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MICHAEL S. RICHIE
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ANNUAL REPORT
OF THE
PROFESSIONAL RESPONSIBILITY COMMISSION
AND
PROFESSIONAL RESPONSIBILITY TRIBUNAL
January 1, 2008, through December 31, 2008

SCBD #5507

(Filed with Oklahoma Supreme Court, February 12, 2009)

Pursuant to the provisions of Rule 14.1, Rules Governing Disciplinary Proceedings, 5 O.S. 2001 Ch. 1, App. 1-A, this is the Annual Report of grievances and complaints received and processed for 2008 by the Professional Responsibility Commission and the Professional Responsibility Tribunal.

The Oklahoma Rules of Professional Conduct, 5 O.S. Ch. 1, App. 3-A, are the standard of conduct adopted and enforced by the Supreme Court of the State of Oklahoma, and provide guidelines by which all attorneys are to practice law in Oklahoma. The Rules Governing Disciplinary Proceedings, 5 O.S. Ch. 1, App. 1-A, provide the rules and procedures governing disciplinary proceedings.

THE PROFESSIONAL RESPONSIBILITY COMMISSION:

The Commission is composed of seven persons - five lawyer and two non-lawyer members. The attorneys are selected on rotating three-year terms by the President of the

Association, subject to the approval of the Board of Governors. The non-lawyers are appointed, one each, by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate. No member can serve more than two consecutive terms. Terms expire on December 31st at the conclusion of the three-year term.

Lawyer members serving on the Professional Responsibility Commission during 2008 were B. Wayne Dabney, Oklahoma City; Michael E. Smith, Oklahoma City; J. Daniel Morgan, Tulsa; Mark W. Dixon, Tulsa; and Kenneth L. Delashaw, Jr., Marietta. Non-Lawyer members were Kevin A. Grover, Broken Arrow and Debra Thompson, Carney. B. Wayne Dabney served as Chairperson and Kevin A. Grover served as Vice-Chairperson. Commission members serve without compensation but are reimbursed for actual travel expenses.

Responsibilities:

The Professional Responsibility Commission considers and investigates any alleged ground for discipline, or alleged incapacity, of any lawyer called to its attention, or upon its own motion, and takes such action as deemed appropriate, including holding hearings, receiving testimony, and issuing and serving subpoenas.

Under the supervision of the Professional Responsibility Commission, the Office of the General Counsel investigates all matters involving alleged misconduct or incapacity of any lawyer called to the attention of the General Counsel by grievance or otherwise, and reports to the Professional Responsibility Commission the results of investigations made by or at the direction of the General Counsel. The Professional Responsibility Commission

then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of an attorney with the Oklahoma Supreme Court. The attorneys in the Office of the General Counsel prosecute all proceedings under the Rules Governing Disciplinary Proceedings, supervise the investigative process, and appear at all reinstatement proceedings.

PROFESSIONAL RESPONSIBILITY TRIBUNAL:

The Tribunal is composed of twenty-one persons -- fourteen lawyers and seven non-lawyers. The attorneys are selected on rotating three-year terms by the President of the Association, subject to the approval of the Board of Governors. The non-lawyers are appointed by the Governor of the State of Oklahoma. Terms expire on June 30th at the conclusion of the three-year term.

The Supreme Court has established a panel of Masters designated to preside over and conduct hearings on formal disciplinary and incapacity hearings, as well as applications for reinstatement to the practice of law. Following the filing of a formal disciplinary complaint with the Supreme Court, a three-member panel of the Professional Responsibility Tribunal is appointed by the Chief Master, and is composed of two attorneys and one non-lawyer member. The Trial Panel presides at the hearing and prepares a report including findings of fact, conclusions of law, and a recommendation to the Supreme Court as to discipline, if such is indicated.

The lawyer members of the Professional Responsibility Tribunal who served during 2008 were: Andrew E. Karim, Oklahoma City; F. Douglas Shirley, Watonga; David Cummins, Hollis; Steven Dobbs, Oklahoma City; John J. Gardner, II, Ponca City; Roger

R. Scott, Tulsa; Lorenzo T. Collins, Ardmore; Stephen R. McNamara, Tulsa; Patrick T. Cornell, Clinton; Cody B. Hodgden, Woodward; Martha Rupp Carter, Tulsa; Kieran D. Maye Jr., Oklahoma City; Diane S. Goldschmidt, Oklahoma City and Robert H. Gilliland Jr., Oklahoma City.

Martha Rupp Carter, Kieran D. Maye, Jr., Diane S. Goldschmidt and Robert H. Gilliland, Jr. replaced Ronald Main, Peggy Stockwell, Janis Grant-Johnson and Nancy C. Pruitt when their 2nd term expired on June 30, 2008.

The non-lawyer members were: Kenneth D. Mitchell, Guthrie; Dr. Douglas O. Brady, Lawton; Kimberly Hawkins-Sanders; Oklahoma City; Bill Pyeatt, Norman; Dale Cabbiness, Edmond; and William J. Pettit, Broken Arrow.

At their annual meeting on June 29, 2008, the Professional Responsibility Tribunal voted to appoint Steven Dobbs to serve a one-year term as Chief Master and F. Douglas Shirley was appointed to serve a one-year term as Vice-Chief Master.

VOLUME OF GRIEVANCES:

During 2008, the Office of the General Counsel received 283 formal grievances involving 201 attorneys and 1,239 informal grievances involving 885 attorneys. In total, 1,522 grievances were received against 988 attorneys. The total number of attorneys differs because some attorneys received both formal and informal grievances. In addition, the Office handled 269 items of general correspondence, which is mail not considered to be a grievance against an attorney.

The Oklahoma, Tulsa, and LeFlore County Bar Associations assist in the investigation of grievances against attorneys practicing in those counties and assist in

arbitration of fee disputes. Those grievances thought to be in violation of the Oklahoma Rules of Professional Conduct are forwarded to the Office of the General Counsel for further investigation.

On January 1, 2008, 216 formal grievances were carried over from the previous year. During 2008, 283 formal grievances were opened for investigation. The carryover accounted for a total caseload of 499 formal investigations pending throughout 2008. Of those grievances, 288 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 211 investigations were pending on December 31, 2008.

The time required for investigating and concluding each grievance varies depending on the seriousness and complexity of the allegations and the availability of witnesses and documents. The Professional Responsibility Commission requires the Office of the General Counsel to report monthly on all informal and formal grievances received and all investigations completed and ready for disposition by the Commission. In addition, the Commission receives a monthly statistical report on the pending caseload. The Board of Governors is advised statistically each month of the actions taken by the Professional Responsibility Commission.

DISCIPLINE BY THE PROFESSIONAL RESPONSIBILITY COMMISSION:

During 2008, the Commission voted the filing of formal disciplinary charges against 10 lawyers involving 51 grievances.

Pursuant to Rule 5.3(c) of the Rules Governing Disciplinary Proceedings, the Professional Responsibility Commission has the authority to impose private reprimands,

with the consent of the attorney, in matters of less serious misconduct or if mitigating factors reduce the sanction to be imposed. During 2008, the Commission issued private reprimands to 13 attorneys involving 21 grievances.

In addition, 15 grievances were dismissed with a letter of caution that the conduct of the attorney was dangerously close to a violation of a disciplinary rule which the Commission believed warranted a warning rather than discipline. The Commission dismissed 201 grievances due to lack of merit or loss of jurisdiction of the respondent. Loss of jurisdiction includes the death of the attorney, resignation pending disciplinary proceedings, lengthy suspension or disbarment or due to the attorney being stricken from membership for non-compliance with MCLE requirements or non-payment of dues. The Commission may also refer matters to the diversionary program where remedial measures are taken to ensure that any deficiency in the representation of a client does not occur in the future.

DISCIPLINE IMPOSED BY SUPREME COURT:

In 2008, 22 cases were acted upon by the Supreme Court. The Court dismissed two matters. The public sanctions are as follows:

Disbarment:

<u>Respondent</u>	<u>Effective Date</u>
Rymer, Dewayne Dell; Littleton, CO	05/27/08
Alsaif, Suzanne D.; Oklahoma City	06/10/08
Gassaway, Michael; Oklahoma City	06/17/08
Lile, Stephen E.; Lawton	09/16/08
Thompson, Donald Dewayne; Sapulpa	09/23/08
Kinsey, Letitia Denice; Edmond	11/04/08

Resignations Pending Disciplinary Proceedings Approved by Court:

<u>Respondent</u>	<u>Effective Date</u>
Behlen, Robert Michael	04/28/08
Morris, David L.	06/03/08
Blake, Glen Joseph	06/17/08
Frazier III, Robert E.	06/17/08
Wylie, John Marion	08/12/08
Spradling II, James W.	09/08/08
Rea, Christopher Crawford	09/23/08
Miskovsky III, George Josef	11/10/08

Disciplinary Suspensions:

<u>Respondent</u>	<u>Length</u>	<u>Effective Date</u>
Whitworth, John Matthew	2 years	03/11/08
Wilson, Gregory Scott	1 year	04/29/08
Hulett, D. Joel	3 mos.	04/15/08
Hammond, Gary Don	6 mos.	06/24/08
Berger, Richard Fred	3 mos.	12/15/08
Combs III, Roland Vincent	6 mos.	10/28/08 (retroactive f/ 03/05/08)

Dismissals:

<u>Respondent</u>	<u>Effective Date</u>
Hartley, Thomas Jot	03/25/08
Minter V, Joseph Oliver	04/18/08

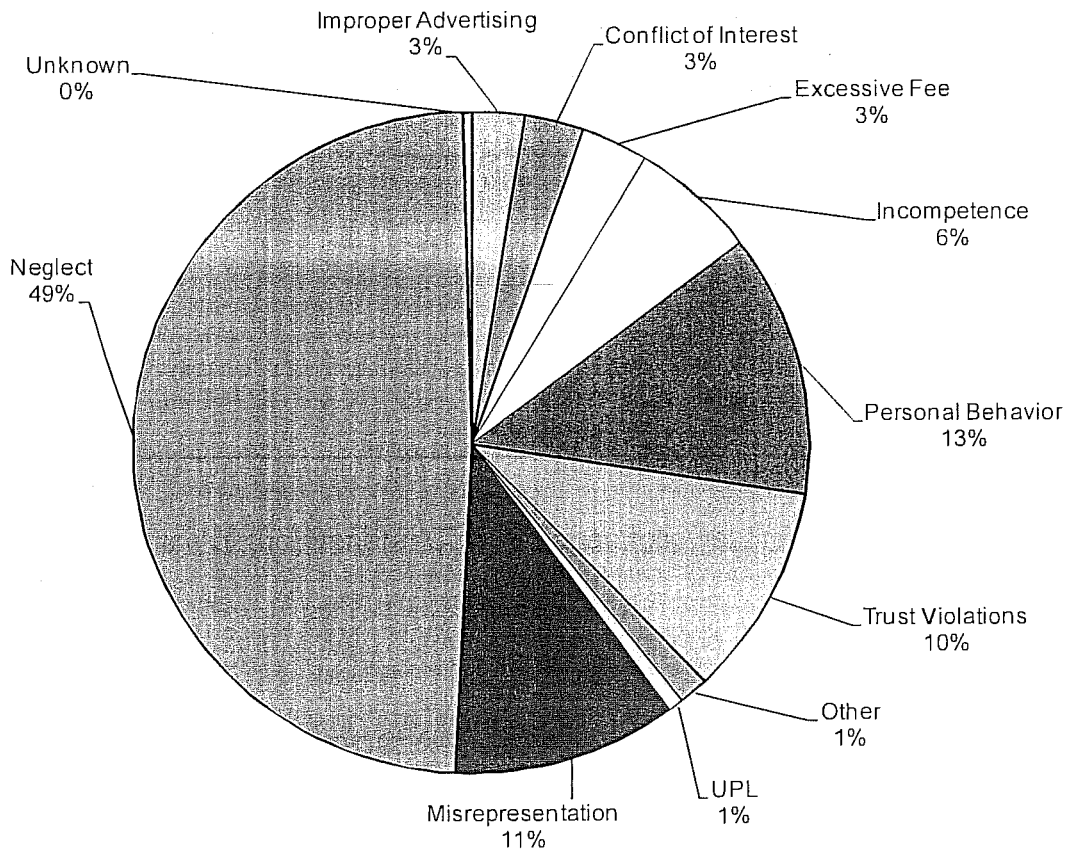
There were 24 cases pending before the Supreme Court on January 1, 2008. During 2008, 12 new formal complaints, five Rule 7 Judgments, and seven Resignations Pending Disciplinary Proceedings were filed for a total of 48 cases. On December 31, 2008, 26 cases remain pending before the Court. There were eight reinstatements pending on January 1, 2008, and 11 petitions for reinstatement were filed in 2008. The Supreme Court approved eight reinstatements, denied one, and two were withdrawn. On December 31, 2008, there were eight petitions for reinstatement pending with the Supreme Court.

SURVEY OF GRIEVANCES:

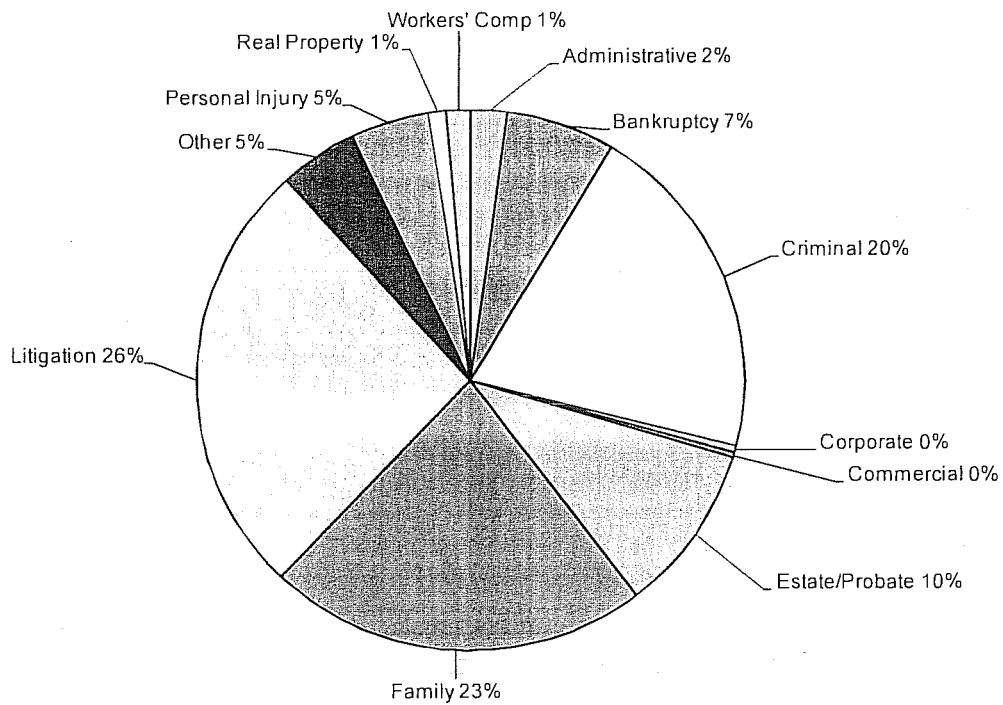
In order to better inform the Supreme Court, the bar and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

Total membership of the Oklahoma Bar Association as of December 31, 2008, was 16,275 attorneys. Considering the total membership, the receipt of 1522 formal and informal grievances during 2008, involving 988 attorneys, constituted approximately six percent of the attorneys licensed to practice law by the Oklahoma Supreme Court.

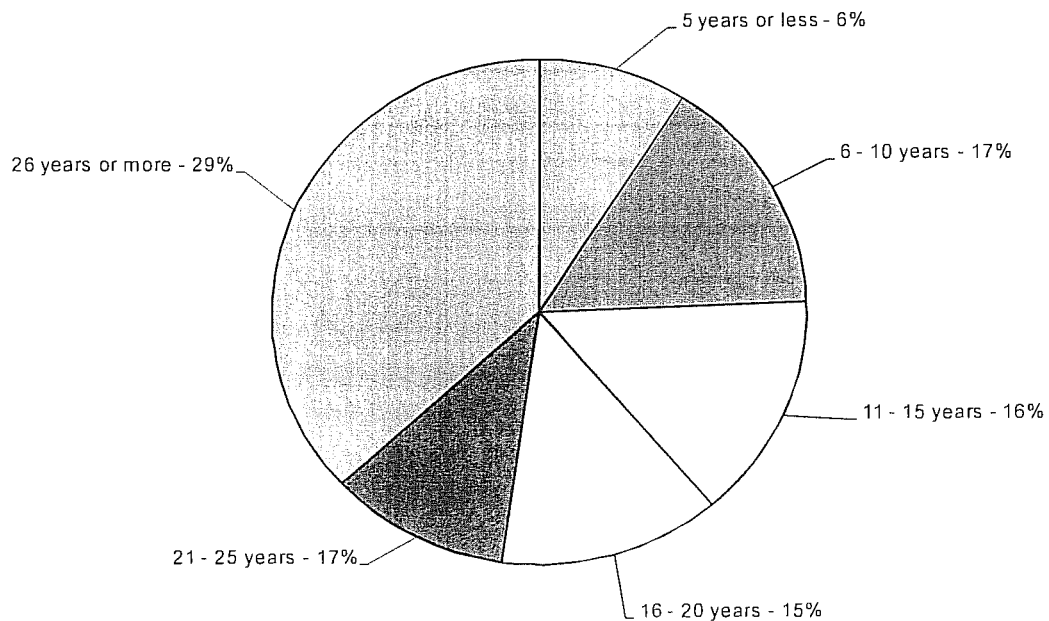
A breakdown of the type of attorney misconduct alleged in the 283 formal grievances received by the Office of the General Counsel is as follows:



Of the 283 grievances registered, the area of practice is as follows:



The number of years in practice of the 201 attorneys receiving formal grievances is as follows:



The largest number of grievances received were against attorneys who have been in practice for 26 years or more. Considering the total number of practicing attorneys, the largest number have been in practice 26 years or more.

Of the 283 formal grievances filed against 201 attorneys in 2008, 109 are attorneys in urban areas and 85 attorneys live and practice in rural areas. Seven of the grievances were filed against attorneys licensed in Oklahoma but living out of state.

ACTION TAKEN BY THE PROFESSIONAL RESPONSIBILITY TRIBUNAL:

The Professional Responsibility Tribunal hears disciplinary cases filed by the General Counsel. The Tribunal also hears petitions for reinstatement filed by attorneys seeking reinstatement to the Bar Association. Both of these proceedings are filed with the Clerk of the Supreme Court.

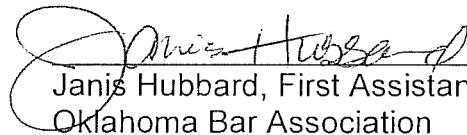
As of January 1, 2008, 10 disciplinary cases were pending before the Tribunal. In 2008, 12 cases were presented to the Tribunal by the Supreme Court for a total of 22 cases pending throughout the year. Of those, the Tribunal heard and filed reports on seven cases and in two cases the respondent resigned pending disciplinary proceedings or the matter was dismissed. On December 31, 2008, 13 cases were pending before the Tribunal.

On January 1, 2008, four petitions for reinstatement were pending with the Tribunal and 11 new petitions were filed throughout the year. Of these 15 petitions for reinstatement, 10 cases were heard and reports were filed by the Tribunal, two Petitions were withdrawn leaving three reinstatement cases pending before the Tribunal on December 31, 2008.

ETHICS AND EDUCATION:

During 2008, the General Counsel, Assistant General Counsels, and the Professional Responsibility Tribunal and Commission members continued to speak to county bar association meetings, Continuing Legal Education classes, law school classes and various civic organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. This effort directs lawyers to a better understanding of their ethical requirements and the disciplinary process, and informs the public of the efforts of the Oklahoma Bar Association to regulate the conduct of its members. In addition, the General Counsel and assistants were regular contributors to *The Oklahoma Bar Journal*.

Respectfully submitted this 12th day of February, 2009, on behalf of the Professional Responsibility Tribunal, the Professional Responsibility Commission, and the Office of the General Counsel of the Oklahoma Bar Association.



Janis Hubbard, First Assistant General Counsel
Oklahoma Bar Association