2015 Disciplinary Counsel’s Office Annual Report

March 2016

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I. INTRODUCTION

This is the Annual Report of the Oregon State Bar Disciplinary Counsel’s Office for 2015. The report provides an overview of Oregon’s lawyer discipline system, an analysis of the caseload and dispositions in 2015, and a discussion of significant developments over the last year.

II. DISCIPLINARY COUNSEL’S OFFICE

The Disciplinary Counsel’s Office (DCO, a term hereafter referring to either the office as a whole or a lawyer employed within the office) provides professional staffing for Oregon’s lawyer discipline system with 8 lawyers, an office manager, an investigator/litigation assistant, a paralegal, 2 legal secretaries, a diversion and probation coordinator/legal secretary, a public records coordinator, and a regulatory services coordinator. In addition to its work in support of the State Professional Responsibility Board (SPRB), DCO has involvement in both contested reinstatement and admission applications, and responds to public records requests pertaining to records maintained within the discipline system.

III. STATE PROFESSIONAL RESPONSIBILITY BOARD

The DCO’s principal responsibility 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 and court rule. The SPRB seeks to determine whether misconduct has occurred, 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 SPRB met 13 times in 2015. Combining in-person and teleconference meetings, the SPRB considered approximately 229 case-specific agenda items during the year. In addition, the SPRB has, upon occasion, discussed policy matters pertaining to its functioning and interaction with participants in Oregon’s lawyer discipline system. During 2015, current and past SPRB members participated in an examination of the disciplinary procedural rules conducted in response to a report issued by an American Bar Association Center for Professional Responsibility team, which had performed an onsite study in June of 2014 and issued its report in January of 2015.

The bar was fortunate to have the following individuals on the SPRB in 2015:

- Whitney Patrick Boise (Portland) — Chairperson
- Ankur Hasmukh Doshi (Portland)
- Nathaline J. Frener (Eugene) — Public Member
- Dr. Randy Green (Salem) — Public Member
- Blair Henningsgaard (Astoria)
- E. Bradley Litchfield (Eugene)
- Justin N. Rosas (Medford)
- Elaine D. Smith-Koop (Salem)
Richard Weill (Troutdale)
Valerie Wright (Bend)

The terms of Whitney Patrick Boise and Richard Weill expired at the end of 2015. The new appointments for 2016 are Carolyn Alexander (Portland) and Heather Bowman (Portland). E. Bradley Litchfield is the SPRB Chairperson for 2016.

IV. 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 DCO for investigation. See BR 2.5.

The table below reflects the number of files opened by DCO in recent years, including the 302 files opened in 2015.

<table>
<thead>
<tr>
<th>Month</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>20</td>
<td>49</td>
<td>21</td>
<td>31</td>
<td>19</td>
</tr>
<tr>
<td>February</td>
<td>36</td>
<td>27</td>
<td>23</td>
<td>25</td>
<td>28</td>
</tr>
<tr>
<td>March</td>
<td>25</td>
<td>39</td>
<td>30</td>
<td>45</td>
<td>22</td>
</tr>
<tr>
<td>April</td>
<td>42</td>
<td>38</td>
<td>43</td>
<td>47</td>
<td>17</td>
</tr>
<tr>
<td>May</td>
<td>146*</td>
<td>20</td>
<td>37</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>June</td>
<td>20</td>
<td>40</td>
<td>31</td>
<td>24</td>
<td>31</td>
</tr>
<tr>
<td>July</td>
<td>28</td>
<td>22</td>
<td>30</td>
<td>44</td>
<td>27</td>
</tr>
<tr>
<td>August</td>
<td>23</td>
<td>35</td>
<td>36</td>
<td>21</td>
<td>29</td>
</tr>
<tr>
<td>September</td>
<td>29</td>
<td>22</td>
<td>27</td>
<td>24</td>
<td>21</td>
</tr>
<tr>
<td>October</td>
<td>23</td>
<td>23</td>
<td>26</td>
<td>25</td>
<td>39</td>
</tr>
<tr>
<td>November</td>
<td>27</td>
<td>18</td>
<td>26</td>
<td>19</td>
<td>25</td>
</tr>
<tr>
<td>December</td>
<td>40</td>
<td>26</td>
<td>19</td>
<td>23</td>
<td>20</td>
</tr>
<tr>
<td>TOTAL</td>
<td>459</td>
<td>359†</td>
<td>349</td>
<td>352</td>
<td>302</td>
</tr>
</tbody>
</table>

*Includes IOLTA compliance matters.
†Effective in 2012, failing to file an annual IOLTA compliance report is a statutory, not disciplinary, requirement. This accounts for the reduction in files opened beginning in 2012.

Of the 302 files opened in 2015, 196 were referrals from the Client Assistance Office and 62 were trust account overdraft notices from financial institutions that came directly to DCO. Another 44 matters were opened by DCO on its own initiative, which includes matters arising out of a lawyer’s discipline in another jurisdiction where licensed and a lawyer’s conviction.

For 2015, statistical information regarding complainant type and complaint subject matter is found in Appendix A to this report. Similar information for 2014 is found in Appendix B for comparison purposes.
Every complaint DCO received in 2015 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 in order to garner sufficient information upon which to base a decision to dismiss or recommend further action to the SPRB.

Since November 2013, DCO has had the ability to seek the administrative suspension of any lawyer who fails without good cause to timely respond to requests for information or records. BR 7.1. Thirteen (13) lawyers were administratively suspended in 2015 pursuant to this rule.

If, after investigation, staff determines that probable cause does not exist to believe that misconduct occurred, the matter is dismissed by DCO. BR 2.6(b). Complainants may appeal a DCO dismissal to the SPRB. The SPRB considered 5 such appeals in 2015, affirming dismissal in all 5 cases.

When DCO determines from an investigation that there is probable cause of misconduct by a lawyer, the matter is referred to the SPRB for review and action. Each matter is presented to the SPRB by means of a complaint summary (factual review, ethics analysis and recommendation) prepared by staff. Each file also is made available to the SPRB. In 2015, the SPRB reviewed 164 of these probable cause investigations. The following section describes that process of review in more detail.

**B. SPRB**

The SPRB reviews, considers, and votes upon each matter referred to it by DCO, determining 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 DCO 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; authorizing a formal disciplinary proceeding in which allegations of professional misconduct are litigated; or referring the lawyer to the State Lawyers Assistance Committee (SLAC). 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 of an offer of a letter of admonition 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. In order for the SPRB to reconsider the matter, the request must be supported by new evidence not previously available that would have clearly affected the SPRB’s decision, or legal authority not previously known to the SPRB which establishes that the decision to prosecute is incorrect.

In 2015, the SPRB made probable cause decisions on 164† matters investigated by DCO. Action taken by the SPRB in recent years and in 2015 is summarized in the following table:
### Action Taken by SPRB

<table>
<thead>
<tr>
<th>Year</th>
<th>Pros.</th>
<th>Admon. Offered</th>
<th>Admon. Accepted</th>
<th>Dismissed</th>
<th>Diversion</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>98</td>
<td>34</td>
<td>34</td>
<td>46</td>
<td>4</td>
</tr>
<tr>
<td>2012</td>
<td>90</td>
<td>47</td>
<td>46†</td>
<td>73</td>
<td>7</td>
</tr>
<tr>
<td>2013</td>
<td>86</td>
<td>20</td>
<td>20</td>
<td>43</td>
<td>13</td>
</tr>
<tr>
<td>2014</td>
<td>105</td>
<td>19</td>
<td>19</td>
<td>40</td>
<td>17</td>
</tr>
<tr>
<td>2015</td>
<td>83</td>
<td>39</td>
<td>39</td>
<td>34</td>
<td>7</td>
</tr>
</tbody>
</table>

† One matter was tabled, and returned for reconsideration in January of 2016.

Note that the figures for prosecutions reflect the number of complaints that were authorized for prosecution, not necessarily the number of lawyers being prosecuted. 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 practices, are suffering under some disability, have been convicted of certain crimes, or have been disciplined in another jurisdiction subjecting them to reciprocal discipline in Oregon. The SPRB reviewed 4 such matters in 2015.

### C. Special Local Investigators

During 2015, all complaints were investigated in-house by DCO. Historically, such investigation was conducted by Local Professional Responsibility Committees (LPRCs), geographically-based committees of volunteer lawyers. More recently LPRCs were assigned to investigate when respondent attorneys were unresponsive to DCO inquiries. Since the inception of BR 7.1 (discussed above), usage of LPRCs for nonresponding respondent attorneys has curtailed. In the event there is DCO recognition that a locally-available special expertise would assist an in-depth field investigation, a local investigator from an LPRC can be appointed on an individual, as needed, basis. No matters were referred to special local investigators in 2015.

### D. Formal Proceedings

1. **Prosecution Function**

   After the SPRB authorizes formal proceedings in a given matter, DCO drafts a formal complaint that is filed with the Disciplinary Board Clerk and served upon the respondent attorney. On occasion, a volunteer bar counsel selected from a panel of lawyers appointed by the BOG is asked to serve as co-counsel.

   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. Mediation is available on a voluntary basis.
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 (DB), appointed by the Supreme Court, sit in panels of three (two lawyers, one non-lawyer), with one lawyer serving as chair, 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.

Seven (7) disciplinary cases were tried in 2015. Some were single-day hearings; others were multi-day hearings; still others were the result of a default, which in some cases included testimony directed toward the sanction sought.

E. Dispositions Short of Trial

Most disciplinary proceedings authorized by the SPRB are resolved short of trial with a negotiated outcome in the form of a stipulation or, in a few instances, by the respondent attorney’s resignation.

In circumstances in which there is no dispute over material fact and the DCO and the respondent attorney agree on the violations committed and the appropriate sanction, a stipulation setting forth the terms of the agreement, including factual recitations, rule violations, and the agreed-upon sanction is drafted. The terms of a stipulation are 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 DB in cases where sanctions do not exceed a 6-month suspension, or from the Supreme Court for cases involving greater sanctions.

Form B resignation (a resignation that takes place while disciplinary matters are under investigation) does not require an admission of guilt by an accused lawyer but, because charges are pending, is functionally equivalent to a disbarment, in that the lawyer is not eligible for reinstatement in the future. Three (3) lawyers submitted Form B resignations in 2015, 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.

F. Appellate Review

The Oregon Supreme Court does not automatically review discipline cases. Trial panel decisions, even those imposing disbarment, are final unless either the bar
or the respondent lawyer seeks supreme court review. The SPRB on behalf of the
bar decides whether to seek supreme court review or to cross-appeal.

Appellate review by the supreme court is mandatory if timely requested by a
party.

When there is an appeal, DCO prepares the record for submission to the supreme
court, drafts and files the bar’s briefs, and presents oral argument before the
supreme court. In 2015, the supreme court rendered 3 discipline opinions in
contested cases. The supreme court also approved 7 stipulations for discipline,
imposed reciprocal discipline in 2 cases, suspended 1 lawyer following notice of
a felony conviction, suspended 2 lawyers on an interim basis while disciplinary
proceedings were pending, and transferred 1 lawyer to involuntary inactive status.

A noteworthy opinion in 2015 was In re Herman, 357 Or 273 (2015), which
discusses the application of RPC 8.4(a)(3) to a circumstance where a lawyer, acting
both as an experienced business person and as an attorney in managing several
corporations, engaged in conduct involving dishonesty and misrepresentation
that reflected adversely on his fitness to practice law.

Regarding the disciplinary system overall, 52 disciplinary proceedings were
concluded in 2015: 11 by decision in a contested case (including one dismissal);
35 by stipulation; 3 by Form B resignation; 2 by reciprocal discipline order; and
1 by transfer to involuntary inactive status.

G. Contested Admissions/Contested Reinstatements

DCO represents the Board of Bar Examiners (BBX) in briefing and arguing before
the Oregon Supreme Court those cases in which the BBX has made an adverse
admissions recommendation regarding an applicant and the applicant pursues
supreme court review. The investigation and hearing that precede an admissions
recommendation is handled by the BBX with the support and assistance of
bar admissions staff under a procedure different from that applicable to lawyer
discipline cases.

When a lawyer seeks reinstatement from either an administrative or a disciplinary
suspension, DCO is responsible for processing and investigating all applications.
Recommendations are then made to either the bar’s executive director or the
BOG, at the request of the executive director. 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 BOG makes a recommendation to the
supreme court. In cases when the BOG recommends against reinstatement of an
applicant, the supreme court may refer the matter to the DB for a hearing before
a three member panel (much like a lawyer discipline matter), or may direct that
a hearing take place before a special master appointed by the supreme court.
DCO has the same responsibilities for prosecuting these contested cases as with
disciplinary matters and handles the appeal of these cases, which is automatic,
before the supreme court.
V. DISPOSITIONS

Attached as Appendix C is a list of disciplinary dispositions from 2015. The following table summarizes dispositions in recent years:

<table>
<thead>
<tr>
<th>Sanction Type</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disbarment</td>
<td>5</td>
<td>2</td>
<td>6</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Form B Resignation</td>
<td>7</td>
<td>13</td>
<td>4</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Suspension</td>
<td>19</td>
<td>20</td>
<td>21</td>
<td>19</td>
<td>18</td>
</tr>
<tr>
<td>Suspension stayed/probation</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Reprimand</td>
<td>15</td>
<td>17</td>
<td>14</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Involuntary inactive Transfer</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL Lawyer Sanctions</strong></td>
<td><strong>47</strong></td>
<td><strong>55</strong></td>
<td><strong>48</strong></td>
<td><strong>48</strong></td>
<td><strong>50</strong></td>
</tr>
<tr>
<td>Dismissals after Adjudication</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Dismissed as moot</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Diversion</td>
<td>4</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Admonitions</td>
<td>34</td>
<td>46</td>
<td>20</td>
<td>20</td>
<td>39</td>
</tr>
</tbody>
</table>

In conjunction with a stayed suspension and, at times, as a condition of admission or reinstatement, a period of probation will be imposed upon a lawyer. DCO was monitoring 19 lawyers on probation at the end of 2015, along with 13 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 or a member of SLAC.

The types of conduct for which a disciplinary sanction was imposed in 2015, 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 2015:

<table>
<thead>
<tr>
<th>Type of misconduct</th>
<th>% of cases in which type of misconduct was present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inadequate client communication</td>
<td>34%</td>
</tr>
<tr>
<td>Neglect of legal matter</td>
<td>32%</td>
</tr>
<tr>
<td>Dishonesty or misrepresentation</td>
<td>28%</td>
</tr>
<tr>
<td>Failure to return property or funds</td>
<td>25%</td>
</tr>
<tr>
<td>Conduct prejudicial to justice</td>
<td>25%</td>
</tr>
<tr>
<td>Failure to respond to OSB</td>
<td>23%</td>
</tr>
<tr>
<td>Improper withdrawal</td>
<td>19%</td>
</tr>
<tr>
<td>Other</td>
<td>16%</td>
</tr>
<tr>
<td>Inadequate accounting records</td>
<td>15%</td>
</tr>
<tr>
<td>Multiple client conflicts</td>
<td>13%</td>
</tr>
<tr>
<td>Criminal conduct</td>
<td>13%</td>
</tr>
<tr>
<td>Type of misconduct (cont’d)</td>
<td>% of cases in which type of misconduct was present</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Excessive or illegal fees</td>
<td>13%</td>
</tr>
<tr>
<td>Trust account violation</td>
<td>11%</td>
</tr>
<tr>
<td>Incompetence</td>
<td>8%</td>
</tr>
<tr>
<td>Disclosing confidential information</td>
<td>6%</td>
</tr>
<tr>
<td>Unauthorized practice</td>
<td>4%</td>
</tr>
<tr>
<td>Improper communication</td>
<td>4%</td>
</tr>
<tr>
<td>Advertising</td>
<td>4%</td>
</tr>
</tbody>
</table>

VI. SUMMARY OF CASELOAD

A summary of the pending caseload in Disciplinary Counsel’s Office at the end of 2015 follows:

- Investigations pending: 170
- Pending special local investigations: 0
- Pending formal proceedings: 77*
- Probation/diversion matters: 32
- Contested admission/contested reinstatement matters: 0
- TOTAL: 279

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

In addition to disciplinary matters, DCO processed and investigated 206 reinstatement applications in 2015 (which includes those pertaining to BR 8.1, 8.2, 8.3, 8.4, and 8.5); processed approximately 818 membership status changes (inactive and active pro bono transfers and voluntary resignations); issued 1079 certificates of good standing; and responded to 1,421 public record requests during the year.

VII. STAFFING/FUNDING

In 2015, DCO employed sixteen staff members (15.9 FTE). The lawyers work in two-person teams, with one lawyer reviewing and investigating complaints, determining to dismiss or recommend further action and, where possible, seeking a negotiated resolution. The other lawyer handles formal proceedings from filing through settlement or trial. The investigator, the paralegal, and the diversion and probation coordinator/legal secretary work with all of the lawyers, as needed. The secretarial support staff each work with several lawyers. The office manager oversees the support staff, coordinates SPRB agendas and meetings, manages all aspects of recordkeeping and statistical reporting, monitors office expenditures, and provides support to the Disciplinary Counsel. The regulatory services coordinator interfaces primarily with members seeking reinstatement. The public records coordinator responds to records requests from lawyers and members of the public pertaining to disciplinary records. Staff members at the end of 2015 included:
DCO is funded out of the bar’s general fund. Revenue is limited (roughly $93,035 for 2015) and comes from cost bill collections, reinstatement fees, fees paid for good standing certificates and pro hac vice admissions, and photocopying charges for public records.

Expenses for 2015 were $1,939,396 with an additional $354,474 assessed as a support services (overhead) charge. Of the actual program expenses, 91.7% consisted of salaries and benefits. An additional 2.5% of the expense budget went to out-of-pocket expenses for court reporters, witness fees, investigative expenses, and related items. General and administrative expenses such as copying charges, postage, telephone and staff travel expense accounted for 3.9% of the expense budget.

**VIII. OTHER DEVELOPMENTS**

**A. Ethics School**

Lawyers who have been reprimanded or suspended are required to attend a one day course of study presented by the bar on topics of legal ethics, professional responsibility, and law office management. Two such programs were offered in 2015, one in May and one in November. Presenters included CAO and DCO staff, as well as staff from the Oregon Attorney Assistance Program. A total of 51 persons attended ethics school in 2015.

**B. Trust Account Overdraft Notification Program**

The Oregon State Bar has a Trust Account Overdraft Notification Program, pursuant to ORS 9.132 and RPC 1.15 2. 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.
For each overdraft notice received, DCO requests a written explanation and supporting documentation from the lawyer and makes follow-up inquiries as necessary. Many overdrafts are the result of bank error and, once confirmed as such, are dismissed by staff. If circumstances causing an overdraft suggest an ethics violation, the matter is referred to the SPRB. A minor violation leading to an overdraft with no prior similar conduct typically results in a letter of admonition issued to the lawyer. In some instances, the lawyer may agree to participate in a diversion program, which will typically require education about the ethical management of a trust account and monitoring of the lawyer’s trust account management during the term of the diversion. More serious or ongoing violations may result in formal disciplinary action. In 2015, the bar received notice of 138 trust account overdrafts, resulting in the investigation of 62 lawyers. A summary of the disposition of trust account overdrafts received in 2015 is as follows:

<table>
<thead>
<tr>
<th>2015 Trust Account Overdrafts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dismissed by staff</td>
</tr>
<tr>
<td>Dismissed by SPRB</td>
</tr>
<tr>
<td>Closed by admonition letter</td>
</tr>
<tr>
<td>Diversion agreement</td>
</tr>
<tr>
<td>Formal charges authorized</td>
</tr>
<tr>
<td>Pending (as of 1/2016)</td>
</tr>
<tr>
<td><strong>Total Received During 2015</strong></td>
</tr>
</tbody>
</table>

C. Public Records

In Oregon, lawyer discipline files are public records with very limited exceptions. DCO responds to (on average) more than 120 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 stored electronically 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.

DCO has document management and retention policies. Ethics complaints dismissed for lack of probable cause more than ten (10) years ago are destroyed. Retained records have been scanned and are maintained in electronic format, thereby reducing the bar’s physical file storage needs.

D. Pro Hac Vice Admission and Arbitration Registration

Uniform Trial Court Rule 3.170 (UTCR) 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 $500 (in 2015). DCO 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 2015, the bar received and processed 501 pro hac vice applications, collecting $250,750 for legal services.

In addition, RPC 5.5(e) requires out of state lawyers who intend to participate in an Oregon arbitration to pay a fee and file a certificate with the bar similar to that required for pro hac vice admission. DCO administers this process, as well.

E. Custodianships
ORS 9.705, et seq., provides a mechanism by which the bar may petition a 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. DCO sought custodianship in connection with the winding down of one lawyer’s practice during 2015.

F. Continuing Legal Education Programs
Throughout 2015, DCO 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.

G. Disciplinary System Review Committee
During 2015, DCO assisted in the provision of staff support to the work of the Disciplinary System Review Committee (“DSRC”), an ad hoc committee appointed by the bar’s president in November of 2014. The DSRC was charged with studying a report issued by the American Bar Association’s Standing Committee on Professional Discipline in January 2015, as a result of a study of Oregon’s attorney discipline system in 2014, and making recommendations to the BOG regarding implementation of the ABA proposals. The DSRC met most months of 2015 before issuing a report in December. The BOG will review the DSRC’s recommendations in March of 2016.

IX. CONCLUSION
In 2015, 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,

Dawn M. Evans
Disciplinary Counsel
### APPENDIX A - 2015

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<td>11/12/2015</td>
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<td>57</td>
<td>14-30 14-75 Paul H. KRUEGER 29 DB Rptr</td>
<td>6-month suspension, 90 days stayed, 2-year probation</td>
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<td>DB</td>
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<td>12/1/2015</td>
<td>1.5(a), 1.6(a), 1.8(g), 1.15-1(a), 1.15-1(c), 1.15-1(d), 3.3(a), 8.1(a)(1), 8.4(a)(3), 8.4(a)(4)</td>
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<td>15-19 Milton E. GIFFORD 29 DB Rptr</td>
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<td>14-26 14-139 14-140 Nick MERRILL 29 DB Rptr</td>
<td>120-day suspension, all but 30 days stayed, 2-year probation</td>
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<td>12/14/2015</td>
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<td>15-103 Michael James BUROKER 29 DB Rptr</td>
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<td>15-134 Jonah MORNINGSTAR</td>
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<td>Date of Action</td>
<td>Effective Date</td>
<td>DRs ORS</td>
<td>Bulletin Summary</td>
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<td>James F. LITTLE SC 5063417</td>
<td>BR 3.2 transfer to Inactive status</td>
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<td>Edward T. LeCLaire</td>
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<td>William Bryan PORTER 29 DB Rptr</td>
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<td>Kathleen Y. RINKS</td>
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<td>David Stanley AMAN SC 5063647 29 DB Rptr</td>
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<td>Stip</td>
<td>SCt</td>
<td>12/10/2015</td>
<td>1/1/2016</td>
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Inquiries/Complaints

Appeal to OSB General Counsel

Dismissal

OSB Client Assistance Office

Resolved by Client Assistance Office

Local Professional Responsibility Committee Investigation

OSB Disciplinary Counsel

Dismissal

If Review Requested by Complainant

State Professional Responsibility Board

Dismissal

Diversion

Prosecute

Disciplinary Board Trial Panel

Guilty

If Rejected by Lawyer

Not Guilty

If SPRB Appeals

Oregon Supreme Court

If Lawyer or SPRB Appeals

Letter of Admonition

Failed Diversion

APPENDIX D
OREGON STATE BAR DISCIPLINARY PROCESS