reciprocal – Indiana); Violation of Rules 4-1.16(d) and 4-8.4(c). Date of Order: April 28, 2015.

**CROFT, THOMAS CHARLES, St. Louis, MO, Missouri Bar #28564**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-3.4(c), and 4-8.1(c). Date of Order: January 16, 2015.

**DEPEW, CHAUNCEY MITCHELL, Independence, MO, Missouri Bar #42079**

Disbarment: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.7 and 4-8.4. Date of Order: December 22, 2015.

**FARRIS, ERIC ALEXANDER, Branson, MO, Missouri Bar #42649**

Disbarment: Violation of Rules 4-1.15(c), 4-1.15(d), 4-1.15(i), 4-1.15(m), 4-8.1, and 4-8.4. Date of Order: November 24, 2015.

**FISHER, CHRISTY LEA, Plattsburg, MO, Missouri Bar #44256**

Interim suspension from the practice of law pursuant to provisions of Rule 5.24. Date of order: May 26, 2015.

**FLETCHER, MARK ANTHONY, Springfield, MO, Missouri Bar #47934**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15(d), and 4-8.4(c). Date of Order: November 4, 2015.

**GALLAS, ALAN B., Kansas City, MO, Missouri Bar #26874**

Surrendered license and disbarred: Violation of Rules 4-1.15 and 4-8.4(c). Date of Order: November 18, 2015.

**GAMBLE, ERIC MICHAEL, Kansas City, KS, (now Kansas City, MO),  
Missouri Bar #56270**

Suspension, suspension stayed, placed on probation for one year: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-4.3 and 4-8.4(d). Date of Order: June 30, 2015.

**GOSS, PETER EDWARD, Kansas City, MO, Missouri Bar #57933**

Public Reprimand: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-4.1(a) and 4-8.4(c). Date of Order: June 30, 2015.

**HARDY, DAVID A., Overland Park, KS, Missouri Bar #61201**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.21 (Criminal Conviction). Date of Order: February 24, 2015.

**HARSLEY III, TOMMIE A., St. Louis, MO, Missouri Bar #37092**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.3, 4-1.15(a), 4-1.15(a)(7), 4-1.15(b), 4-1.15(d), and 4-1.15(f). Date of Order: September 22, 2015.

**HASTY JR., PAUL PAXTON, Overland Park, KS, Missouri Bar #34470**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of three years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.3, 4-1.4(a), 4-1.4(b), 4-3.4(d), and 4-8.4(d). Date of Order: February 3, 2015.

**HIGINBOTHAM, MICHELLE NARTKER, Lee's Summit, MO,  
Missouri Bar #46587**

Suspension, suspension stayed, placed on probation for two years: Violation of Rule 4-1.15(c). Date of Order: March 27, 2015.

**HOCHSZTEIN, JERALD A., St. Louis, MO, Missouri Bar #35997**

Default Disbarment: Violation – in default pursuant to Rule 5.13. Date of Order: March 10, 2015.

Order of default disbarment issued on March 10, 2015, set aside. Respondent's motion to vacate and reconsider order of default disbarment sustained. Respondent ordered to file an answer with the Chair of the Advisory Committee. Date of Order: May 26, 2015.

**IRVIN, JOHN R., Butler, MO, Missouri Bar #20319**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Violation of the 2006 version of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5(a), 4-1.7(a), 4-1.8(e), 4-1.15(a), 4-3.4(c), and 4-8.4(d). Date of Order: February 3, 2015.

**KASSIMALI, JAMIL ASLAM, Santa Ana, CA, Missouri Bar #61676**

Public Reprimand: Rule 5.20 (Reciprocal – California); Violation of Rule 4-8.4(b). Date of Order: October 27, 2015.

**KIRKSEY JR., CHARLES E., University City, MO, Missouri Bar #24792**

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.15(c), 4-1.15(e), 4-1.15(i), 4-8.1(c), and 4-8.4(c). Date of Order: February 3, 2015.

**KIZITO, JOSEPH, Suwanee, GA, Missouri Bar #45101**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of three years: Rule 5.20 (Reciprocal – Georgia); Violation of Rules 4-1.3, 4-1.4, 4-1.5(a), 4-1.15(a), 4-1.15(b), and 4-1.16(a). Date of Order: June 30, 2015.

**KLEINKAUF, WILLIAM J., Flower Mound, TX, Missouri Bar #24323**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: October 21, 2015.

**LAMPLEY, JANISE NICHOLE, St. Louis, MO, Missouri Bar #65565**

Surrendered license and disbarred: Violation of Rules 4-8.4(b) and 4-8.4(c). Date of Order: December 9, 2015.

**LANDOLL, ERIC MITCHELL, Nevada, MO, Missouri Bar #42804**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15(a), 4-1.15(f), 4-1.16, 4-3.2, 4-3.4(c), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: December 3, 2015.

**LAVARENTZ, SCHUYLER GEORGE, West Plains, MO, Missouri Bar #56892**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.15(a), 4-1.15(c), and 4-5.3. Date of Order: June 18, 2015.

**MCNABB, JAMES DEAN, Springfield, MO, Missouri Bar #28952**

Suspension, suspension stayed, placed on probation for five years: Violation of Rules 4-1.3, 4-1.4, 4-1.15, and 4-8.1. Date of Order: February 3, 2015. Supreme Court No. SC94671

Probation revoked. Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months. Date of Order: June 30, 2015. Supreme Court No. SC94671

**MCRAE, FLOYD ALLEN, Columbia, MO, Missouri Bar #58368**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3, 4-1.4(a), 4-1.15, 4-8.1(a), and 4-8.4(d). Date of Order: June 30, 2015.

**METZLER, ROBERT EDWARD, St. Louis, MO, Missouri Bar #29971**

Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.15(a) and 4-1.15(b). Date of Order: October 27, 2015.

**MEYER, TREY THOMAS, Lawrence, KS, Missouri Bar #53434**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.2, 4-1.3, 4-1.4, 4-8.4(c), and 4-8.4(d). Date of Order: March 27, 2015.

**MURROW, RODNEY K., Kansas City, MO, Missouri Bar #41775**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.16(a)(2), 4-1.16(d), 4-3.2, and 4-3.4(d). Date of Order: June 30, 2015.

**MYERS, DENNIS JOSEPH, West Plains, MO, Missouri Bar #34432**

Default Disbarment: Violation of Rules 4-1.7(a)(2), 4-1.8(a), 4-8.1(c), and 4-8.4(d). Date of Order: December 14, 2015.

**POSCH, KEVIN DAVID, Jackson, MO, Missouri Bar #63643**

Interim suspension from the practice of law: Rule 5.21 (Criminal Conviction). Date of Order: December 22, 2015.

**PYLES, AUDREY NOEL, Kansas City, MO, Missouri Bar #64613**

Default Disbarment: Violation of Rules 4-3.3(a)(1), 4-3.3(d), 4-8.1(a), 4-8.4(b), 4-8.4(c), and 4-8.4(d). Date of Order: April 15, 2015.

**RAINES, JOBY JASON, Marshall, MO, Missouri Bar #52909**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.4(a), 4-1.16(d), 4-8.1(c), and 4-8.4(b). Date of Order: February 3, 2015. Supreme Court No. SC94449

Remain on probation for a term ending February 3, 2019. Date of Order: October 27, 2015. Supreme Court No. SC94449

**RAINES III, RADFORD REUBEN, O'Fallon MO, Missouri Bar #39731**

Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.15, and 4-8.4(c). Date of Order: November 24, 2015.

**ROBBINS, THOMAS R., Jefferson City, MO, (now St. Louis, MO),  
Missouri Bar #58074**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Violation of Rule 4-8.4(b). Date of Order: August 18, 2015.

**ROBERTSON, SPELLMAN PATRICK, Lowell, AR, Missouri Bar #53905**

Public Reprimand: Violation of Rule 4-8.4(b). Date of Order: October 27, 2015.

**SANDERSON, ROBERT SCOTT, Florissant, MO, Missouri Bar #48376**

Disbarment: Rule 5.20 (Reciprocal –Illinois); Violation of Rules 4-5.5(a), 4-8.1(a), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: May 27, 2015.

**SIGILLITO, MARTIN THURMAN, St. Louis, MO, Missouri Bar #26353**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: January 22, 2015.

**SINGER, MARK RICHARD, Overland Park, KS, Missouri Bar #24495**

Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-4.1(b) and 4-8.4(c). Date of Order: May 18, 2015.

**TALIAFERRO, STEPHEN WARREN, Hollister, MO, Missouri Bar #40005**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: September 15, 2015.

**TELTHORST, ROBERT M., Topeka, KS, Missouri Bar #45624**

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: August 27, 2015.

**TURNER, RICHARD FRANK E., Bethany, MO, Missouri Bar #49330**

Interim suspension from the practice of law pursuant to provisions of Rule 5.21(a). Date of Order: January 15, 2015. Supreme Court No. SC94631

Disbarment: Rule 5.21 (Criminal Conviction). Date of Order: September 8, 2015. Supreme Court No. SC95155



## II.

**THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING  
BEFORE THE COURT AT THE CLOSE OF 2015 BASED ON PROCEEDINGS  
PROSECUTED BY THE OFFICE OF  
CHIEF DISCIPLINARY COUNSEL**

**BISGES, NOEL FRANCIS, Jefferson City, MO, Missouri Bar #42411**  
(Pending.)

**EISENSTEIN, JOEL B., St. Charles, MO, Missouri Bar #21476**  
(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-3.4(a), 4-4.4(a), 4-8.4(c), and 4-8.4(d). Date of Order: April 21, 2016.)

**EMERT, BRADFORD C., St. Louis, MO, Missouri Bar #36118**  
(Pending.)

**KRIGEL, SANFORD PAUL, Kansas City, MO, Missouri Bar #27382**  
(Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-3.3(a)(3), 4-4.1(a), 4-4.4(a), and 4-8.4(d). Date of Order: February 16, 2016.)

**LANDER, EDWARD, St. Louis, MO, Missouri Bar #17648**  
(Suspension, suspension stayed, placed on probation for one year: Violation of Rules 4-1.15(a), 4-1.15(d), 4-1.15(f), and 4-8.1(c). Date of Order: January 26, 2016.)

**MERIWETHER, DEAN DAVID, Ballwin, MO, Missouri Bar #48336**  
(Suspended from the practice of law and no application for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – United States Bankruptcy Court for the Eastern District of Missouri); Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5, 4-5.5(a), and 4-8.4(d). Date of Order: March 1, 2016.)

**SHETH, PARITOSH BHUPESH, St. Louis, MO, Missouri Bar #52605**  
(Public Reprimand with Requirements: Violation of Rules 4-1.15(a), 4-1.15(b), 4-1.15(f), and 4-8.4(d). Date of Order: March 15, 2016.)

**WORRELL, BLISS BARBER, Clayton, MO, Missouri Bar #66340**  
(Interim suspension from the practice of law pursuant to provisions of Rule 5.21(a). Date of Order: January 26, 2016.)

### III. REINSTATEMENT PROCEEDINGS

#### A. DISCIPLINARY MATTERS

At the beginning of the year, 10 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year, 11 additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing.

The OCDC processed a total of 21 disciplinary reinstatement applications during 2015. The status of those 21 applications is as follows:

|                   |          |
|-------------------|----------|
| Reinstated        | <b>6</b> |
| Denied            | <b>7</b> |
| Dismissed         | <b>1</b> |
| Pending with OCDC | <b>7</b> |

#### **Six Petitioners Were Reinstated By The Supreme Court**

1. Valencia Jealana Broadus, Kansas City, MO, Missouri Bar #47275, reinstated on April 28, 2015, and placed on probation for a period of three years. Petitioner was suspended on February 26, 2010.
2. Karl Walter Dickhaus, St. Louis, MO, Missouri Bar #47951, reinstated on February 3, 2015, and placed on probation for a period of three years. Petitioner was suspended on July 21, 2008, and subsequently disbarred on March 11, 2009.
3. Edward Joseph Griesedieck, III, St. Louis, MO, Missouri Bar #33483, reinstated on December 22, 2015. Petitioner was interimly suspended on July 3, 2012, and subsequently suspended on January 29, 2013.
4. Lance M. Haley, Overland Park, KS, Missouri Bar #37896, reinstated on April 28, 2015, and placed on probation for a period of two years. Petitioner was suspended on January 30, 2007.
5. Lisa Theresa Thompson, St. Louis, MO, Missouri Bar #46042, reinstated on December 22, 2015, and placed on probation for a period of one year. Petitioner was suspended on May 29, 2012.
6. Derrick Reuben Williams, Sr., Clayton, MO, Missouri Bar #53416, reinstated on August 18, 2015. Petitioner was suspended on January 4, 2008.

**Seven Disciplined Petitioners Were Denied Reinstatement  
By The Supreme Court**

1. James P. Barton, Jr., Missouri Bar #34782, denied reinstatement. Petitioner was suspended on March 6, 2012.
2. Joseph Jacob Esther, Missouri Bar #49155, denied reinstatement. Petitioner was suspended on January 23, 2001.
3. Richard Elmus Monroe, Missouri Bar #27297, denied reinstatement. Petitioner was suspended on January 29, 2013.
4. Seth D. Shumaker, Missouri Bar #36654, denied reinstatement. Petitioner was suspended on January 25, 2011.
5. Roderick E. Smith, Missouri Bar #45574, denied reinstatement. Petitioner was interimly suspended on January 23, 2006, and subsequently disbarred on May 29, 2007.
6. Benjamin E. Williams, Jr., Missouri Bar #32271, denied reinstatement. Petitioner was suspended on May 27, 2003.
7. Ryan Glen Wilson, Missouri Bar #56658, denied reinstatement. Petitioner was suspended on December 24, 2013.

**One Petition Was Dismissed By The Supreme Court in 2015**

1. Robert Allen Griffey, Missouri Bar #22460, Informant filed motion to dismiss application for reinstatement on April 21, 2015. Petitioner was disbarred on March 22, 1994.

**B. OTHER REINSTATEMENTS**

**Tax**

Lawyers may be suspended for state tax issues under Rule 5.245. During 2015, the OCDC investigated and processed nine tax suspension applications for reinstatement. Seven were reinstated. Two applications remained pending at the end of 2015.

## **Fee**

Lawyers may be suspended under Rule 6.01(f) upon non-payment of annual enrollment fees. If their non-payment exceeds three years, they must apply for reinstatement under Rule 5.28. In 2015, the OCDC investigated and processed 11 applications for reinstatement by those lawyers. Nine were reinstated. One application was dismissed. One application remained pending at the end of 2015.

## **Returns to Active Status**

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 58 inactive lawyers' applications for reinstatement. Fifty-two were returned to active status. One application was dismissed, and five applications remained pending at the end of 2015.

## **MCLE**

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2015, the OCDC investigated and processed seven MCLE suspension applications for reinstatement. Six were reinstated. One application was dismissed.

#### **IV. COMPLAINTS RECEIVED IN 2015 AND ACTIONS THEREON**

**1,995** complaints of attorney misconduct were received in 2015.

The following actions were taken on complaints received in 2015:

- 829** Formal Investigations opened
  - 530** Cases investigated by Regional Disciplinary Committees
  - 299** Cases investigated by OCDC
  
- 48** Cases placed in the OCDC's Informal Resolution Program  
[\*See Paragraph A (below)]
  
- 994** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 87 complaints were provided a further review and response by senior OCDC staff, following complainants' requests. Some of those reviews led to an investigation being opened.
  
- 48** Insufficient information to proceed
  
- 17** Referred to Fee Dispute Committees
  
- 28** Referred to Complaint Resolution Committee (*\*See Missouri Bar Complaint Resolution Activity Report attached.*)
  
- 31** Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

##### **A. Informal Resolution Program**

In this program, intake counsel assigns appropriate cases to a paralegal to contact the complainant, the respondent, or both, to assist in resolving the complaint rather than proceeding with a formal investigation. The program is used most often in response to complaints that the client has not had adequate communication from the lawyer or where the client has been unable to obtain file documents. It may also be used in a case where the complainant has trouble articulating the nature of the complaint, or seems confused about the lawyer's responsibilities or the legal process. The program has been successful in reducing complaint processing time while preserving the attorney/client relationship. Most cases in the program were resolved without opening an investigation.

## **B. Advisory Committee Review**

Rule 5.12 permits complainants to seek review by the Advisory Committee in cases in which the OCDC or a Regional Disciplinary Committee investigated and found insufficient probable cause to believe that an attorney was guilty of professional misconduct that would justify discipline. In 2015, 67 complainants requested review. The Advisory Committee upheld the findings on 40 of these files but issued a cautionary letter to three lawyers. The Committee assigned 9 of the review files for further investigation. Fifteen of these review files were pending with the Committee at the end of the year.

## **C. Fee Disputes**

The Missouri Bar and Kansas City Metropolitan Bar Association continued to provide fee dispute resolution programs. These programs are valuable to lawyers and legal consumers by providing a forum for fee-related complaints to be addressed through a non-disciplinary structure. During the year, 17 complainants were referred to Fee Dispute Committees.

## **D. Overdraft Notification**

In 2010, the Supreme Court adopted an amendment to Rule 4-1.15 of the Rules of Professional Conduct that requires financial institutions holding lawyer trust accounts to notify the OCDC in cases where the trust account is overdrawn. In 2015, the OCDC received 139 overdraft notifications. Many of these involved negligent or careless management of trust accounts, which were often handled by education and follow-up monitoring without discipline. Some overdrafts were more serious, either by scope of the problem or by the intention of the attorney. Various levels of discipline were necessary in these matters in order to protect the public and the integrity of the profession.

## V. DISCIPLINE ACTION INITIATED

### A. Admonitions

The OCDC administered 43 written admonitions and the Regional Disciplinary Committees administered 40 written admonitions to Missouri lawyers. (Total: 83 admonitions). In addition, 164 cautionary letters were sent to lawyers by OCDC and the Regional Committees. Cautionary letters are not disciplinary action, but are used to educate the attorney on ethical responsibilities or to alert the attorney that a particular course of conduct, if unchecked in the future, may cause additional complaints to be filed.

### B. Investigation Summary

| Region | Investigations Pending 1/1/15 | Investigations Referred 2015 | Investigations Disposed in 2015 |
|--------|-------------------------------|------------------------------|---------------------------------|
| IV     | 77                            | 156                          | 163                             |
| X      | 90                            | 227                          | 205                             |
| XI     | 21                            | 74                           | 71                              |
| XV     | 48                            | 86                           | 96                              |
| OCDC   | 148                           | 294                          | 321                             |

| Region | Admonitions Issued in 2015 | Cautionary Letters Issued in 2015 |
|--------|----------------------------|-----------------------------------|
| IV     | 18                         | 20                                |
| X      | 15                         | 26                                |
| XI     | 3                          | 5                                 |
| XV     | 4                          | 14                                |
| OCDC   | 43                         | 99                                |

## **C. Filed Hearing Matters**

### **FILING INFORMATION**

In 2015, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 86 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Twenty Informations, representing 30 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2015. Disciplinary Hearing Panels conducted 24 hearings involving 63 files. Eight default Informations were filed directly in the Supreme Court.

## **D. Cases filed at the Supreme Court**

### **RULE 5.19**

In 2015, six disciplinary hearing panel decisions were approved by the Missouri Supreme Court, pursuant to Rule 5.19(c), without requirement of briefing and argument.

Informant’s briefs were filed pursuant to Rule 5.19(d), in the Supreme Court in nine cases. Of those nine cases, five were heard because the Respondent did not concur in a DHP’s recommended sanction, two were heard because the Informant did not concur in a DHP’s recommended sanction, and two were heard after the Court rejected a joint stipulation or statement of acceptance of the panel’s decision. Eight disciplinary cases appeared on the Court’s oral argument calendar in 2015.

### **RULE 5.20**

Twelve reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2015: *In re Bisges*, SC95332; *In re Busch*, SC95140; *In re Cohen*, SC94809; *In re Depew*, SC95309; *In re Gamble*, SC94910; *In re Goss*, SC94915; *In re Kassimali*, SC95195; *In re Kizito*, SC94957; *In re Meriwether*, SC95448; *In re Murrow*, SC94947; *In re Sanderson*, SC94975; and *In re Singer*, SC94873.

### **RULE 5.21**

During 2015, three Informations were filed under Rule 5.21(a) against attorneys who had pled guilty or pled nolo contendere to violations of criminal laws: *In re Barding*, SC95179, *In re Boisseau*, SC95189, and *In re Worrell*, SC95350.



An Information was filed under Rule 5.21(d) against an attorney whose criminal case was finally disposed, and who had previously been suspended under Rule 5.21(a): *In re Turner*, SC95155.

Informations were filed under Rule 5.21(e) against four attorneys whose criminal cases were finally disposed but who had not previously been suspended on an interim basis under Rule 5.21(a) or 5.21(b): *In re Kleinkauf*, SC95201, *In re Posch*, SC95243, *In re Taliaferro*, SC95133, and *In re Telthorst*, SC95135.

#### **RULE 5.24**

One Information requesting interim suspension for substantial threat of irreparable harm was filed in 2015: *In re Fisher*, SC95015.

#### **RULE 5.25**

In 2015, two attorneys applied to surrender their licenses under Rule 5.25: *In re Gallas*, SC95312 (accepted November 18, 2015); and *In re Lampley*, SC95340 (accepted December 9, 2015). The OCDC filed Reports and Recommendations in each of these cases.

## **VI. LAWYER MONITORING**

OCDC staff monitor lawyers' practices in four circumstances, all intended to improve the lawyers' likelihood of maintaining a successful practice and protecting the public. In 2015, the office monitored 16 lawyers in the disciplinary diversion program established by Rule 5.105. The diversion program was created to help offenders who have engaged in relatively minor rule violations, often involving practice management.

Thirty-eight lawyers were monitored in 2015 while on probation under Rule 5.225, the rule permitting probation for suspended lawyers whose conduct did not warrant disbarment. Also, the office was asked by the Missouri Supreme Court and Missouri Board of Law Examiners in 2015 to monitor the practice of 16 newly admitted lawyers. Finally, in 2015, the office monitored the practice of 11 lawyers who have been reinstated subject to an order of probation.

## **VII. UNAUTHORIZED PRACTICE OF LAW**

The Office of Chief Disciplinary Counsel opened complaint files on approximately 18 individuals and organizations alleged to have engaged in the unlawful practice of law.

Some of these cases were referred to local prosecuting attorneys or to the Consumer Protection Division of the Missouri Attorney General's office. Others were resolved through communication with the company or individual.

Due to the workload and staff resources of OCDC, the office focused its efforts on conducting in-depth investigations in those cases where it appeared that widespread consumer fraud was occurring. Where appropriate, the office conducted investigations of complaints, and the office referred the materials to law enforcement for criminal prosecution as OCDC is only authorized to seek a civil injunction against a party for engaging in the unauthorized practice of law.

## **VIII. PRESENTATIONS BY OCDC STAFF**

During 2015, OCDC staff gave 29 presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Association of Legal Administrators; Cape Girardeau County Bar Association; Cole County Bar Association; Evans & Dixon; Hannibal Bar Association; Jasper County Bar Association; Judicial College; Kansas City Metropolitan Bar Association; Legal Aid of Southern Missouri; Missouri Association of Prosecuting Attorneys; Missouri Attorney General; Missouri Department of Corrections; Missouri Paralegal Association; Springfield Metropolitan Bar Association; State of Missouri – Employment Security; St.

Louis City Law Library Association; St. Louis County Bar Association; United States District Court - Eastern District of Missouri; United States District Court – Western District of Missouri; University of Missouri – Kansas City, and Washington University. The OCDC staff also spoke at the Missouri Bar’s Solo and Small Firm Conference, several Missouri Bar telephone CLEs and webinars, and many other CLE presentations sponsored by the Missouri Bar and other organizations.

## **IX. SIGNIFICANT ACTIVITIES IN 2015**

### **Disciplinary Case Processing**

The Supreme Court has established timeline standards for the disposition of pending cases that seek to complete 75% of investigations within six months and 90% of investigations within one year. During 2015, the OCDC and the disciplinary system partially met these timeline standards during the first and third quarters and did not meet the timeline standards during the second quarter. The system met both timeline standards during the fourth quarter of 2015.

### **Policy regarding Frequent Complaint Recipients**

The OCDC devotes a significant amount of its resources to complaints against attorneys who are frequent complaint recipients (FCR attorneys). In an effort to address this issue, the OCDC adopted a policy intended to identify and meet with FCR attorneys in order to discuss and address law practice management issues and any other issues that affect the FCR attorneys’ practice and contribute to client complaints. In addition, the FCR meetings are intended to inform the individual attorney about the disciplinary process and the system of progressive discipline adhered to by the Supreme Court and the OCDC. During 2015, the Chief Disciplinary Counsel continued to meet with FCR attorneys pursuant to this policy.

### **Law Practice Management Course**

For the past several years, with the support and approval of the Supreme Court, the OCDC has worked with The Missouri Bar to present a comprehensive program to address the issues raised by the lack of law practice management skills among a few members of the Bar whose clients have repeatedly complained about them. This cooperative effort resulted in the development of a practice management course staffed by a distinguished faculty of lawyers from around the state. In 2015, the course was offered through a series of webinars as well as a full-day in-person session at the OCDC’s office in Jefferson City, Missouri. Thirty (30) lawyers attended the course in 2015. Sarah Read, a law practice management consultant, has contacted those attorneys who attended the course in 2015 and has been conducting a series of interactive

discussion groups with many of the attendees to track their progress in meeting their law practice management goals.

### **OCDC and LEC Physical Facilities**

On July 1, 2015, the OCDC moved into its newly constructed facility in Jefferson City, Missouri. On September 18, 2015, the Advisory Committee and the Office of Legal Ethics Counsel moved into its newly renovated facility located adjacent to the OCDC building. The two facilities will serve future needs of the disciplinary system for years to come.

### **Regional Disciplinary Committee Training**

The OCDC is an accredited MCLE provider. In 2015, the Office of Chief Disciplinary Counsel hosted a series of training sessions and MCLE presentations for the Regional Disciplinary Committees and Special Representatives who participate in and contribute to the successful operation of the disciplinary system at the regional level.

### **Staff Training**

In 2015, the OCDC attorney staff participated in training by attending conferences offered by The Missouri Bar, the National Organization of Bar Counsel and the American Bar Association – Center for Professional Responsibility. Paralegals at the OCDC attended and presented training through the Missouri Paralegal Association and the Organization of Bar Investigators, an organization affiliated with the National Organization of Bar Counsel.

### **Supreme Court Order: Amnesty for In-House Counsel**

On October 29, 2015, the Court entered an Order establishing an amnesty program for in-house counsel practicing law in the State of Missouri in violation of the limited admission requirements of Rule 8.105. The Order establishes a period of amnesty during which in-house attorneys are able to apply to the Missouri Board of Law Examiners for limited admission pursuant to Rule 8.105 without being subject to professional sanction for the unauthorized practice of law with regard to such attorneys' in-house counsel activities only. The period of amnesty began on January 1, 2016 and ends on December 31, 2016.

### **Supreme Court Rule 6**

On September 10, 2015, the Court entered an Order amending Rule 6.06 (Return to Active Status). The amended Rule, which became effective, on January 1, 2016, significantly streamlines the process for attorneys who have taken inactive status to return to active status. Under the amended Rule, the applicant files an application for return to active

status directly with the OCDC. The OCDC may thereafter approve the application for return to active status and notify the Clerk of the Court of such approval without the necessity of a report and recommendation to the Court, as required under the prior version of Rule 6.06. Only in cases where the OCDC determines that additional inquiry is necessary is the attorney required to file an application with the Court. It is anticipated that the majority of such applications will be approved without the need for the OCDC to conduct additional inquiries.

### **Supreme Court Rule 4-1.22**

The Court entered an Order on March 7, 2016, effective July 1, 2016 that modifies recordkeeping requirements for lawyers. Under amended Rule 4-1.22, the required time to maintain client files after the completion or termination of the representation has been reduced from 10 years to six years. The Rule provides that this new six-year requirement applies where the completion or termination of the representation occurs *on or after* July 1, 2016. If the completion or termination of the representation occurs prior to July 1, 2016, that client file retention requirement will be 10 years under the previous Rule.

The new version of Rule 4-1.22 still permits lawyers to hold the files for a lesser period of time, but clarifies that to do so will require an “agreement between the lawyer and client through informed consent, confirmed in writing.” If lawyers choose to destroy a client’s file before six years have passed, the new version requires that lawyers “maintain the written record of the client’s consent of destruction for at least six years after completion or termination of employment.”

Lawyers may destroy client files after the six-year period if the client does not request the file; however, the same exceptions are still maintained in this rule. Under those exceptions, lawyers are prohibited from destroying files if they know or reasonably should know that there is a malpractice claim, criminal or other governmental investigation pending, complaint under Rule 5, or other litigation that is related to the representation.<sup>[4]</sup> These exceptions apply to all file destruction pursuant to Rule 4-1.22, whether the file is abandoned or the client has consented to its earlier destruction. Further, Rule 4-1.22 still provides that lawyers shall never destroy items of intrinsic value but shall securely store those items. The Rule’s new version also includes that for such items of intrinsic value the lawyer may choose to deliver them to the state unclaimed property agency when otherwise destroying the file pursuant to the Rule. As always when destroying client files, confidentiality must be maintained.

The new version of Rule 4-1.22 provides that client files may be maintained by electronic, photographic, or other media provided that printed copies can be produced, and requires that the records be readily accessible to the lawyer.

The new version also provides that if a law firm dissolves or is being sold, reasonable arrangements must be made to maintain client files and provide written notice to the client as to the location of the file.

Finally, this new version of the Rule clarifies that the obligations under Rules 4-1.145 – 4-1.155 to maintain client trust account records are not affected by this Rule 4-1.22.

### **Supreme Court Rule 4-1.15**

A new version of Rule 4-1.15(f), adopted in the same Order that amended Rule 4-1.22, clarifies that the records being maintained under this provision are “client trust account records.”

Under the amended Rule 4-1.15, complete client trust account records “shall be maintained and preserved for a period of at least six years after the later of: (1) termination of the representation, or (2) the date of the last disbursement of funds” Rule 4-1.15(f) **does not** permit this six-year time frame (for these trust accounting records) to be reduced.

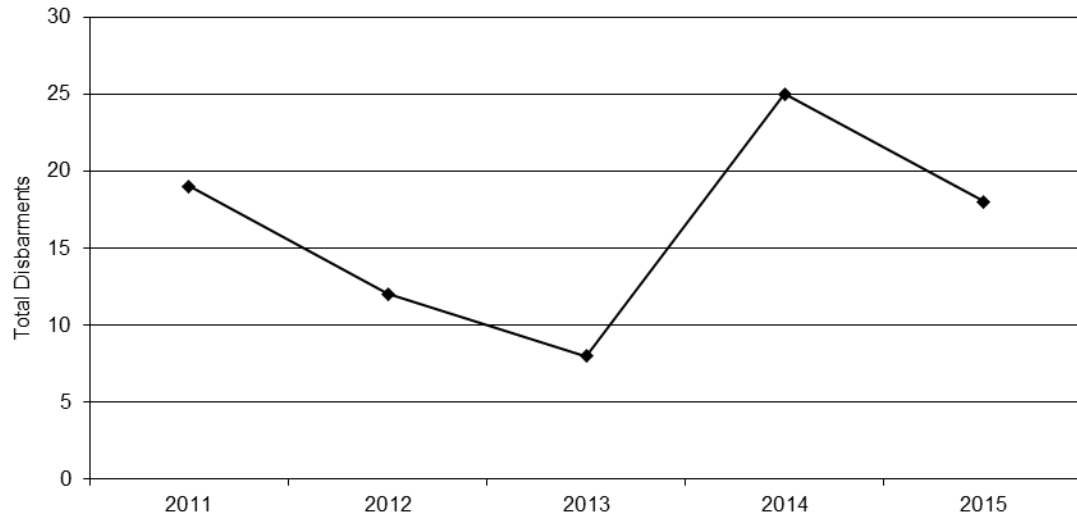
## SUMMARY OF DISCIPLINE ACTIONS

During 2015:

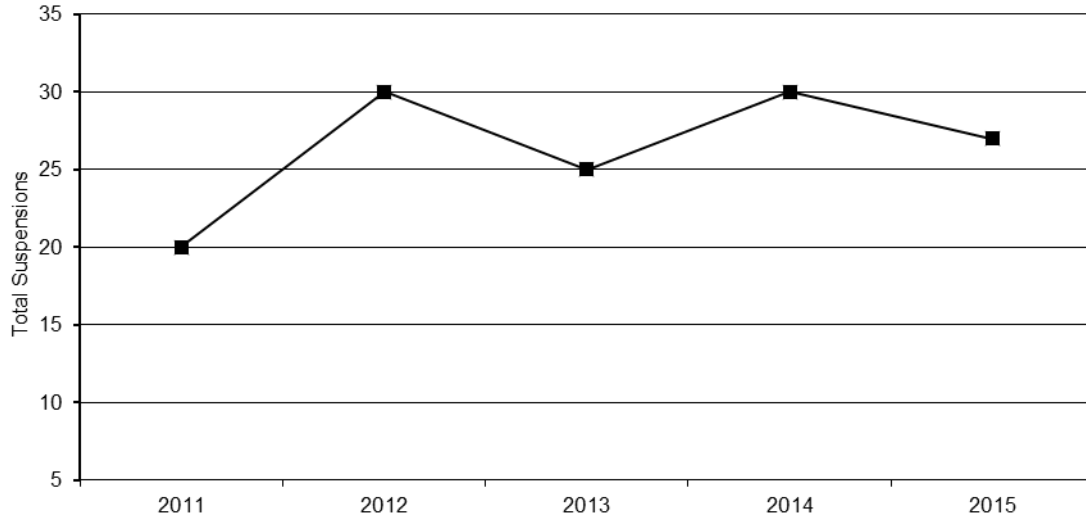
- **18** Eighteen lawyers were disbarred;
- **27** Twenty-seven lawyers were suspended; **eleven** of those suspensions were stayed and attorneys placed on probation with conditions; additionally, the Court lifted the stay on one lawyer's earlier suspension, revoking his probation;
- **11** Eleven lawyers were suspended pursuant to Rule 5.245 (Failure to Pay Tax);
- **4** Four lawyers received public reprimands; and
- **83** Eighty-three written admonitions were administered by the Regional Disciplinary Committees and the OCDC.

On occasion, other pending complaints against a lawyer are dismissed upon that lawyer's disbarment or suspension.

### Disbarments

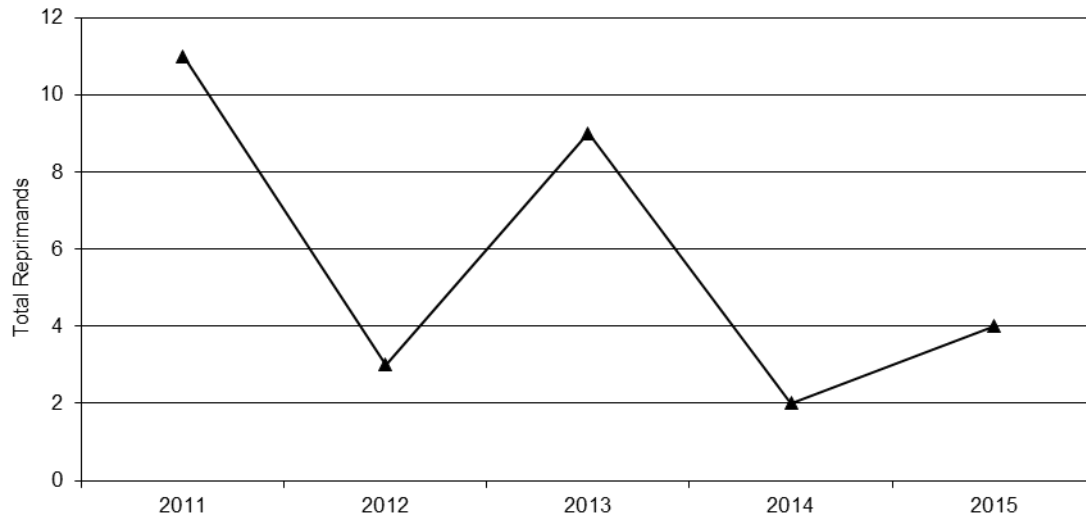


### Suspensions

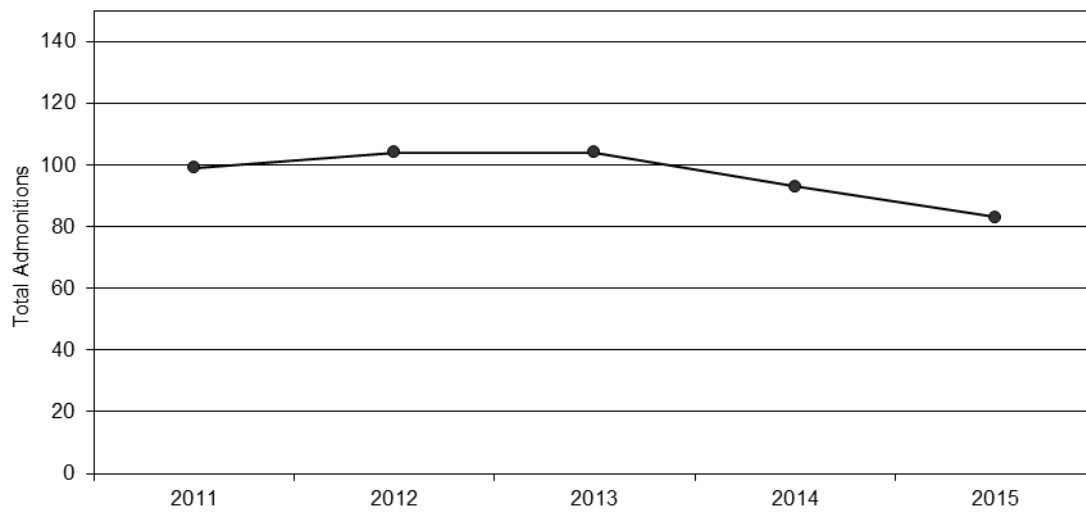




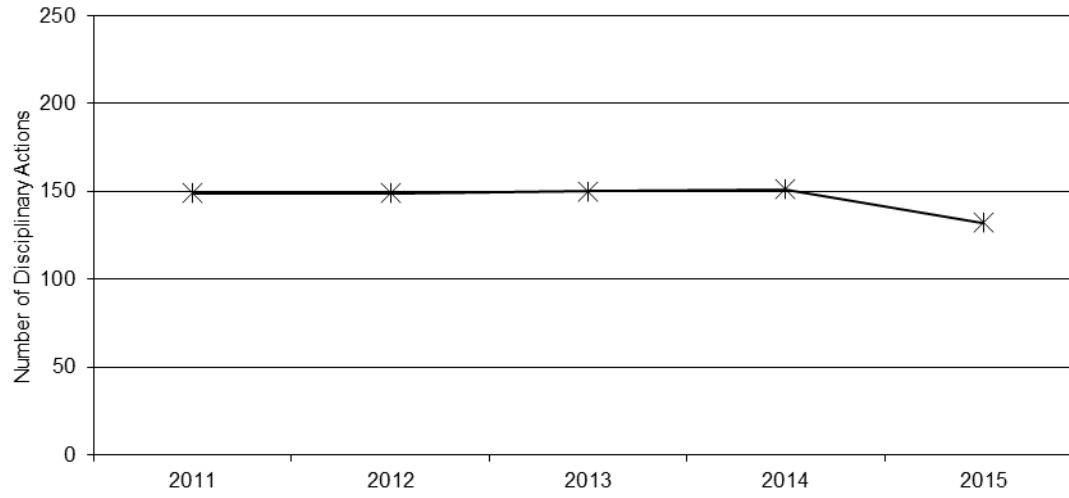
### Reprimands



### Admonitions



### Total Disciplinary Actions



*In 2015, there were a total of (132) disciplinary actions including admonitions and formal discipline matters.*

The total number of complaints opened as formal investigations during 2015 was 829. The most common complaint areas are as follows:

| <b>NATURE OF VIOLATIONS *</b>                                | <b>NO.</b> |
|--|------------|
| Rule 4-1.4 (Communication)                                   | 360        |
| Rule 4-1.3 (Diligence)                                       | 344        |
| Rule 4-1.15 (Safekeeping Property)                           | 185        |
| Rule 4-1.16 (Improper Withdrawal)                            | 100        |
| Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation) | 99         |
| Rule 4-1.5 (Excessive Fees)                                  | 87         |
| Rule 4-1.7 (Conflicts)                                       | 73         |
| Rule 4-1.1 (Competence)                                      | 26         |
| Rule 4-3.3 (Truth to Tribunal)                               | 25         |
| Rule 4-5.5 (Unauthorized Practice)                           | 19         |
| Rule 4-7.2 (Advertising)                                     | 17         |
| Rule 4-1.6 (Confidentiality)                                 | 14         |
| Rule 4-4.1 (Truth to 3 <sup>rd</sup> Persons)                | 13         |
| Rule 4-8.4(b) (Criminal Activity)                            | 10         |
| Rule 4-5.3(b) (Supervisory Responsibility)                   | 9          |
| Rule 4-3.4 (Obstruction/False Evidence)                      | 3          |
| Rule 4-3.8 (Prosecutorial Responsibility)                    | 3          |
| Rule 4-3.5(b) (Ex Parte Contacts)                            | 2          |

\* Many complaints included more than one allegation.

The most prevalent practice areas which resulted in investigations are as follows:

| <b>AREA OF PRACTICE *</b>   | <b>NO.</b> |
|-----------------------------|------------|
| Domestic                    | 174        |
| Criminal                    | 146        |
| Other                       | 70         |
| Bankruptcy/Receivership     | 58         |
| Torts                       | 57         |
| Estate/Probate              | 55         |
| Contracts                   | 19         |
| Corporate/Banking           | 18         |
| Traffic                     | 18         |
| Landlord/Tenant             | 14         |
| Real Property               | 14         |
| Workers Compensation        | 14         |
| Litigation                  | 13         |
| Immigration/Naturalization  | 8          |
| Collections                 | 7          |
| Labor Law                   | 7          |
| Administrative/Governmental | 6          |
| Guardianship                | 2          |
| Securities                  | 1          |
| Taxation                    | 1          |

\* Investigations involving trust account overdraft notifications made to the OCDC are not included in this tabulation.

Dated at the Office of Chief Disciplinary Counsel at Jefferson City, Missouri this 26<sup>th</sup> day of August, 2016.

Respectfully Submitted,

ALAN D. PRATZEL  
Chief Disciplinary Counsel

## **LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2015**

### **I. LEGAL ETHICS COUNSEL ROLE**

#### **A. Informal Advisory Opinions**

Pursuant to Rule 5.30(c), the Legal Ethics Counsel issues nonbinding informal advisory opinions.

The Legal Ethics Counsel office provided 1,629 oral informal advisory opinions via telephone. Many of these opinions involved multiple questions. Opinions given in conjunction with informal contact at bar meetings and CLE programs are generally not included in this count.

The Legal Ethics Counsel also provided 45 written informal advisory opinions.

#### **B. CLE Presentations**

The Legal Ethics Counsel prepared and gave 18 CLE presentations for various groups, including: The Missouri Bar, Christian County Bar, Marion County Bar, and National Organization of Bar Counsel.

### **II. COUNSEL TO ADVISORY COMMITTEE ROLE:**

Rule 5.07(b) provides that the Legal Ethics Counsel shall serve as staff to the Advisory Committee.

#### **A. Review Summaries**

Pursuant to Rule 5.12, the Advisory Committee reviews investigation files if the OCDC or a Regional Disciplinary Committee finds no probable cause and the complainant requests review. The Legal Ethics Counsel office summarized and distributed 68 review files.

#### **B. Hearings**

The Legal Ethics Counsel office provided assistance with arrangements for hearings, as requested, to Disciplinary Hearing Officers.

The Legal Ethics Counsel administered the hearing process to assist the Chair of the Advisory Committee. The Legal Ethics Counsel proposes a hearing panel, provides

the file to the hearing panel once the panel has been approved by the Chair, monitors the progress of the hearing, and assists the hearing officers with issues that arise during the course of the process. 41 Informations were filed in 2015.

Rule 5.16 provides, in part:

(e) The written decision of the disciplinary hearing panel shall be filed with the chair of the advisory committee. The chair shall review the panel's decision for the limited purpose of determining that the recommendation for discipline, if any, conforms to this Rule 5 and the sanctions established by the Court. If the chair of the advisory committee determines that the panel's recommendation does not conform, the chair shall direct the disciplinary hearing panel to reconsider its recommendation for discipline. After reconsideration, the panel shall file the revised written decision with the chair of the advisory committee.

(f) The chair of the advisory committee shall serve the written decision of the disciplinary hearing panel by first class United States mail, postage prepaid, on the respondent, the counsel for the informant, and the chief disciplinary counsel.

The Legal Ethics Counsel performs the majority of these duties on behalf of, and in consultation with, the Chair.

### **C. Budget**

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC for 2015.

### **D. Meetings**

The Legal Ethics Counsel office coordinated arrangements for four regular Advisory Committee meetings and one budget conference call meeting. The Legal Ethics Counsel office also prepares agendas and meeting materials, as well as records and prepares the minutes for these meetings.

### **E. Formal Opinions**

The Legal Ethics Counsel provides assistance in relation to reviewing requests for formal opinions and possible appropriate topics for formal opinions.

## **F. Overdraft Reporting/Financial Institution Approval**

Beginning January 1, 2010, Missouri attorneys were required to have their trust accounts at financial institutions “approved” by the Advisory Committee. In order to be approved, the financial institution must enter into an agreement to report insufficient funds situations that arise on attorneys’ trust accounts to the Office of Chief Disciplinary Counsel. The Legal Ethics Counsel handles issues related to bank name changes, mergers, etc., as they relate to approved status. The Legal Ethics Counsel maintains a list of approved banks on the office website.

## **G. Other matters**

The Legal Ethics Counsel maintained a website for the Advisory Committee and Legal Ethics Counsel, [www.mo-legal-ethics.org](http://www.mo-legal-ethics.org). The website includes a list of pending disciplinary matters, a calendar of upcoming disciplinary hearings, information on public access to disciplinary records pursuant to Rule 5.31, articles and CLE materials on legal ethics issues prepared by the Legal Ethics Counsel, and links to various resources.

The Legal Ethics Counsel and Advisory Committee Office relocated in September, 2015, which involved significant administration.

Additionally, the Legal Ethics Counsel served on the Planning Committee for The Missouri Bar’s Solo & Small Firm Conference, was elected secretary of the National Organization of Bar Counsel in 2015, and was appointed to serve on the Editorial Board of the *ABA/BNA Lawyers’ Manual on Professional Conduct*.