

Oregon  State Bar

2010 **Disciplinary
Counsel's Office**
Annual Report

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Disciplinary Counsel

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I. INTRODUCTION

This is the Annual Report of the Oregon State Bar Disciplinary Counsel's Office for 2010. The report provides an overview of Oregon's lawyer discipline system, an analysis of the caseload within the system, along with the dispositions in 2010, and a discussion of significant developments over the last year.

II. STATE PROFESSIONAL RESPONSIBILITY BOARD (SPRB)

The principal responsibility of Disciplinary Counsel's Office is to serve as counsel to the State Professional Responsibility Board (SPRB), the body to which the investigative and prosecutorial functions within the discipline system are delegated by statute. The SPRB seeks to enforce the disciplinary rules in the Rules of Professional Conduct (the RPCs), while operating within the procedural framework of the Bar Rules of Procedure (the BRs). The SPRB is a ten-member board of unpaid volunteers, consisting of one lawyer each from Board of Governors (BOG) Regions 1 through 4, 6, and 7, two lawyers from Region 5 and two public members. (The creation of Region 7 effective January 2011, increased the size of the SPRB from nine to ten.)

The SPRB met 11 times in 2010. With regular meetings and conference calls combined, the SPRB considered approximately 240 case-specific agenda items during the year. This does not include the many policy matters also considered by the board.

The Bar was fortunate to have the following individuals on the SPRB in 2010:

David W. Hittle (Salem) – Chairperson

Peter R. Chamberlain (Portland)

Greg Hendrix (Bend)

Jonathan P. Hill (Roseburg) – Public Member

Timothy L. Jackle (Medford)

William B. Kirby (Beaverton)

Jolie Krechman (Portland) – Public Member

Martha J. Rodman (Eugene)

Jana Toran (Portland)

The terms of David Hittle, Jolie Krechman, and Martha Rodman expired at the end of 2010. The new appointments for 2011 include: Chelsea Dawn Armstrong (Salem), Danna C. Fogarty (Eugene), Michael J. Gentry (Lake Oswego), and Dr. S. Michael Sasser (Public Member from Medford). Jana Toran is the SPRB Chairperson for 2011.

III. SYSTEM OVERVIEW

A. Complaints Received

The Bar’s Client Assistance Office (CAO) handles the intake of all oral and written inquiries and complaints about lawyer conduct. Only when the CAO finds that there is sufficient evidence to support a reasonable belief that misconduct may have occurred is a matter referred to Disciplinary Counsel’s Office for investigation. See BR 2.5.

The table below reflects the number of files opened by Disciplinary Counsel in recent years, including the 428 files opened in 2010.

Files Opened by Disciplinary Counsel					
Month	2006	2007	2008	2009	2010
January	28	30	30	43	29
February	40	49	39	25	25
March	41	42	36	39	26
April	53	30	26	40	30
May	22	19	35	21	119 [†]
June	23	29	30	142 [*]	26 [§]
July	29	31	37	16	34
August	36	23	38	35	25
September	21	16	125 [†]	31	36
October	38	38	27	34	33
November	23	46	15	31	21
December	29	23	29	26	24
TOTAL	383	376	467	483	428

[†]98 IOLTA compliance matters

^{*}97 IOLTA compliance matters

[‡]87 IOLTA compliance matters

[§]2 IOLTA compliance matters

The breakdown of the open files for 2010 was: 242 referrals from the Client Assistance Office, 64 trust account overdraft notices from financial institutions that came directly to Disciplinary Counsel’s Office, 89 inquiries concerning lawyer compliance with the IOLTA rules, and 33 other matters opened by Disciplinary Counsel on the office’s initiative.

For 2010, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2009 is found in Appendix B for comparison purposes.

Every complaint Disciplinary Counsel’s Office received in 2010 was acknowledged in writing by staff, analyzed and investigated to varying degrees depending on the nature of the allegations. As warranted, staff corresponded with the complainant and the responding attorney, and

obtained relevant information from other sources, to develop a “record” upon which a decision on merit could be made.

If, after investigation, staff determined that probable cause did not exist to believe that misconduct had occurred, the matter was dismissed by Disciplinary Counsel. BR 2.6(b). Complainants have the right under the rules of procedure to contest or appeal a dismissal by Disciplinary Counsel staff. In that case, the matter is submitted to the SPRB for review. The SPRB reviewed 20 such appeals in 2010, affirming all but one of the dismissals.

When Disciplinary Counsel determined from an investigation that there may have been probable cause of misconduct by a lawyer, the matter was referred to the SPRB for review and action. Each matter was presented to the board by means of a complaint summary (factual review, ethics analysis and recommendation) prepared by staff. Each file also was made available to the SPRB. In 2010, the SPRB reviewed 121 of these probable cause investigations. The following section describes that process of review in more detail.

B. SPRB

The SPRB acts as a grand jury in the disciplinary process, determining in each matter referred to it by Disciplinary Counsel whether probable cause of an ethics violation exists. Options available to the SPRB include dismissal if there is no probable cause of misconduct; referral of a matter back to Disciplinary Counsel or to a local professional responsibility committee (LPRC) for additional investigation; issuing a letter of admonition if a violation has occurred but is not of a serious nature; offering a remedial diversion program to the lawyer; or authorizing a formal disciplinary proceeding in which allegations of professional misconduct are litigated. A lawyer who is offered a letter of admonition may reject the letter, in which case the Rules of Procedure require the matter to proceed to a formal disciplinary proceeding. Rejections are rare.

A lawyer who is notified that a formal disciplinary proceeding will be instituted against him or her may request that the SPRB reconsider that decision. Such a request must be supported by new evidence not previously available that would have clearly affected the board’s decision, or legal authority not previously known to the SPRB which establishes that the decision to prosecute is incorrect.

In 2010, the SPRB made probable cause decisions on 7 reports submitted by investigative committees and 143 matters investigated by Disciplinary Counsel staff. Action taken by the SPRB in recent years and in 2010 is summarized in the following table:

Action Taken by SPRB					
Year	Pros.	Admon. Offered	Admon. Accepted	Dismissed	Diversion
2006	94	33	33	85	4
2007	133	40	40	77	2
2008	123	31	30†	90	2
2009	128	29	28†	59	5
2010	72	34	34	38	5

† One admonition letter offered was later reconsidered by the SPRB and the matter was dismissed.

Note that the figures for prosecutions reflect the number of complaints that were authorized for prosecution, not necessarily the number of lawyers being prosecuted. For example, one lawyer may be the subject of numerous complaints that are consolidated into one disciplinary proceeding.

In addition to the normal complaint review process, the SPRB also is responsible for making recommendations to the Supreme Court on matters of urgency including temporary and immediate suspensions of lawyers who have abandoned their practice, are suffering under some disability, have been convicted of certain crimes, or have been disciplined in another jurisdiction subjecting them to reciprocal discipline here in Oregon. There were nine (9) such matters in 2010.

C. Local Professional Responsibility Committee (LPRCs)

Most complaints are investigated in-house by Disciplinary Counsel staff. However, some matters that require in-depth field investigation are referred by staff or the SPRB to local professional responsibility committees (LPRCs). There are 16 such committees made up of single county or multi-county districts. Total membership for all LPRCs is approximately 65.

Each year LPRC members are provided with a handbook prepared and updated by the Disciplinary Counsel's Office. The handbook describes in detail the responsibilities each LPRC member is asked to undertake. It also provides practical suggestions in conducting an LPRC investigation, contains copies of resource materials including the applicable statutes and procedural rules, and includes examples of final LPRC reports in a standardized format requested by the SPRB.

Under the applicable rules of procedure, Disciplinary Counsel staff arranges for an assignment to be made to an individual committee member, and the committee member is authorized to report back his or her findings without going through the entire committee. A committee member has 90 days to complete an assignment, with one extension of 60 days available. If an investigation is not completed by then, the rules require the matter to be referred back to Disciplinary Counsel for completion. BR 2.3(a)(2)(C). Twenty-four (24) matters were referred to LPRCs in 2010. One of these assignments was referred back to Disciplinary Counsel for

completion and another ten were rendered moot by a lawyer's death or resignation.

D. Formal Proceedings

(1) Prosecution Function

After the SPRB authorizes formal proceedings in a given matter, attorneys in Disciplinary Counsel's Office draft a formal complaint and may, but don't always, arrange for volunteer bar counsel to assist in preparation for trial. Bar Counsel are selected from a panel of lawyers appointed by the Board of Governors.

Discovery methods in disciplinary proceedings are similar to those in civil litigation. Requests for admission, requests for production, and depositions are common. Disputes over discovery are resolved by the trial panel chairperson assigned to a particular case.

Pre-hearing conferences to narrow the issues and to explore settlement are available at the request of either party. Such conferences are held before a member of the Disciplinary Board who is not a member of the trial panel in that case.

(2) Adjudicative Function

Members of the Disciplinary Board, appointed by the Supreme Court, sit in panels of three (two lawyers, one non-lawyer) and are selected for each disciplinary case by a regional chairperson. The panel chair rules on all pretrial matters and is responsible for bringing each case to hearing within a specific time frame established by the rules.

After hearing, the panel is required to render its decision within 28 days (subject to time extensions), making findings of fact, conclusions of law and a disposition. Panels rely on the ABA *Standards for Imposing Lawyer Sanctions* and Oregon case law in determining appropriate sanctions when misconduct has been found.

Seventeen (17) disciplinary cases were tried in 2010, although some of these matters went by default and did not require full evidentiary hearings.

E. Dispositions Short of Trial

Fortunately, many of the disciplinary proceedings authorized by the SPRB are resolved short of trial with resignations or stipulations. Form B resignation (resignation "under fire") does not require an admission of guilt by an accused lawyer but, because charges are pending, is treated like a disbarment such that the lawyer is not eligible for reinstatement in the future. Seven (7) lawyers submitted Form B resignations in 2010, thereby eliminating the need for further prosecution in those cases. While a resignation ends a formal proceeding, it is often obtained only after a substantial amount of investigation, discovery and trial preparation. For example, one lawyer resigned in 2010, but only after a multi-day trial, the trial panel issued its decision and the lawyer's brief was due in the Supreme Court.

A significant number of cases are resolved by stipulations for discipline in which there is no dispute over material fact and both the Bar and the accused lawyer agree on the violations committed and appropriate sanction. Stipulations must be approved by the SPRB or its chairperson on behalf of the Bar. Once that approval is obtained, judicial approval is required from the state and regional chair of the Disciplinary Board in cases where sanctions do not exceed a 6-month suspension, or from the Supreme Court for cases involving greater sanctions. Judicial approval is not always given, in which case the parties must negotiate further or proceed to trial.

In 2010, 55 formal proceedings were concluded: 15 by decision in a contested case; 29 by stipulation; 7 by Form B resignation; and 4 by diversion. Another four matters resulted in the Supreme Court imposing reciprocal discipline by court order.

F. Appellate Review

The Supreme Court does not automatically review discipline cases in Oregon. Trial panel decisions, even those imposing disbarment, are final unless either the Bar or the accused lawyer seeks Supreme Court review. Appellate review by the court is mandatory if requested by a party.

When there is an appeal, lawyers in Disciplinary Counsel's Office prepare the record for submission to the court, draft and file the Bar's briefs and present oral argument before the court. The SPRB decides for the Bar whether to seek Supreme Court review.

In 2010, the Supreme Court rendered seven (7) discipline opinions in contested cases. The court also approved five (5) stipulations for discipline, imposed reciprocal discipline in four (4) cases, and issued orders in two (2) other cases suspending lawyers on an interim basis while the disciplinary proceedings against them were pending.

Among the noteworthy court decisions were:

In *In re Scott M. Snyder*, 348 Or 307, 232 P3d 952 (2010), the Supreme Court had occasion to interpret for the first time RPC 1.4 (a) and (b), the rules that require a lawyer to maintain a reasonable level of communication with a client. The lawyer represented a client in a personal injury claim and failed to inform the client of developments in the case or respond to status inquiries from the client. The lawyer contended that he was properly tending to the client's claim and that his conduct perhaps was poor "customer relations," but not unethical. The court disagreed, finding that the lawyer did not keep the client reasonably informed about the status of the case when the lawyer failed to apprise the client of communications from the prospective defendant and from the client's insurer, or tell the client that the lawyer intended to delay settlement negotiations with the carrier. The court concluded that this was the type of information that a client needs to know in order to make informed decisions about a case, and that it was required communication under RPC 1.4. The court also found that the lawyer failed to return the client's file materials promptly upon request, in violation of RPC 1.15-1(d). The lawyer was suspended from practice for 30 days.

In *In re Robert D. Newell*, 348 Or 396, 234 P3d 967 (2010), the lawyer was charged with communicating with a represented party in violation of RPC 4.2. The lawyer represented a corporate client in civil litigation and wanted to depose a former corporate employee who was awaiting sentencing on a criminal conviction related to his conduct while employed at the company. Knowing that the former employee was represented by counsel in the criminal case, the lawyer caused a deposition subpoena to be served on the former employee on a Friday evening, requiring appearance for the deposition on Saturday morning. The criminal defense lawyer was not notified of the deposition. The deponent appeared pursuant to the subpoena, advised that he had been unable to reach his defense lawyer and would not be able to answer questions related to the criminal case. The lawyer nevertheless proceeded to depose the former employee, asking questions that related to the criminal case. The lawyer defended the disciplinary charge by asserting that the deposition was taken as part of the civil case and the deponent was not represented by counsel in the civil case; hence, there was no improper communication with a represented party. The Supreme Court held that RPC 4.2 is not so limited. It prohibits communication on the "subject" on which a person is represented, in this case a subject that was common to both the civil and criminal cases. The court also rejected the defense that the communication with the former employee was pursuant to a properly noticed deposition and therefore fit within the "authorized by law" exception to RPC 4.2. The court was not willing to extend the exception that broadly, particularly when the former employee's defense counsel had no notice of the deposition. The lawyer was reprimanded for the violation.

In *In re Smith*, 348 Or 535, 236 P3d 137 (2010), a lawyer was suspended from practice for 90 days after he advised a client to enter a medical marijuana clinic at which the client formerly was employed and take control of the clinic from the clinic operators. The lawyer also accompanied the client to the clinic and made misrepresentations to those present about his client's authority to seize control. The Supreme Court determined that the lawyer had no nonfrivolous basis in law or fact to advise the client to take control of the clinic, or to make misrepresentations, and that he knew it. He therefore violated RPC 3.1 [frivolous action], RPC 4.1(a) [false statements] and RPC 8.4(a)(3) [misrepresentations]. He also was complicit in a criminal trespass of the clinic, thereby violating RPC 8.2(a)(2) [criminal conduct reflecting adversely on fitness].

In *In re Hostetter*, 348 Or 574, 238 P3d 13 (2010), the lawyer was found to have committed a former client conflict of interest (former DR 5-105(C)/RPC 1.9(a)) when he first represented a client in obtaining a series of loans from an individual lender, and later after the client died, represented the lender in seeking to collect the outstanding loans from the first client's estate. For conflict of interest purposes, the former client's interests survived her death and were adverse to the interests of the lender. Accordingly, the lawyer was not permitted to represent the lender in the subsequent collection efforts. In a separate aspect of the case, the lawyer was found to have engaged in misrepresentation when he altered a deed that already had been signed, and then recorded it. The lawyer was suspended from practice for 150 days.

G. Contested Admissions/Contested Reinstatements

Disciplinary Counsel's Office also represents the Board of Bar Examiners (BBX) in briefing and arguing before the Supreme Court those cases in which the BBX has made an adverse admissions recommendation regarding an applicant. The actual investigation and hearing in these cases are handled by the BBX under a procedure different from that applicable to lawyer discipline cases.

For reinstatements, Disciplinary Counsel's Office is responsible for processing and investigating all applications. Recommendations are then made to either the bar's Executive Director or the Board of Governors, depending on the nature of the application. Many reinstatements are approved without any further level of review. For reinstatement applicants who have had significant, prior disciplinary problems or have been away from active membership status for more than five years, the Board of Governors makes a recommendation to the Supreme Court. In cases when the board recommends against reinstatement of an applicant, the Supreme Court may refer the matter to the Disciplinary Board for a hearing before a threemember panel much like lawyer discipline matters, or may direct that a hearing take place before a special master appointed by the court. Disciplinary Counsel's Office has the same responsibilities for prosecuting these contested cases as with disciplinary matters. The office also handles the appeal of these cases, which is automatic, before the Supreme Court. A number of these proceedings were in progress in 2010.

IV. DISPOSITIONS

Attached as Appendix C is a list of disciplinary dispositions from 2010. The following table summarizes dispositions in recent years:

SANCTION TYPE	2006	2007	2008	2009	2010
Disbarment	3	1	5	1	2
Form B Resignation	6	10	18	8	7
Suspension	36	35	22	18	23
Suspension stayed/probation	0	0	2	0	5
Reprimand	14	20	23	12	16
Involuntary inactive Transfer	0	0	1	0	0
TOTAL Lawyer Sanctions	59	66	71	39	53
Dismissals after Adjudication	5	0	2	0	2
Dismissed as moot	0	0	1	1	0
Diversion	4	2	2	5	4
Admonitions	33	42	30	28	34

In conjunction with a stayed suspension or as a condition of admission or reinstatement, it is common for a period of probation to be imposed upon a lawyer. Disciplinary Counsel's Office was monitoring six (6) lawyers on probation at the end of 2010, along with six (6) lawyers in diversion. Most

probations and diversions require some periodic reporting by the lawyer. Some require more active monitoring by a probation supervisor, typically another lawyer in the probationer's community.

The types of conduct for which a disciplinary sanction was imposed in 2010, or a Form B resignation was submitted, varied widely. The following table identifies the misconduct most often implicated in those proceedings that were concluded by decision, stipulation, order, or resignation in 2010:

Type of misconduct	% of cases in which misconduct present
Inadequate client communication	49%
Neglect of legal matter	36%
Dishonesty or misrepresentation	35%
Trust account violation	35%
Excessive or illegal fees	29%
Failure to respond to OSB	25%
Inadequate accounting records	24%
Conduct prejudicial to justice	22%
Failure to return property or funds	16%
Incompetence	16%
Criminal conduct	15%
Improper withdrawal	15%
Unauthorized practice	11%
Multiple client conflicts	7%
Self-interest conflicts	5%
Disregarding a court rule or ruling	5%
Improper communication	5%
Advertising	4%
Other	22%

V. SUMMARY OF CASELOAD

A summary of the pending caseload in Disciplinary Counsel's Office at the end of 2010 follows:

New complaints pending	167
Pending LPRC investigations.....	9
Pending formal proceedings	64*
Probation/diversion matters.....	12
Contested admission/contested reinstatement matters.....	1
<hr/>	
TOTAL.....	253

* Reflects no. of lawyers; no. of complaints is greater.

In addition to disciplinary matters, Disciplinary Counsel's Office processed and investigated approximately 164 reinstatement applications in 2010; processed approximately 543 membership status changes (inactive and active pro bono transfers and voluntary resignations); and responded to roughly 2,800 public record requests during the year.

VI. STAFFING/FUNDING

In 2010, Disciplinary Counsel's Office employed fifteen staff members (14 FTE), along with occasional temporary help. In addition to Disciplinary Counsel, there were seven staff lawyer positions. Support staff included one investigator, one office administrator, one regulatory services coordinator, three secretaries, and one public records coordinator. Current staff members include:

Disciplinary Counsel

Jeffrey D. Sapiro

Assistants Disciplinary Counsel

Amber Bevacqua-Lynott
Mary A. Cooper
Susan R. Cournoyer
Linn D. Davis
Stacy J. Hankin
Martha M. Hicks
Kellie F. Johnson

Support Staff

Lynn Bey-Roode
Jennifer Brand
Karen L. Duncan
Anita B. Erickson
Sandy L. Gerbish
Vickie R. Hansen
R. Lynn Haynes

Disciplinary Counsel's Office is funded out of the Bar's general fund. Revenue is limited (roughly \$70,000 for 2010) and comes from cost bill collections, reinstatement fees, a fee for good standing certificates and *pro hac vice* admissions, and photocopying charges for public records.

Expenses for 2010 were \$1,567,000 with an additional \$373,500 assessed as a support services (overhead) charge. Of the actual program expenses, 91% consisted of salaries and benefits. An additional 4.6% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses and related items. Four percent of the expense budget was spent on general and administrative expenses such as copying charges, postage, telephone and staff travel expense.

VII. OTHER DEVELOPMENTS

A. Trust Account Overdraft Notification Program

The Oregon State Bar has a Trust Account Overdraft Notification Program, pursuant to ORS 9.132 and RPC 1.152. Under the program, lawyers are required to maintain their trust accounts in financial institutions that have agreed to notify the Bar of any overdraft on such accounts. Approximately 65 banks have entered into notification agreements with the Bar.

In 2010, the Bar received notice of 64 trust account overdrafts. For each overdraft, a written explanation and supporting documentation was requested of the lawyer, with follow-up inquiries made as necessary.

Many overdrafts were the result of bank or isolated lawyer error and, once confirmed as such, were dismissed by staff. If circumstances causing an overdraft suggested an ethics violation, the matter was referred to the SPRB. A minor violation resulting in an overdraft typically results in a letter of admonition issued to the lawyer. More serious or on-going violations result in formal disciplinary action. A summary of the disposition of trust account overdrafts received in 2010 follows:

2010 Trust Account Overdrafts	
Dismissed by staff	49
Dismissed by SPRB	0
Referred to LPRC for further investigation	0
Closed by admonition letter	4
Closed by diversion	1
Formal charges authorized	3
Closed by Form B resignation	5
Pending (as of 3/2011)	2
Total Received	64

B. IOLTA Compliance

Related to trust accounts is the obligation under RPC 1.152(m) for Oregon lawyers to certify annually that they are in compliance with the trust account disciplinary rules, identifying the financial institutions and account numbers in which Interest on Lawyer Trust Account (IOLTA) trust funds are held. The annual certification is distributed to each lawyer with the yearly invoice for membership dues.

By April 2010, approximately 730 lawyers still had not filed their IOLTA certifications, and their names were turned over to Disciplinary Counsel's Office. Further notices from DCO prompted substantial compliance such that only two (2) lawyers ultimately were charged with a violation of RPC 1.15-2(m) from 2010.

C. Public Records

In Oregon, lawyer discipline files are public record with very limited exceptions. Disciplinary Counsel staff responds to an average of 230 public records requests each month. These requests come from members of the public who inquire into a lawyer's background or from other Bar members who have a need to examine these records.

Disciplinary history data is on computer such that many disciplinary record inquiries can be answered without a manual review of a lawyer's file. A significant number of requests, however, require the scheduling of appointments for file review.

During 2010, the Bar followed its established document management and retention policies. Ethics complaints dismissed for lack of probable

cause more than ten (10) years ago were destroyed. Retained records were scanned and maintained in electronic format, thereby reducing the physical file storage needs of the Bar.

D. Pro Hac Vice Admission

Uniform Trial Court Rule 3.170 provides that all applications by out-of-state lawyers for admission in a single case in Oregon (*pro hac vice* admission) must first be filed with the Oregon State Bar, along with a fee of \$250. Disciplinary Counsel's Office is responsible for reviewing each application and supporting documents (good standing certificate, evidence of professional liability coverage, etc.) for compliance with the UTCR. The filing fees collected, after a nominal administrative fee is deducted, are used to help fund legal service programs in Oregon.

In 2010, the Bar received and processed 381 *pro hac vice* applications, collecting \$95,250 for legal services.

E. Custodianships

ORS 9.705, *et. seq.*, provides a mechanism by which the Bar may petition the circuit court for the appointment of a custodian to take over the law practice of a lawyer who has abandoned the practice or otherwise is incapable of carrying on. In 2010, the Bar was not required to initiate a custodianship, although two lawyers were suspended by the Supreme Court upon the Bar's petition alleging emergency circumstances.

F. Continuing Legal Education Programs

Throughout 2010, Disciplinary Counsel staff participated in numerous CLE programs dealing with ethics and professional responsibility issues. Staff spoke to law school classes, local bar associations, Oregon State Bar section meetings, specialty bar organizations and general CLE audiences.

VIII. CONCLUSION

In 2010, the Oregon State Bar remained committed to maintaining a system of lawyer regulation that fairly but effectively enforces the disciplinary rules governing Oregon lawyers. Many dedicated individuals, both volunteers and staff, contributed significantly toward that goal throughout the year.

Respectfully submitted,

Jeffrey D. Sapiro

Disciplinary Counsel

APPENDIX A - 2010

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	19	4.4%
Client	121	28.3%
Judge	16	3.7%
Opposing Counsel	37	8.7%
Opposing Party	26	6.1%
Third Party	27	6.3%
Unknown	0	0%
OSB	93	21.7%
OSB (IOLTA Compliance)	89	20.8%
TOTAL	428	100.0%
COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	2	.5%
Advertisement	0	0%
Arbitration	2	.5%
Bankruptcy	18	4.2%
Business	10	2.3%
Civil dispute (general)	22	5.1%
Conservatorship	2	.5%
Criminal	57	13.3%
Domestic Relations	40	9.3%
Estate Planning	2	.5%
Guardianship	4	.9%
Immigration	5	1.2%
Juvenile	4	.9%
Labor Law	2	.5%
Litigation (general)	23	5.4%
Land Use	0	0%
Other	30	7.0%
Paternity	0	0%
Personal injury	13	3.0%
Probate	7	1.6%
Real Estate	8	1.9%
Social Security	3	.7%
Tenant/landlord	1	.2%
Tax	0	0%
Trust Account (IOLTA)	89	20.8%
Trust Account Overdraft	77	18.0%
Workers Comp.	5	1.2%
Unknown	2	.5%
TOTAL	428	100.0%

APPENDIX B - 2009

COMPLAINANT TYPE	NUMBER	PERCENTAGE
Accused (self-reported)	22	4.5%
Client	151	31.3%
Judge	8	1.6%
Opposing Counsel	27	5.6%
Opposing Party	28	5.8%
Third Party	52	10.8%
Unknown	0	-
OSB	98	20.3%
OSB (IOLTA Compliance)	97	20.1%
TOTAL	483	100%
COMPLAINT SUBJECT MATTER	NUMBER	PERCENTAGE
Adoption	5	1.0%
Advertisement	0	-
Arbitration	0	-
Bankruptcy	22	4.6%
Business	5	1.0%
Civil dispute (general)	20	4.2%
Conservatorship	2	0.4%
Criminal	60	12.4%
Domestic Relations	44	9.1%
Estate Planning	4	0.8%
Guardianship	1	0.2%
Immigration	8	1.7%
Juvenile	1	0.2%
Labor Law	3	0.6%
Litigation (general)	31	6.4%
Land Use	0	-
Other	26	5.4%
Paternity	0	-
Personal injury	11	2.3%
Probate	8	1.7%
Real Estate	13	2.7%
Social Security	2	0.4%
Tenant/landlord	2	0.4%
Tax	0	-
Trust Account (IOLTA)	97	20.1%
Trust Account Overdraft	102	21.1%
Workers Comp.	12	2.5%
Unknown	4	0.8%
TOTAL	483	100%

OSB Disposition List 2010

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
1	08-163, 164 Catherine Dixon 24 DB Rptr 1	Four year suspension	CC	DB	11/20/09	1/20/10	1.5(a), 1.15-1(d), 1.16(d), 8.1(a)(2) 1.4(a) - NG	April 2010
2	09-142 Ann B. Witte 24 DB Rptr 10	Reprimand	Stip	DB	1/11/10	1/11/10	1.3, 1.4(a), 1.16(a), 1.16(d)	April 2010
3	08-124, 125; 09- 45, 46 Martin R. Capetz SC S058043	Form B resignation	-	S Ct	1/21/10	1/21/10	1.5(a), 1.15-1(a), 1.15-1(c), 1.16(d), 3.4(a), 5.5(a), 7.1(a)(1), 7.5(c)(1), 8.1(a) (2), 8.4(a)(3), 8.4(a)(4), ORS 9.160(1)	April 2010
4	09-95, 09-96 William E. Carl SC S058149, 24 DB Rptr 17	One year suspension, all but 30 days stayed, 3 year probation	Stip	S Ct	1/21/10	1/28/10	8.4(a)(2), ORS 9.527(2)	April 2010
5	09-09, 10, 49 to 51, 109 to 111 Keith Hayes SC S058075	BR 3.1 suspension	CC	S Ct	1/28/10	1/28/10	1.3, 1.4(a), 1.5(a), 1.16(d), 3.3(a)(1), 3.4(a), 3.4(c), 8.4(a)(3), 8.4(a)(4)	No
6	09-121 Karen Misfeldt 24 DB Rptr 25	Reprimand	Stip	DB	2/3/10	2/3/10	1.1, 1.4(a), 1.4(b), 1.7(a)	April 2010
7	09-68 Benjamin M. Karlin 24 DB Rptr 31	60 day suspension	Stip	DB	2/3/10	3/5/10	1.4(a), 1.4(b), 1.15-1(a), 1.15-1(c), 1.15-1(d)	April 2010
8	09-41 Christy Dickson	Diversio	-	SPRB	2/15/10	2/15/10	1.16(c), 1.16(d), 8.1(a)(2)	No
9	09-106 Sharon C. Stevens 24 DB Rptr 38	60 day suspension	Stip	DB	2/19/10	3/5/10	1.3, 1.4(a)	April 2010
10	09-97, 09-126 Craig P. Colby 24 DB Rptr 47	30 day suspension	Stip	DB	3/3/10	3/3/10	1.3, 1.4(a), 1.4(b)	May 2010
11	09-125 Daniel J. Lounsbury 24 DB Rptr 53	Reprimand	Stip	DB	3/22/10	3/22/10	1.5(a), 1.15-1(c), 1.16(d)	May 2010
12	10-01 Theodore A. Mahr SC S058212	BR 3.5 reciprocal discipline - three year suspension	CC	S Ct	3/25/10	3/25/10	Wash RPC 1.2, 1.3, 1.4, 1.5(a), 1.5(b), 1.16(d), 8.4(a), 8.4(c)	May 2010
13	09-136 Christian E. Hearn	Diversio	-	SPRB	4/1/10	4/1/10	DR 9-101A2, 9-101D3, RPC 1.15-2(c), 1.15-2(e), 1.15-2(f)	No

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OSB Disposition List 2010

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
14	09-48 Amanda L. Stanley SC S058309	Form B resignation	-	S Ct	4/8/10	4/8/10	1.15-1(c), 1.16(d), 8.4(a)(2), 8.4(a)(3), ORS 9.527(2)	June 2010
15	08-30 to 32, 38; 09-05 Jonathan P. Sushida SC S058382, 24 DB Rptr 58	Three year suspension	Stip	S Ct	4/8/10	4/8/10	1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(a)(2), 1.16(d), 8.1(a)(2), 8.4(a)(3),	June 2010
16	0 8 - 6 9 , 70, 89, 126, 127	30 day suspension stayed/ probation	CC	DB	2/19/10	4/24/10	1.4(a), 3.4(c), 8.4(a)(4)	July 2010
17	09-135 James N. Welty 24 DB Rptr 92	Reprimand	Stip	DB	4/22/10	4/22/10	9-101C3, 9-101C4	June 2010
18	08-106 Paula B. Hammond 24 DB Rptr 97	30 day suspension	Stip	DB	4/29/10	6/1/10	1-102(A)(4), 2-110(B)(2), 6-101(A), 1.1, 1.16(a)(1), 8.4(a)(4)	July 2010
19	08-107 to 08-110 Glenda P. Durham SC S058259	Form B resignation	-	S Ct	4/29/10	4/29/10	1-102(A)(4), 2-110(B)(2) & (3), 5-103(B), 6-101(A), 6-101(B), 1.1, 1.4(a) & (b), 1.8(e), 1.16(a)(1) & (2), 8.1(a)(1) & (2), 8.4(a)(4)	July 2010
20	06-109 Thomas J. Peterson 348 Or 325, 232 P3d 940	60 day suspension	CC	S Ct	5/27/10	7/26/10	1.15-1(a), 1.15-1(c)	Aug/Sept 2010
21	08-19 Scott M. Snyder 348 Or 307, 232 P3d 952	30 day suspension	CC	S Ct	5/27/10	7/26/10	1.4(a), 1.4(b), 1.15-1(d)	Aug/Sept 2010
22	09-87 Donald R. Slayton 24 DB Rptr 106	60 day suspension	Stip	DB	5/27/10	6/15/10	8.4(a)(3), 8.4(a)(4)	Aug/Sept 2010
23	07-142 Robert D. Newell 348 Or 396, 234 P3d 967	Reprimand	CC	S Ct	6/10/10		4.2	Aug/Sept 2010
24	09-24 Rhonda Lee Antell SC S058544, 24 DB Rptr 113	1 year suspension, 10 months stayed, one-year probation	Stip	S Ct	6/11/10	6/14/10	8.4(a)(2), 8.4(a)(3)	Oct 2010

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
25	09-34 Charles F. Lee 24 DB Rptr 121	Dismissal	CC	DB	4/14/10	6/19/10	8.4(a)(4)	July 2010
26	09-72 Rankin Johnson 24 DB Rptr 127	Six month suspension	Stip	DB	6/16/10	6/30/10	1.3, 1.4(a), 8.4(a)(3)	Aug/Sept 2010
27	06-9110 R. Kevin Hendrick 24 DB Rptr 138	Two year suspension	CC	DB	4/5/10	6/22/10	1.15-1(a), 1.15-1(c), 1.15-1(d), 7.1(a)(1), 8.1(a)(1), 8.4(a)(2), 8.4(a)(3)	Aug/Sept 2010
28	10-33, 10-34 Deborah L. Abernathy SC S058388	BR 3.5 reciprocal discipline - 10 month suspension	CC	S Ct	6/24/10	6/24/10	Ariz. ER 1.1, 1.3, 1.4, 1.5, 1.15, 1.16, 8.1(b)	Aug/Sept 2010
29	07-175, 10-18 Scott P. Bowman SC S058608, 24 DB Rptr 144	One year suspension, eight months stayed, plus probation	Stip	S Ct	7/8/10	9/6/10	1-102(A)(2), 1.4(a), 1.8(h)(1), 1.8(h)(3), 1.15-1(a), 1.15-1(c), 5.4(a), 5.5(a), 8.1(a)(2), 8.4(a)(2), ORS 9.160(1)	Oct 2010
30	07-94, 95; 08-09; 09-26, 43, 44 Michael R. Shinn SC S058563	Form B resignation	-	S Ct	7/8/10	7/8/10	1.3, 1.4(a), 1.5(a), 1.15-1(a), 1.15-1(d), 3.4(c), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4), ORS 9.527(3)	Aug/Sept 2010
31	10-35 James R. Eckley SC S058376	BR 3.5 reciprocal discipline - reprimand	CC	S Ct	7/8/10	7/8/10	Ariz ER 1.8(a), 5.7; Ariz R S Ct 43, 44(a)	Aug/Sept 2010
32	09-114, 09-115 Edmund J. Spinney	Diversion	-	SPRB	7/15/10	7/15/10	1.15-1(a), 1.15-1(c), 8.1(a)(2)	No
33	07-53 Frederick T. Smith 348 Or 535, 236 P3d 137	90 day suspension	CC	S Ct	7/15/10	9/13/10	3.1, 4.1(a), 8.4(a)(2), 8.4(a)(3)	Oct 2010
34	09 - 09, 10, 49-51, 109-113, 116-120, 144 Keith Hayes 24 DB Rptr 157	Disbarment	CC	DB	5/26/10	7/27/10	1.3, 1.4(a), 1.4(b), 1.5(a), 1.15-1(d), 1.16(d), 3.3(a)(1), 3.3(a)(4), 3.4(c), 8.1(a)(2), 8.4(a)(3), 8.4(a)(4)	Oct 2010
35	07-37, 07-161 D. Rahn Hostetter 348 Or 574, 238 P3d 13	150 day suspension	CC	S Ct	7/29/10	9/27/10	1-102A3, 5-105C, 1.9(a), 8.4(a)(3)	Oct 2010

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Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
36	09-75 Pamela A. Harrison SC S058599	Form B resignation	-	S Ct	7/29/10	7/29/10	1.3, 1.4(a), 1.15-1(d)	Oct 2010
37	10-58 Marsha N. Honda SC S058541	BR 3.5 reciprocal matter - no discipline imposed	CC	S Ct	7/29/10	7/29/10	Calif criminal conviction	No
38	08-161 Gary R. Carl 24 DB Rptr 170	Dismissal	CC	DB	6/1/10	8/3/10	NG - 1-102A3, 1-102A4, 7-110B	Oct 2010
39	08 - 9 3 ; 09 - 3 3 , 42, 59, 60, 91	Disbarment	CC	DB	6/4/10	8/7/10	1.3, 1.4(a), 1.5(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(d), 8.1(a)(2), 8.4(a)(3)	Nov 2010
40	09-03 Robert S. Simon 24 DB Rptr 181	Reprimand	Stip	DB	8/16/10	8/16/10	2-106A, ORS 9.160	Oct 2010
41	09-69 Todd S. Hammond 24 DB Rptr 187	Reprimand	Stip	DB	8/16/10	8/16/10	2-106A, 1.5(a)	Oct 2010
42	10-67 Priscilla Maloney 24 DB Rptr 194	Reprimand	Stip	DB	8/16/10	8/16/10	1.4(a)	Nov 2010
43	10-16, 10-17 Carter A. Daum 24 DB Rptr 199	120 day suspension	Stip	DB	8/18/10	9/17/10	1.1, 1.2(c), 1.3, 1.4(a), 8.4(a)(3), 8.4(a) (4)	Oct 2010
44	09-74, 10-71 Lisette Spencer 24 DB Rptr 209	90 day suspension	Stip	DB	8/18/10	9/1/10	1.2(a), 1.3, 1.4(a), 1.5(a), 8.4(a)(4)	Nov 2010
45	10-19 David G. Brown	Diversion	-	SPRB	9/1/10	9/1/10	1.5(a), 1.15-1(d), 1.15-1(e)	No
46	09-124 Michael R. Jordan 24 DB Rptr 218	60 day suspension	Stip	DB	8/19/10 9/24/10	8/21/10	1.3, 1.4(a), 1.4(b), 8.4(a)(3)	Nov 2010
47	08-42 Sean L. Hartfield 349 Or 108, 239 P3d 992	Reprimand	CC	S Ct	9/23/10	10/14/10	8.4(a)(4)	Dec 2010
48	09-21 James F. O'Rourke 24 DB Rptr 227	Reprimand	Stip	DB	10/6/10	10/6/10	1.1	Dec 2010

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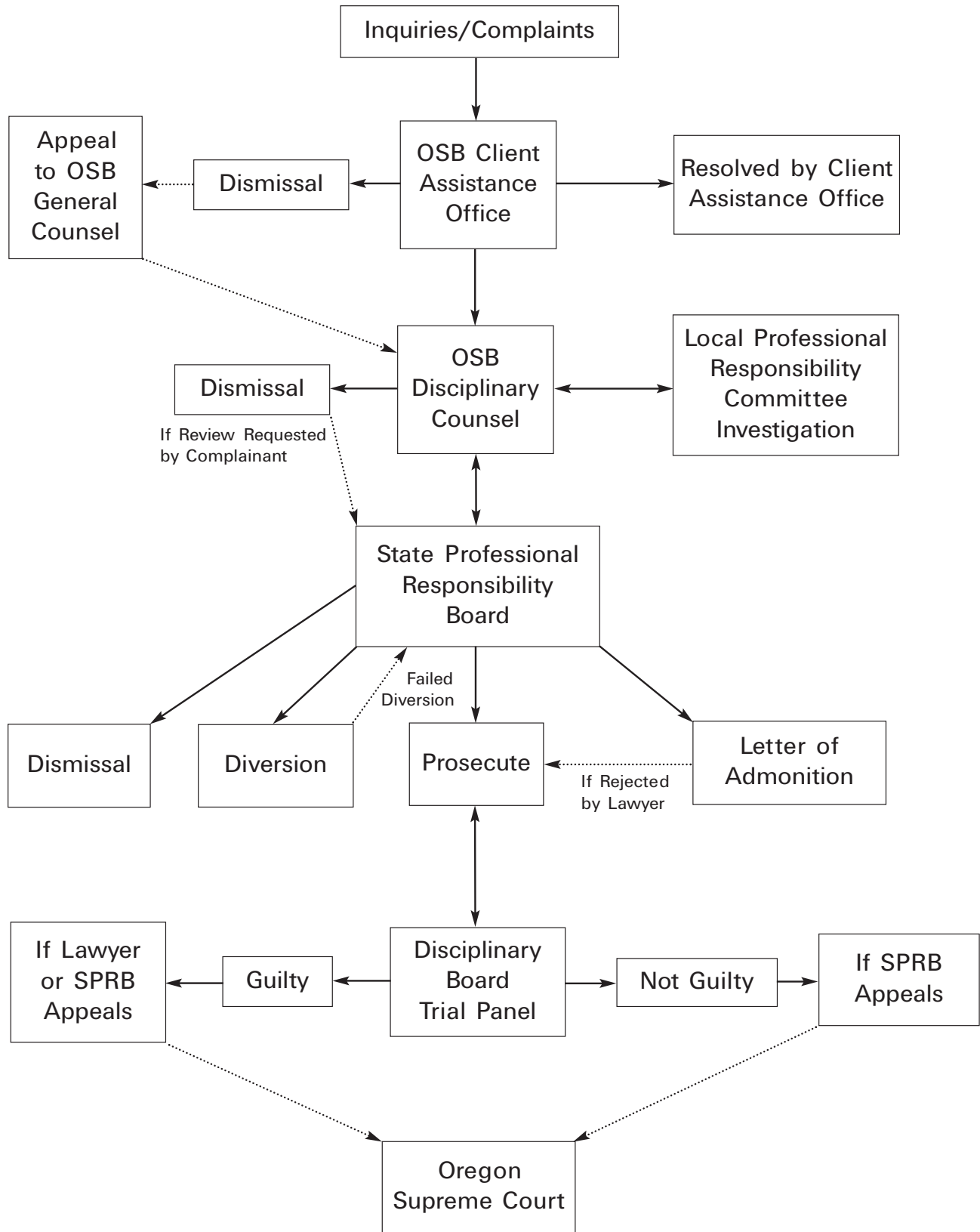
OSB Disposition List 2010

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
49	09-141 James C. Hilborn 24 DB Rptr 233	30 day suspension	Stip	DB	10/8/10	12/15/10	1.4(a), 1.4(b), 8.4(a)(4)	Dec 2010
50	10-74 Ann Mercer 24 DB Rptr 240	Reprimand	Stip	DB	10/8/10	10/8/10	3.5(b), 5.5(a), Wash 5.5(a)	Dec 2010
51	09-139 Mitchell R. Barker 24 DB Rptr 246	60 day suspension	Stip	DB	10/20/10	11/3/10	5.5(a), 8.1(a)(1), ORS 9.160	Dec 2010
52	10-85 thru 10- 95 B. William Ginsler SC S058776	Form B resignation	-	S Ct	10/21/10	10/21/10	1.1, 1.3, 1.4(a), 1.5(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.16(a)(1), 8.4(a)(3)	January 2011
53	10-96 Keith G. Jordan SC S058744	BR 3.5 reciprocal discipline - two year suspension	CC	S Ct	10/21/10	10/21/10	Cal RPC 3-110(a), 3-700(a)(2), 3-700(d)(1), 3-700(d)(2), B&P §6068(m)	Feb/Mar 2011
54	08-151 Scott A. Hodgess 24 DB Rptr 253	Reprimand	Stip	DB	10/29/10	10/29/10	5.5(a), 8.1(a)(2), ORS 9.160	January 2011
55	10-81 J. Lee Street SC S058814, 24 DB Rptr 258	One year suspension, eight months stayed, plus proba- tion	Stip	S Ct	11/10/10	11/10/10	1-102(A)(2), 8.4(a)(2)	January 2011
56	08-135 to 138; 09-58, 09-90, 10-10 Susan Ford Burns 24 DB Rptr 266	One year suspension	CC	DB	9/30/10	12/7/10	2-106A, 9-101C3, 1.4(a), 1.5(a), 1.7(a), 1.15-1(c), 1.15-1(d), 1.15-1(e), 1.16(d), 8.1(a)(2)	Feb/Mar 2011
57	10-15 Theodore C. Coran 24 DB Rptr 269	Reprimand	Stip	DB	12/7/10	12/7/10	1.5(c)(2), 1.15-1(a), 1.15-1(c)	Feb/Mar 2011
58	08-77, 08-78, 09-63 Lynn M. Murphy 349 Or 366, 245 P3d 100	120 day suspension	CC	S Ct	12/9/10	2/7/11	1.3, 1.4(a), 8.1(a)(2)	Feb/Mar 2011
59	10-98, 99, 121 G. Victor Tiscornia, II	BR 3.1 suspension	CC	S Ct	12/13/10	12/13/10	1.3, 1.4(a), 1.4(b), 1.5(a), 3.4(c), 1.15-1(a), 1.15-1(d), 8.1(a)(2), 8.4(a)(2), 8.4(a)(3), 8.4(a)(4)	No

OSB Disposition List 2010

Case No.	Case Name/Cite	Disposition	CC/ Stip	S Ct/ DB	Date of Action	Effective Date	DRs ORS	Bulletin Summary
60	Gino G. Pieretti 24 DB Rptr 277	Reprimand	Stip	DB	12/17/10	12/17/10	1.3, 1.4(a)	Feb/Mar 2011
61	Shannon K. Connall SC S058951	Form B resignation	-	S Ct	12/23/10	12/23/10	1.1, 1.3, 1.4(a), 1.5(a), 1.7(a), 1.15-1(a), 1.15-1(c), 1.15-1(d), 1.15-1(e), 1.16, 8.1(a)(1), 8.4(a)(3)	Feb/Mar 2011
62	Jack Levy SC S058948	BR 3.4 criminal conviction - No discipline imposed	-	S Ct	12/23/10	12/23/10	ORS 9.527(2)	No
63	Dan Van Thiel 24 DB Rptr 282	Reprimand	Stip	DB	12/29/10	12/29/10	2.4(a)(1), 2.4(a)(2), 4.3	x

OREGON STATE BAR DISCIPLINARY PROCESS



APPENDIX D