

**THE  
ATTORNEY  
GRIEVANCE COMMISSION  
OF  
MARYLAND**

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**34th Annual Report**

July 1, 2008 thru June 30, 2009

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**ATTORNEY GRIEVANCE COMMISSION OF MARYLAND**  
**34<sup>th</sup> ANNUAL REPORT**  
**(July 1, 2008 to June 30, 2009)**

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Two items require special mention in this year's annual report.

First, the retirement of David D. Downes, Esquire, who served as Chair of the Attorney Grievance Commission for fourteen years. During his tenure new Maryland Rules and Administrative Guidelines for the disciplinary process were established. Mr. Downes, as Chair, was responsible under the rules to approve many actions by Bar Counsel. After the July 1, 2006 Maryland Lawyer's Rules of Professional Conduct were adopted by the Court of Appeals, Mr. Downes was instrumental in the adoption of several amendments including Maryland Rule 16-606.1, a required record keeping rule to guide attorneys in properly maintaining their trust accounts. He, along with the Honorable Glenn T. Harrell, Bar Counsel and Deputy Bar Counsel, traveled the State to promote and explain the required record keeping rule to members of various Bar Associations.

The second item of note is that once again the number of files assigned for formal investigation decreased from last fiscal year's total of 406 to this fiscal year's total of 353. One must conclude that courses in law schools, the mandatory professionalism course for all new admittees to the bar, continuing legal educational offerings by MICPEL, internet list serves in some areas of practice, the educational programs offered by local bar associations, and opinions from the Court of Appeals discussing professional misconduct have have increased the Bar's awareness of ethical considerations and the Rules of

## **Professional Conduct.**

**Those grievances which were not assigned for investigation also decreased. Last fiscal year there were 1,647; this fiscal year only 1,532.**

**The combination of an attorney's failure to act diligently and to communicate adequately (MLRPC 1.3 and 1.4) again represented the largest number of complaints requiring further investigation. However, the number of those assigned for investigation declined from 68 last fiscal year to 26 this fiscal year. Complaints assigned for investigation due to inadequate communication by attorneys last fiscal year was 23 compared to 11 this fiscal year. This dramatic decrease from a total of 91 last fiscal year to 37 this fiscal year suggests that attorneys are doing a better job communicating with their clients in a regular and timely manner.**

**Complaints about fees (MLRPC 1.5) increased from 11 last fiscal year to 21 this fiscal year and those about safekeeping property (MLRPC 1.15) increased slightly from 43 last fiscal year to 45 this fiscal year. Complaints alleging criminal conduct (MLRPC 8.4(b)) increased from 15 last fiscal year to 20 this fiscal year. Those complaints alleging dishonesty, fraud, deceit and/or misrepresentation (MLRPC 8.4 (c )) decreased from 47 last fiscal year to 40 this fiscal year.**

**The counties with the largest lawyer populations also had the largest number of complaints assigned for investigation with Montgomery County - 71, Baltimore County - 60, Prince George's County - 53, Baltimore City - 52, and Anne Arundel County - 24. The counties in which there were no complaints assigned for investigation were Caroline, Somerset and Talbot.**

The total number of pending complaints being handled by Bar Counsel and staff, (i.e. initial complaints, investigations, complaints at peer review panels, conditional diversion agreements, charges pending in court, and charges to be filed in court) decreased from 343 last fiscal year to 322 as of June 30, 2009.

### **THE COMMISSION**

The Commission, established by Maryland Rule 16-711, is composed of nine (9) attorneys and three (3) public members. The members are appointed by the Court of Appeals for a term of three years. They are eligible for re-appointment after serving a full term. The Commission selects an attorney to serve as Bar Counsel and an attorney to serve as Executive Secretary. The functions and powers of the Commission, Bar Counsel and the Executive Secretary are set forth in Rules 16-711 and 16-712 and Administrative and Procedural Guidelines adopted by the Commission and approved by the Court of Appeals.

An annual budget for the operation of the disciplinary system is submitted to the Court of Appeals for approval. Budgets for fiscal year 2008 and fiscal year 2009 appear at the end of this report (Exhibit C). The budget reflects that the main source of funding is the annual assessment each attorney must pay to be eligible to practice. The number of attorneys admitted to practice law in Maryland increased from 33,400 last fiscal year to 34,569 as of June 30, 2009.

### **FINAL DISPOSITION STATISTICS**

In fiscal year 2009 there were 109 files assigned for investigation that resulted in dismissal. This compares to 120 last fiscal year. Complaints dismissed by a peer review panel decreased from 15 in fiscal year 2008 to 4 this fiscal year. Forty-one warnings were issued compared to 43 last fiscal year.

Last fiscal year there were 36 attorneys under conditional diversion agreements. There were 31 this fiscal year. This number includes agreements from the prior fiscal year that were concluded in 2009, those still pending since 2008 and those added during this fiscal year.

The Court of Appeals issued 6 reprimands this fiscal year compared with 9 last fiscal year. The Commission issued 20 reprimands this fiscal year compared with 12 last fiscal year. There were 19 attorneys suspended this fiscal year, five less than last fiscal year. The Court of Appeals disbarred 5 attorneys by Opinion compared with 11 last fiscal year and 13 attorneys consented to disbarment in fiscal year 2009 compared with 10 in fiscal year 2008.

**DISCIPLINARY SUMMARIES**  
**July 1, 2008 through June 30, 2009**

**ALLEGANY COUNTY**

**THOMAS, C. Trent - Commission reprimand by consent for failing to act with reasonable diligence and promptness in representing his client and failing to respond to requests for production of documents and evidence of causation in a timely manner, in violation of Maryland Rules of Professional Conduct, Rule 1.3.**

**WASSER, Nathan H. - Disbarred by consent on February 3, 2009 for misappropriation of escrow funds, failing to safekeep client property and illegal**

conduct, in violation of Maryland Rules of Professional Conduct 1.5(a) and 8.4(b), (c) and (d).

**ANNE ARUNDEL COUNTY**

**ROUSE, Joseph H. - Commission reprimand by consent for failing to substantively pursue the administration of an estate.**

**TANKO, Louis P., Jr. - 60 days suspension by the Court of Appeals on April 17, 2009 for misleading the Court by filing documents requesting expungement of cases which he knew were not entitled to be expunged and not alerting the court to the timing requirements, in violation of Maryland Rules of Professional Conduct 3.3 and 8.4(d).**

**BALTIMORE CITY**

**BUTLER, Anthony Ignatius, Jr. - Commission reprimand for failing to diligently pursue his client's collection cases and failing to communicate with the client.**

**BUTLER, Anthony Ignatius, Jr. - 30 days suspension by consent on November 26, 2008, effective as of December 1, 2008 for his failure to follow the Federal Rules of Civil Procedure and repeatedly missing deadlines.**

**GARDNER, Paul W., II - Commission reprimand for failing to deposit a client's retainer into an attorney trust account, maintained pursuant to Maryland Rules, Title 16, Chapter 600, for safekeeping. The client's retainer payment was in anticipation of future legal services yet to be rendered, pursuant to the retainer agreement, to be withdrawn only as fees were earned.**

**JONES, Rodney M. - Commission reprimand for failing to act with diligence and promptness in representing his client, which resulted in a direct criminal contempt hearing in which the Court issued an Order of Contempt. His misconduct is a violation of Maryland Rules of Professional Conduct 1.3.**

**PETTIT, A. Dwight - Commission reprimand for being remiss and negligent in supervising his employee over a long period of time and for failing to monitor his cases.**

**BALTIMORE COUNTY**

**DOUGLAS, Yalonda M. - Disbarred by consent on August 14, 2008 for engaging in fraudulent conduct in connection with the receipt of a loan to refinance property, handling the settlement on the refinance, and signing another lawyer's name to the settlement statement for the transaction.**

**GISRIEL, Michael U. - Disbarred by the Court of Appeals on June 18, 2009 for forging the endorsements on a check made payable to former clients, depositing the check into his office operating account and misappropriating the funds, in violation of Maryland Rules of Professional Conduct 8.4(b) and (d).**

**GLASS, Joseph E. - Commission reprimand for failing to adequately communicate the terms of the fee agreement to his client before or within a reasonable time after the engagement.**

**JORDAN, Cynthia - 30 days suspension by the Court of Appeals on April 6, 2009 for making a false report to police and her insurance company that her automobile had been stolen by an unknown individual when she knew it had been taken by a friend who abandoned it after having an accident, in violation of Maryland Rules of Professional Conduct 8.4(b), (c) and (d).**

**McLAUGHLIN, J. Michael - Commission reprimand for failing to respond to a lawful demand for information from a disciplinary authority, the Attorney Grievance Commission of Maryland.**

**MOORE, Richard W., Jr. - Reprimand by consent by the Court of Appeals on June 15, 2009 for failing to provide diligent representation, failing to communicate with a client and for failing to respond to demands for information from Bar Counsel.**

**PAWLAK, Thomas F. - Indefinite suspension by the Court of Appeals on April 14, 2009 for a lack of competence and diligence by failing to handle an estate matter for over a decade and for failing to respond to Bar Counsel, in violation of Maryland Rules of Professional Conduct 1.1, 1.3 and 8.1(b).**

**POWELL, Roger N. - Commission reprimand for the wrongful disbursement of funds from his escrow account.**

**TURNER, Robert C. - 90 days suspension by consent on September 3, 2008 for engaging in a conflict of interest and neglecting his clients' cases.**

**WARNKEN, Byron L. - Commission reprimand for failing to return a transcript to his client after termination of the representation and for failing to respond to Bar**

**Counsel's request for information, in violation of Maryland Rules of Professional Conduct 1.16(d) and 8.1(b).**

**WEINRAUCH, Aaron D. - Disbarred by consent on August 27, 2008 for failing to withhold income taxes and failing to pursue cases after taking fees.**

#### **CARROLL COUNTY**

**NEE, Dawn Allison - Commission reprimand for creating her own mediation services to be performed outside of her employment with her firm. In doing so, she used the firm's malpractice policy information, without the firm's knowledge, in order to offer such services as a court-appointed mediator, which violated Maryland Rule of Professional Conduct 8.4(c).**

#### **DORCHESTER COUNTY**

**BOHLEN, Lawrence G. - Commission reprimand for commingling his personal funds with his clients' funds held in his escrow account, in violation of Maryland Rules of Professional Conduct 1.15(a) and Maryland Rule 16-607.**

#### **FREDERICK COUNTY**

**BRENNAN, Richard A. - Disbarred by consent on January 28, 2009 for various violations, including lack of diligence and communication, misappropriation of client funds in connection with his "debt settlement" business, in violation of Maryland Rules of Professional Conduct 1.1, 1.2, 1.3, 1.4, 1.16, 8.4 and the Annotated Code of Maryland, Business Occupations and Professions Article, §10-306.**

#### **HOWARD COUNTY**

**NGUYEN, Thai Hong - Reprimand by consent by the Court of Appeals on April 28, 2009 for lack of diligence and failing to expedite litigation, in violation of Maryland Rules of Professional Conduct 1.3 and 3.2.**

**THOMAS, David Moore - Disbarred by the Court of Appeals on June 10, 2009 for misappropriation of trust money, in violation of Maryland Rules of Professional**

**Conduct 1.15, 8.4, Maryland Rules 16-607, 16-609, and Annotated Code of Maryland Business Occupations and Professions Article, §10-306.**

**MONTGOMERY COUNTY**

**ALEXANDER, David, Jr. - Disbarred by consent on August 18, 2008 for failing to diligently pursue his clients' matters, failing to forward client files timely upon termination, failing to refund unused retainer fees upon termination, misappropriating escrow monies, and for failing to respond to Bar Counsel's office.**

**BYRD, Ralph T. - Disbarred by the Court of Appeals on April 14, 2009 for filing false business reports and disobeying court orders in his bankruptcy, as well as multiple violations with respect to District Court practices, in violation of Maryland Rules of Professional Conduct 1.1, 1.3, 1.4(a)(2), 3.3(a)(1), 3.4(c) and 8.4(b), (c) and (d).**

**GARCIA, Jose Expedito - Interim suspension by consent on March 17, 2009, effective immediately, until the case is decided on the merits and subject to further order of the Court of Appeals.**

**GARRETT, Dwayne L. - Reprimand by consent by the Court of Appeals on May 4, 2009 for failing to respond to Bar Counsel, in violation of Maryland Rules of Professional Conduct 8.1(b).**

**HALL, Ralph Edward, Jr. - Indefinite suspension by the Court of Appeals on April 15, 2009 (with the right to reapply after 24 months) for engaging in a sexual relationship with his client which constituted conduct prejudicial to the administration of justice and a conflict of interest; failing to advise the client about the possible negative implications on the representation; and failing to act with reasonable diligence and promptness, in violation of Maryland Rules of Professional Conduct 1.3, 1.4(b), 1.7 and 8.4(d).**

**HUANG, Paul C. - Commission reprimand for violation of Maryland Rules of Professional Conduct 8.4(d), relating to the services of prostitutes sent to him by an escort service between 1995 and 2003; on approximately 6 occasions, he gratuitously reported to the escort service owner on the performance of her employees. Although 8.4(d) was violated, his conduct did not involve dishonesty, fraud, deceit or misrepresentation.**

**LARA, Joel D. - Commission reprimand for engaging in professional misconduct**

**in violation of Maryland Rules of Professional Conduct 1.3, 1.4(a) , 1.6(d) and 8.1(b). He failed to act with reasonable diligence and failed to keep his client reasonably informed about the status of the matter; upon being discharged by his client, he ignored requests of client and client's new attorney for papers, including medical records from his file. He also failed to respond to lawful demands for information from the office of Bar Counsel concerning the complaint.**

**MEI, Howard Teng-Hao - Disbarred by consent on November 10, 2008 for entering into a relationship with an agency by assisting them in filing asylum applications that contained false information, failing to promptly represent clients who were referred to him by the agency in their asylum matters with reasonable diligence and failing to communicate with his clients. He also shared fees with the non-lawyer agency and knowingly made a false statement about his relationship with a former client while representing her.**

**RHODES, Laura K. - Commission reprimand for failing to diligently represent her client, failing to keep her client adequately informed and failing to expedite litigation.**

**ROBINSON, Lawrence T. - Indefinite suspension by consent on June 9, 2009 for the unwelcome and offensive touching of a sexual nature of a client, in violation of Maryland Rules of Professional Conduct 8.4(b) and (d).**

**SCHWARTZ, Bradley David - Disbarred by consent on March 23, 2009 for misuse of client funds, in violation of Maryland Rules of Professional Conduct 1.15, 8.4(b), (c) and (d), Maryland Rule 16-609, and the Annotated Code of Maryland, Business Occupations and Professions Article §10-306.**

**UGWUONYE, Ephraim, Jr. - 90 days suspension by the Court of Appeals on July 24, 2008 for failing to act with diligence and competence in representing a client by failing to respond to a notice of contemplated dismissal for lack of service. With regard to another client, he took a fee for a frivolous case and failed to return an unearned fee (which he had deposited in his operating account).**

## PRINCE GEORGE'S COUNTY

**AZUEWAH, Ndukwe - Commission reprimand for employing the services of an unpaid, non-lawyer assistant who had no training as a legal assistant and who provided legal advice/assistance to one or more clients, during which time he failed to make reasonable efforts to ensure that his assistant's conduct was compatible with his professional obligations, in violation of Maryland Rules of Professional Conduct 5.3.**

**FORD, Brian K. - Disbarred by consent on August 13, 2008 for misappropriating trust funds from his title company.**

**HALL, John Morgan, Jr. - Commission reprimand for violation of Maryland Rules of Professional Conduct 1.3 and 1.4 by failing to: inform the client that he had not filed a claim on her behalf, failing to advise the client that he was not going to represent her and to advise the client to seek the advice of another lawyer.**

**HECHT, Ross D. - Commission reprimand for failing to respond timely to Bar Counsel's request for information concerning complaints and failing to provide written notice to his client that he was declining to represent her, causing confusion and misunderstanding.**

**MCCLAIN, Charles E., Sr. - Disbarred by the Court of Appeals on September 8, 2008 in connection with his representation of a client in a case in which the Circuit Court had ordered the sale of property owned as tenants in common by the client and another person. The Respondent made false and misleading representations to the Circuit Court and the Court of Special Appeals, in violation of Rules 8.4(c) and 3.3(a); failed to provide competent representation, in violation of Rule 1.1; failed to make reasonable efforts to expedite litigation, in violation of Rule 3.2; brought or defended a proceeding without a basis in law and/or fact which was not frivolous, in violation of Rule 3.1; used means that had no substantial purpose other than to delay or burden a third person, in violation of Rule 4.4(a); made a statement that he knew to be false and/or made a statement with reckless disregard of the truth concerning the qualifications or integrity of a judge, in violation of Rule 8.2(a); and engaged in conduct prejudicial to the administration of justice, in violation of Rule 8.4(d).**

**McLAUGHLIN, Donald Paul - Indefinite suspension by the Court of Appeals on June 18, 2009, for negligent misappropriation of client funds, commingling, and entering into a business transaction with a client, in violation of Maryland Rules of Professional Conduct 1.8, 1.15, 8.1, 8.4(c)(d), Maryland Rules 16-607 and 16-609 and Business Occupations and Professions Article, §10-306.**

**MOORE, Richard A. - Commission reprimand for failing to keep an account on the insurance proceeds of his sister and claiming “under the penalties of perjury” that he was the sole heir to his mother’s estate, in violation of Maryland Rules of Professional Conduct 1.15(a), 3.3 and 8.4(a), (c) and (d).**

**RYAN, Michael W., Jr. - Disbarred by consent on September 8, 2008 for a series of violations of multiple Maryland Rules of Professional Conduct dealing with competence, diligence, communication and safekeeping of property.**

**SHAKIR, Saladin Eric - Indefinite suspension by consent on August 8, 2008 for failing to provide diligent representation, failing to adequately communicate, charging an unreasonable and/or excessive fee, failing to hold a pre-paid fee in trust until earned, failing to promptly refund the unearned portion of a pre-paid fee, and failing to timely respond to lawful demands for information from Bar Counsel’s office.**

**SHRYOCK, Charles M., III - Disbarred by the Court of Appeals on March 18, 2009 for misconduct, including the unauthorized practice of law while indefinitely suspended, committing in the process a criminal act bearing on his trustworthiness and fitness to practice law, conduct involving dishonesty and misrepresentation, and failing to cooperate with Bar Counsel’s investigation, in violation of Maryland Rules of Professional Conduct 5.5, 8.1(b) and 8.4(a), (b) and (c).**

**TAYLOR, Michael F. - Reprimand by the Court of Appeals on September 4, 2008 for misuse of his attorney trust account and violation of Maryland Rules of Professional Conduct 1.15 and Maryland Rule 16-607.**

**UGWANYI, Chinyere M. - Commission reprimand for violating the requirements of Maryland Rules of Professional Conduct 5.3(d)(3) relating to the hiring of a disbarred attorney and also for giving the disbarred attorney the title of “Director of Litigation & Negotiations” which could give the mistaken impression that he was an attorney licensed to practice law.**

#### **QUEEN ANNE’S COUNTY**

**COPPER, Catherine R. - Disbarred by consent on November 25, 2008 for misrepresentation to her client regarding the status of his legal matter as she claimed the case was settled when she never did any work on the case.**

**ST. MARY'S COUNTY**

**LAWRENCE, John Douglas, Jr. - Indefinite suspension by consent on May 1, 2009 for placing unearned, flat fees in a non-attorney escrow account and used same for his personal and business purposes, failing to promptly refund unearned fees to his client and attempting to negotiate a refund in exchange for his client not reporting him to the Attorney Grievance Commission, in violation of Maryland Rules of Professional Conduct 1.15(a), 1.16(d) and 8.4(d).**

**TALBOT COUNTY**

**FARRIS, Peter Daniel - Indefinite suspension by consent on August 13, 2008 for failing to take action in an estate case.**

**WICOMICO**

**SNYDER, Albert R. - Reprimand by the Court of Appeals on September 9, 2008 for giving incorrect advice to a client in an immigration matter, then delayed returning his fee.**

**WORCESTER COUNTY**

**FARNAN, Michael T. - Indefinite suspension by the Court of Appeals on October 24, 2008 for chronically violating traffic laws in violation of Maryland Rules of Professional Conduct 8.4(d).**

**OUT OF STATE**

**BEATTY, Paul S. - Indefinite suspension by the Court of Appeals on June 8, 2009 as a result of Respondent's reciprocal discipline in New Jersey for a criminal conviction, in violation of Maryland Rules of Professional Conduct 8.4(b).**

**HALL, Carey Bartlow - Suspension for eighteen months by the Court of Appeals on October 31, 2008, effective as of May 6, 2008, based on a previous suspension from the Supreme Courts of Pennsylvania and New Jersey.**

**HARRIS, Robert John - 60 days suspension by consent on September 24, 2008 for neglecting his clients' cases.**

**KIMMEL, Craig - Indefinite suspension by the Court of Appeals on September 2, 2008 for failing to supervise an associate and failing to communicate with a client.**

**MITTENDORF, Robert E. - Disbarred by consent on October 7, 2008 for agreeing to represent his clients, abandoning the representations after accepting prepaid fees, failing to communicate with his clients and Bar Counsel and failing to return the unearned portions of the fees.**

**QUEEN, Thomas Howard - Reprimand by the Court of Appeals on March 12, 2009 for incompetence, lack of diligence and failing to respond to demands for information from Bar Counsel, in violation of Maryland Rules of Professional Conduct 1.1, 1.3 and 8.1(b).**

**SILVERMAN, Robert - Indefinite suspension by the Court of Appeals on September 2, 2008 for failing to supervise an associate and failing to communicate with a client.**

**WHITE, Jeffrey T. - Disbarred by consent on September 3, 2008 for misappropriating funds.**

**ZIMMER, David Howard - Disbarred by consent on May 5, 2009 for failing to respond to Bar Counsel and for his continued pro hac vice representation of several plaintiffs in a federal court in Georgia after he had been decertified in Maryland for failing to comply with mandatory pro bono legal service reporting requirements, in violation of Maryland Rules of Professional Conduct 8.1(b) and 8.4(d).**

### **THE PEER REVIEW PANELS**

**In fiscal year 2009, 331 attorneys and 106 public members volunteered to serve on peer review panels. Last fiscal year there were 99 peer review panel meetings held. There were 97 peer review panel meetings this fiscal year. Fourteen of the 97 panels had more than one complaint against an attorney to consider. Twenty-two percent of the peer review panel recommendations were**

for the filing of public charges. Not all of the peer review panels appointed in 2009 completed their meetings or made their recommendations before the end of the fiscal year. Twenty-eight panels were still in process.

The Commission reviews each recommendation of a peer review panel. In five (5) cases the Commission rejected the peer review panel recommendation and ordered a more serious sanction or public charges. In 1 case, the Commission rejected the panel recommendation and directed a less serious outcome.

The largest number of peer review panels were held in Montgomery County, followed by Baltimore City, Baltimore County, and Prince George's County. There were no peer review panels held in nine (9) counties. It took an average of 49 days to compose a panel. Virtually all panels conducted their meetings within 60 days of appointment. A substantial number of panels had filed their reports and recommendations within 30 days after the conclusion of the meeting.

#### **PUBLIC MATTERS AND CONDITIONAL DIVERSION AGREEMENTS**

At the end of fiscal year 2008 there were 75 complaints involving 45 attorneys in charges pending in the Court of Appeals. At the close of this fiscal year there were 78 complaints involving 52 attorneys in charges pending in the Court of Appeals.

**Maryland Rule 16-736 provides that Bar Counsel may agree to a Conditional Diversion Agreement with an attorney who is under investigation for a violation of one or more of the Maryland Lawyers' Rules of Professional Conduct. An agreement and its terms are subject to approval of the Attorney Grievance Commission. The Commission may reject the proposed agreement or modify its proposed terms. These agreements are to be used when the cause or basis of any professional misconduct or incapacity is subject to remediation or resolution through alternative programs or mechanisms. These agreements are similar to probation agreements used by disciplinary agencies in other states.**

**Terms for Conditional Diversion Agreements include: apologies to clients or others; refunds of legal fees; agreeing to fee arbitration; attending the professionalism program for all newly admitted members of the bar; attending CLE programs or law school classes; agreeing to the appointment of a monitor of the attorney's trust account or practice; agreeing to refrain from practicing in certain areas of the law; continued treatment by a psychiatrist or psychologist for a mental illness; agreeing to be monitored by the Lawyer Assistance Program of the Maryland State Bar Association; or any other term which is deemed appropriate to assure that the conduct giving rise to the agreement is addressed.**

**Should an attorney subject to a conditional diversion agreement fail to comply with its terms, the agreement can be revoked by the Commission and thereafter public charges may be filed based on the original violations and stating the reasons(s) for the revocation.**

As previously indicated, at the close of fiscal year 2008 there were 36 attorneys participating in a Conditional Diversion Agreements. At the close of fiscal year 2009 there were 31.

### **CONSERVATORSHIPS**

No conservatorships were required to be established this fiscal year. A conservatorship may be required when an attorney passes away, is disbarred or suspended, or abandons his or her law practice and there is no one able to assume control of the attorney's files and records. One conservatorship in which the office of Bar Counsel was not involved, closed this fiscal year and another was about to terminate shortly after the close of this fiscal year.

### **LAWSUITS AGAINST BAR COUNSEL OR STAFF**

One lawsuit against a staff attorney was dismissed by a circuit court. The plaintiff attorney appealed to the Court of Special Appeals. Argument has been held but no decision rendered as of June 30<sup>th</sup>. [Note: After June 30<sup>th</sup> the Court of Special Appeals affirmed the dismissal of the lawsuit by the Circuit Court.]

The annual report for fiscal year 2008 mentioned that Bar Counsel had been appointed by the 4<sup>th</sup> Circuit Court of Appeals in two matters brought by Maryland attorneys who were disbarred and/or suspended by the Maryland Court of Appeals. These individuals asked the 4<sup>th</sup> Circuit not to impose identical

sanctions. In January 2008, arguments took place in Richmond, Virginia. Thereafter, in two unreported opinions, the 4<sup>th</sup> Circuit imposed the same sanctions imposed by the Maryland Court of Appeals.

### **TARGETED MAIL SOLICITATIONS**

Business Occupations and Professions Article of the Annotated Code of Maryland §10-605.2 requires an attorney to file with Bar Counsel copies of letters of solicitation sent to prospective clients under certain circumstances. It was necessary in 130 instances for Bar Counsel to notify attorneys that their letters of solicitation did not comply with either the statute and/or the Maryland Lawyers' Rules of Professional Conduct 7.1 through 7.5.

Last fiscal year there were 1,587 copies of targeted mailings received by Bar Counsel; this fiscal year 1,635 mailings were received. No member of the public has complained about receiving these letters of solicitation but, on occasion a member of the Bar, whose regular client had received such a letter(s), has complained to Bar Counsel because they were unaware that such letters are permissible.

### **ATTORNEY TRUST ACCOUNT OVERDRAFTS**

One hundred and twenty-four overdraft notices were received this fiscal year compared with 131 last fiscal year. Eighteen overdrafts were transferred to docketed files for further investigation. The reasons were as follows:

|                                                           |                 |
|-----------------------------------------------------------|-----------------|
| <b>(A) Advancing fees prior to deposit.....</b>           | <b>3</b>        |
| <b>(B) Already an existing file against attorney.....</b> | <b>3</b>        |
| <b>(C) Misappropriation.....</b>                          | <b>2</b>        |
| <b>(D) Advanced funds to client.....</b>                  | <b>2</b>        |
| <b>(E) Failure to respond.....</b>                        | <b>4</b>        |
| <b>(F) Client ledgers do not match bank balance.....</b>  | <b>2</b>        |
| <b>(G) Depositing personal funds in trust.....</b>        | <b><u>2</u></b> |
| <b>Total</b>                                              | <b>18</b>       |

There were 21 reports due to bank errors as follows: fees debited to escrow account in error (5); deposit made to wrong account (4); failure to remove a hold on a deposit (4); error report was not on a trust account (1); unauthorized fees charged to account (6); and removal of funds from wrong account (1).

Seventy-nine files were closed for the following reasons: check was written to the wrong account (2); consented to disbarment (1); deposit was returned by bank (10); disbursement check cleared before the deposit (7); failed to account for IOLTA interest or other fees (5); deposit made to wrong account (10); accounting error (9); late deposit (16); internal/external fraud (4); disbursed funds from wrong account (13); advanced fees (1); and disbursed funds twice (1).

There were a total of seven (7) overdraft notices pending and unresolved at the end of the fiscal year.

### **SANCTIONED ATTORNEYS EMPLOYED AS PARALEGALS**

Maryland Lawyers' Rule of Professional Conduct 5.3(d) requires that an attorney who hires and/or supervises a non-lawyer who was formerly admitted to practice law and who remains disbarred, suspended or on inactive status because of incapacity, report that employment to Bar Counsel. The supervising attorney must provide a copy of the employment agreement between the employer and employee, and report any termination of the employment.

During this fiscal year, 7 attorneys who employed a disbarred/suspended/inactive former attorney, complied with Maryland Lawyers' Rules of Professional Conduct 5.3(d).

### **UNAUTHORIZED PRACTICE OF LAW INVESTIGATION**

There were 29 complaints received that alleged the unauthorized practice of law. After investigation, there were findings of no unauthorized practice in 23 cases. There were 2 complaints involving a father representing his son in a legal matter. Because the father withdrew from the representation after receiving our letter, Bar Counsel's office took no action and left the matters to the court in which they were pending and the state's attorney for that county to decide what action to take. One complaint was transferred to a docketed file because it involved an attorney possibly practicing law after being suspended. Two

complaints required the filing of an injunction. In one of those cases, an injunction was entered by consent. The other is still pending in court. Finally, one complaint was still under investigation at the close of this fiscal year.

#### **ACTIVITIES OF PROFESSIONAL STAFF**

Bar Counsel authored six articles for the Maryland Bar Journal, addressed the Maryland Trial Lawyers Association, the solo conference on “How to Avoid a Grievance”, and two MICPEL programs on lawyer advertising. He also made presentations to the Business Institute and the Marlboro and Howard County Inns of Court on areas of the law and the rules of professional conduct involved in complaints to the Commission and discipline imposed for violations of those rules.

Deputy Bar Counsel Glenn M. Grossman engaged in the following activities: addressed a Montgomery County group on risk management for transactional attorneys. He spoke to the Montgomery County Ethics Committee, the Baltimore County Bar Association breakfast meeting on risk management and acted as a facilitator at two professionalism programs for new admittees to the Maryland Bar. He also spoke to the public defenders of Baltimore City on cases involving criminal defense attorneys and the public defenders of Harford County on the disciplinary system and issues faced by public defenders. He lectured at

**the University of Maryland Forensic Psychiatry Fellowship and assisted in a mock trial forensic psychiatry fellows. He addressed first year law students at the Catholic University about misconduct in litigation, gave the Milton Talkin Lecture in Baltimore City on conflicts of interest, spoke at a MICPEL program on the “Revenge of Deputy Bar Counsel” repised at the Maryland State Bar Association (MSBA) annual meeting in June in Ocean City and participated at a panel on fee disputes at the MSBA annual meeting. He was a panelist at the ABA Family Law Institute on assisted reproductive technology and participated in two CNA insurance loss prevention programs.**

**Assistant Bar Counsel James P. Botluk spoke at an immigration law forum on “Ethical Dilemmas for Immigration Practitioners.” He also appeared on a panel with the Honorable Irma Raker on Law Day at Montgomery County Bar Association, on impact disciplinary cases.**

**Assistant Bar Counsel Raymond A. Hein spoke to a graduate business class at the University of Baltimore on “Ethics in Advocacy.” He, together with paralegal Kandice L. Harries, appeared on a program of the Maryland Association of Paralegals on ethics for paralegals and unauthorized practice of law.**

**Assistant Bar Counsel Dolores O. Ridgell acted as a facilitator at the Professionalism Court for new admittees to the Maryland Bar.**

**Assistant Bar Counsel Fletcher P. Thompson wrote a series of monthly**

articles on ethical topics for the James C. Cawood Inns of Court for its 2008-2009 year.

### **PERSONNEL CHANGES**

Edwin P. Karr joined the Commission staff as an investigator and Donna M. Cornelius as a legal secretary in July 2008. Kandace L. Harries joined the Commission staff in August 2008 as a paralegal. Nancy L. Schaeffler joined the Commission staff in November 2008 as a receptionist.

### **STAFF**

(As of June 30, 2009)

#### **Bar Counsel**

Melvin Hirshman

#### **Deputy Bar Counsel**

Glenn M. Grossman

#### **Executive Secretary**

Kendall R. Ruffatto

#### **Administrative Assistant to Executive Secretary**

Jane F. Carr

#### **Assistant Bar Counsel**

James P. Botluk

Raymond A. Hein

Dolores O. Ridgell

Gail D. Kessler

Fletcher P. Thompson

**Marianne J. Lee  
Kathleen M. McLaughlin**

**Investigators**

**Marc O. Fiedler  
Sterling H. Fletcher  
Michael H. Peregoy  
Dennis F. Biennas  
William M. Ramsey  
Edwin P. Karr**

**Paralegals**

**John DeBone  
Kandace L. Harries**

**Office Manager**

**Debra L. Zachry**

**Administrative Assistant**

**Donna E. Marlowe**

**Secretaries**

**Sharon D. Gross  
Nakeia R. Gray-Smith  
Patricia A. Johnston  
Susan G. Townshend  
Loretta J. Mills  
Donna M. Cornelius  
Debra A. Goodrick**

**Receptionist**

**Nancy Schaeffler**

**CONCLUSION**

**The Commission deeply appreciates the participation of each attorney and public member who volunteers to participate in the peer review process. It is only due to their participation and their dedication to the protection of the public that the Maryland disciplinary system is able to fulfill its mission.**

**THE COMMISSION**

**Linda H. Lamone, Esq. Chairperson  
J. Donald Braden, Esq. Vice-Chair  
B. Harriette Taylor, Esq.  
C. Mayda Tsaknis, Esq.  
Louise T. Keelty, Esq.  
Cornelia Bright Gordon, Esq.  
John A. Bielec, Esq.  
George E. Meng, Jr., Esq.  
Jeffrey P. Ayres, Esq.  
Barry P. Gossett, Public Member  
Jerald S. Sachs, Public Member  
Linda Bowler Pierson, Public Member**

## EXHIBIT "A"

## 10 YEAR COMPARISON CHART

|                                                                                  | 1999-2000 | 2000-2001  | 2001-2002  | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 | 10 Year Totals |
|----------------------------------------------------------------------------------|-----------|------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------------|
| <b>Complaints Received</b>                                                       | 1,348     | 1,410      | 1,468      | 1,559     | 1,610     | 1,562     | 1,844     | 1,589     | 1,647     | 1,532     | 15,569         |
| <b>Docketed Complaints Received (Prima facia misconduct indicated)</b>           | 543       | 460        | 420        | 475       | 485       | 469       | 400       | 351       | 406       | 353       | 4,362          |
| <b>TOTALS</b>                                                                    | 1,891     | 1,870      | 1,888      | 2,034     | 2,095     | 2,031     | 2,244     | 1,940     | 2,053     | 1,885     | 19,931         |
| <b>Docketed Complaints Concluded</b>                                             | 605       | 585        | 556        | 435       | 487       | 472       | 441       | 368       | 414       | 375       | 4,738          |
| <b>Dispositions (by number of Attorneys)</b>                                     |           |            |            |           |           |           |           |           |           |           |                |
| <b>Disbarred</b>                                                                 | 9         | 7          | 15         | 12        | 22        | 10        | 10        | 9         | 11        | 5         | 110            |
| <b>Disbarred by Consent</b>                                                      | 11        | 16         | 15         | 5         | 6         | 14        | 12        | 8         | 10        | 13        | 110            |
| <b>Suspension</b>                                                                | 28        | 26         | 27         | 35        | 23        | 22        | 21        | 20        | 24        | 18        | 244            |
| <b>Temporary Suspension Rule 16-773(d)</b>                                       | 0         | 0          | 1          | 0         | 1         | 1         | 2         | 1         | 0         | 1         | 7              |
| <b>Public Reprimand by Court</b>                                                 | 16        | 12         | 8          | 7         | 6         | 3         | 10        | 3         | 9         | 6         | 80             |
| <b>Public Reprimand by Commission</b>                                            | 0         | 0          | 12         | 12        | 22        | 22        | 16        | 16        | 12        | 20        | 132            |
| <b>Private &amp; Bar Counsel Reprimands</b>                                      | 25        | 32         | 26         | 1         | 0         | 0         | 0         | 0         | 0         | 0         | 84             |
| <b>Inactive Status</b>                                                           | 1         | 0          | 0          | 4         | 2         | 1         | 3         | 4         | 1         | 0         | 16             |
| <b>Dismissed by Court</b>                                                        | 3         | 5          | 8          | 6         | 6         | 4         | 4         | 4         | 7         | 8         | 55             |
| <b>Petitions for Reinstatement Granted</b>                                       | 3         | 3          | 6          | 5         | 3         | 10        | 1         | 3         | 9         | 7         | 50             |
| <b>Petitions for Reinstatement Denied</b>                                        | 2         | 2          | 1          | 4         | 2         | 0         | 4         | 5         | 7         | 7         | 34             |
| <b>Resignation (Voluntary) Denied</b>                                            | 0         | 0          | 0          | 0         | 0         | 0         | 0         | 0         | 1         | 0         | 1              |
| <b>Resignations</b>                                                              | 0         | 0          | 0          | 0         | 1         | 0         | 0         | 2         | 1         | 0         | 4              |
| <b>TOTALS</b>                                                                    | <b>98</b> | <b>103</b> | <b>119</b> | <b>91</b> | <b>94</b> | <b>87</b> | <b>83</b> | <b>75</b> | <b>91</b> | <b>85</b> | <b>927</b>     |
| <b>Number of active Attorneys admitted to practice law in Maryland 6/30/2009</b> | 29166     | 29863      | 30646      | 31224     | 31934     | 32066     | 32390     | 33018     | 33400     | 34569     |                |

**EXHIBIT "B"****CASELOAD**  
*(Represents number of files)*

| <b>I. General</b>                                                                                          | <b>2007-2008</b> | <b>2008-2009</b> |
|------------------------------------------------------------------------------------------------------------|------------------|------------------|
| <b><u>Complaints Received</u></b><br>(determined not to be disciplinary in nature)<br>TOTAL                | 1647             | 1532             |
| <b><u>Docketed Complaints</u></b>                                                                          |                  |                  |
| Complaints carried over from previous year                                                                 | 353              | 345              |
| Complaints received                                                                                        | 406              | 353              |
| <b>TOTAL</b>                                                                                               | <b>759</b>       | <b>698</b>       |
| Complaints concluded                                                                                       | 414              | 376              |
| Complaints carried over to next Fiscal year                                                                | 345              | 322              |
| <b><u>Disposition of Docketed Complaints</u></b>                                                           |                  |                  |
| Dismissed:                                                                                                 |                  |                  |
| By Commission & Administratively Closed                                                                    | 195              | 160              |
| With Warning by Commission                                                                                 | 43               | 41               |
| Following Peer Review                                                                                      | 15               | 4                |
| With Warning following Peer Review                                                                         | 11               | 15               |
| Disciplinary Action                                                                                        | 116              | 134              |
| Concluded due to Reinstatement Granted/Denied, Dismissed by Court of Appeals, Resignation, Inactive Status | 34               | 22               |
| <b>TOTAL</b>                                                                                               | <b>414</b>       | <b>376</b>       |

| “Exhibit B”                                                                                       |                       |                       |
|---------------------------------------------------------------------------------------------------|-----------------------|-----------------------|
| <b>I. General</b> (continued)                                                                     |                       |                       |
| <b>Status of Pending Docketed Complaints at end of FY:</b><br><i>(Represents number of files)</i> | <b>2007-<br/>2008</b> | <b>2008-<br/>2009</b> |
| Administrative Processing                                                                         | 98                    | 85                    |
| Investigation                                                                                     | 50                    | 42                    |
| Deferred Docket                                                                                   | 10                    | 14                    |
| Peer Review                                                                                       | 60                    | 48                    |
| Conditional Diversion Agreements                                                                  | 39                    | 33                    |
| Petitions for Disciplinary or Remedial Action to be filed                                         | 9                     | 18                    |
| Petitions pending in court and not concluded                                                      | 75                    | 78                    |
| Temporary Suspension under new Rule 16-773(d)                                                     | 1                     | 1                     |
| Pending suspensions under old Rule 16-716                                                         | 3                     | 3                     |
| <b>TOTAL</b>                                                                                      | <b>345</b>            | <b>322</b>            |

| <b>II. Commission Action after Peer Review Panel Recommendations:</b><br><i>(figures represent number of files)</i> | “Exhibit B”<br><b>2007-2008</b> | <b>2008-2009</b> |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------|------------------|
| Pending at beginning of FY                                                                                          | 63                              | 60               |
| Referred to Panel during FY                                                                                         | 140                             | 129              |
| SUBTOTAL                                                                                                            | 203                             | 189              |
|                                                                                                                     |                                 |                  |
| Dismissed                                                                                                           | 15                              | 9                |
| Dismissed with Warning                                                                                              | 13                              | 11               |
| Directed Petition for Disciplinary or Remedial Action<br>be filed in Court of Appeals                               | 69                              | 34               |
| Reprimand issued by Commission                                                                                      | 31                              | 19               |
| Conditional Diversion Agreement entered into<br>(while pending before Panel)                                        | 7                               | 10               |
| Deferred Docket<br>(while pending before Panel)                                                                     | 1                               | 1                |
| Terminated prior to Panel meeting for<br>Commission disposition                                                     | 6                               | 42               |
| Indefinite Suspension by Consent<br>(while pending before Panel)                                                    | 0                               | 3                |
| Disbarment by Consent<br>(while pending before Panel)                                                               | 1                               | 12               |
| TOTAL                                                                                                               | 143                             | 141              |
| Files carried to the next Fiscal Year                                                                               | 60                              | 48               |

| “Exhibit B”                                                                                                                                                                                                                                                                                                      |                  |                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------------|
| <b>III. <u>Reasons for Disciplinary Action:</u></b><br>Represents number of attorneys - excludes reinstatement, resignation, inactive status, dismissal by the court, or monitoring. Disciplinary action may have resulted from several rule violations, <u>only the major rule violated is indicated below.</u> | <b>2007-2008</b> | <b>2008-2009</b> |
| Competent representation, diligence, communication, neglect and abide by client’s decisions                                                                                                                                                                                                                      | 9                | 16               |
| Misconduct - dishonesty, fraud, deceit, or misrepresentation                                                                                                                                                                                                                                                     | 17               | 10               |
| Misconduct - prejudicial to administration of justice or unauthorized practice of law                                                                                                                                                                                                                            | 9                | 7                |
| Criminal Act or Conviction                                                                                                                                                                                                                                                                                       | 5                | 4                |
| Misappropriation - theft of client's funds, estate funds, fiduciary funds or law firm funds                                                                                                                                                                                                                      | 4                | 8                |
| Excessive fee, improper division of fee or illegal fee                                                                                                                                                                                                                                                           | 2                | 1                |
| Incompetence (substance abuse, mental or physical illness)                                                                                                                                                                                                                                                       | 2                | 0                |
| Responsibility of actions by subordinate lawyer or non-legal personnel                                                                                                                                                                                                                                           | 3                | 5                |
| Conflict of Interest                                                                                                                                                                                                                                                                                             | 4                | 1                |
| Failure to maintain complete records, account to client or others, maintain trust account, or safeguard funds                                                                                                                                                                                                    | 6                | 5                |
| Commingling                                                                                                                                                                                                                                                                                                      | 3                | 1                |
| Failure to respond to disciplinary agency                                                                                                                                                                                                                                                                        | 3                | 5                |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                     | <b>67</b>        | <b>63</b>        |

| “Exhibit B”                                             |           |           |
|---------------------------------------------------------|-----------|-----------|
| IV. Type of Matter from which Docketed Complaint arose: | 2007-2008 | 2008-2009 |
| <b>Maryland Rules:</b>                                  |           |           |
| A. Injury to person, property, Workers Compensation     | 37        | 49        |
| B. Family Law                                           | 37        | 54        |
| C. Criminal                                             | 52        | 46        |
| D. Real Estate                                          | 36        | 25        |
| E. Probate                                              | 21        | 17        |
| F. Tax                                                  | 1         | 1         |
| G. Business Matters                                     | 15        | 9         |
| H. Civil Litigation                                     | 64        | 56        |
| I. Contract                                             | 5         | 6         |
| J. Bankruptcy                                           | 13        | 12        |
| K. Other                                                | 110       | 67        |
| L. Immigration                                          | 15        | 11        |
| <b>TOTALS</b>                                           | 406       | 353       |

“Exhibit B”

**V. Docketed Complaints Received by County: 2008-2009**

|                     |    |                        |     |
|---------------------|----|------------------------|-----|
| Allegany County     | 1  | Howard County          | 12  |
| Anne Arundel County | 24 | Kent County            | 2   |
| Baltimore County    | 60 | Montgomery County      | 71  |
| Baltimore City      | 52 | Prince George's County | 53  |
| Calvert County      | 1  | Queen Anne's County    | 2   |
| Caroline County     | 0  | St. Mary's County      | 1   |
| Carroll County      | 2  | Somerset County        | 0   |
| Cecil County        | 7  | Talbot County          | 0   |
| Charles County      | 4  | Washington County      | 3   |
| Dorchester County   | 1  | Wicomico County        | 5   |
| Frederick County    | 5  | Worcester County       | 4   |
| Garrett County      | 0  | Out of State           | 31  |
| Harford County      | 12 | TOTAL                  | 353 |

**ATTORNEY GRIEVANCE COMMISSION  
ACTUAL RECEIPTS AND EXPENDITURES  
FY 2008 & FY 2009**

| <b>RECEIPTS</b>                                                | <b>07/01/2007 -<br/>06/30/2008</b> | <b>7/1/2008 -<br/>6/30/2009</b> |
|----------------------------------------------------------------|------------------------------------|---------------------------------|
| Attorney Assessments                                           | 3,912,493                          | 4,162,283                       |
| Interest Income                                                | 213,867                            | 120,967                         |
| Costs Recovered by Court Order                                 | 13,939                             | 28,278                          |
| Client Protection Fund - Staffing Fees                         | 233,726                            | 243,113                         |
| <b>TOTALS</b>                                                  | <b>4,374,025</b>                   | <b>4,554,641</b>                |
| <b>EXPENDITURES</b>                                            |                                    |                                 |
| Salaries                                                       | 1,889,330                          | 1,923,872                       |
| Equipment (Purchase and Maintenance)                           | 90,815                             | 25,837                          |
| Employee Benefits                                              | 716,180                            | 736,156                         |
| Office Expenses                                                | 93,848                             | 102,602                         |
| Commission & Peer Review                                       | 74,350                             | 67,504                          |
| Court Reporters - Depos & Transcripts                          | 20,297                             | 11,582                          |
| Investigative Costs & Employee Travel & Mileage                | 136,453                            | 146,359                         |
| Peer Review Training Seminar                                   | (498)                              | 1,649                           |
| Legal/Software Support & Conservatorship Costs                 | 0                                  | 90,000                          |
| Audit                                                          | 11,100                             | 10,366                          |
| Contribution - Lawyer Assistance Program                       | 111,438                            | 114,263                         |
| Subsidiary Location - Executive Secretary -<br>Office Expenses | 10,287                             | 5,953                           |
| <b>TOTALS:</b>                                                 | <b>3,153,600</b>                   | <b>3,236,143</b>                |
| <b>EXCESS OF RECEIPTS OVER EXPENDITURES:</b>                   | <b>1,220,425</b>                   | <b>1,318,498</b>                |

\*\*\* EXHIBIT 'C' \*\*\* (CORRECTED 1/28/2010)

**Budget Fiscal Year 2010**  
**07/01/2009 - 06/30/2010**

| <b>RECEIPTS</b>                                                |                  |
|----------------------------------------------------------------|------------------|
| Attorney Assessments                                           | 4,273,500        |
| Interest Income                                                | 120,000          |
| Costs Recovered by Court Order                                 | 17,000           |
| Contribution for Client Protection Fund Staffing               | 250,956          |
| <b>TOTAL</b>                                                   | <b>4,661,456</b> |
| <b>EXPENDITURES</b>                                            |                  |
| Salaries                                                       | 2,001,500        |
| Employee Benefits                                              | 785,998          |
| Equipment (Purchase and Maintenance)                           | 36,000           |
| Office & Employee Related Expenses                             | 104,700          |
| Commission & Peer Review                                       | 113,637          |
| Court Reporters - Transcripts                                  | 20,000           |
| Investigative Costs & Employee Travel & Mileage                | 150,000          |
| Peer Review Training Seminar                                   | 10,000           |
| Legal/Software Support & Conservatorship Costs                 | 20,000           |
| Audit                                                          | 12,000           |
| Contribution - Lawyer Assistance Program                       | 97,128           |
| Subsidiary Location - Executive Secretary - Operating Expenses | 18,800           |
| <b>TOTAL</b>                                                   | <b>3,369,763</b> |
| Anticipated Revenues in Excess of Expenses for FY 2010         | 1,291,693        |
| Fund Balance at 06/30/2009                                     | 6,203,258        |
| Anticipated Fund Balance 06/30/2010                            | 7,494,951        |

\*\*\* EXHIBIT 'D' \*\*\* (CORRECTED 02/01/2010)