

STATE OF MAINE
BOARD OF OVERSEERS OF THE BAR
1988 ANNUAL REPORT

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TABLE OF CONTENTS

	PAGE
INTRODUCTION.....	1
I. GRIEVANCE COMMISSION.....	2
A. Complaints.....	2
B. Panel Meetings and Hearings	3
1. Case Reviews.....	3
2. Disciplinary Proceedings.....	5
a. Reprimands.....	6
b. Recommendations for Court Proceedings.....	14
C. Characterization and Area of Law.....	17
D. Source of Complaints/Size of Law Firm.....	19
E. Bar Counsel Files.....	20
II. COURT MATTERS.....	21
A. Disbarments.....	21
B. Suspensions.....	24
C. Resignations.....	29
D. Reprimands.....	29
III. FEE ARBITRATION COMMISSION.....	32
IV. PROFESSIONAL ETHICS COMMISSION.....	35
V. MISCELLANEOUS MATTERS.....	37
A. Maine Manual On Professional Responsibility.....	37
B. Amendments to the Maine Bar Rules.....	38
C. Hearing Deferral - Board Regulation No. 12.....	41
D. Information About Complaint Procedures and Discipline of Lawyers.....	43
E. Informal Advisory Opinions.....	43
VI. CONCLUSION.....	45
VII. APPENDIX.- Statistical Analysis of Disciplinary Matters.....	46

BOARD OF OVERSEERS OF THE BAR
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INTRODUCTION

This document and the attached exhibits comprise the Board of Overseers of the Bar's 1988 Annual Report, for the purpose of summarizing the total operations of the Board including the office of Bar Counsel and the Board's three agencies: the Grievance Commission, the Fee Arbitration Commission and the Professional Ethics Commission.

By way of background, the duties and responsibilities of these three Commissions are as follows:

1. The Grievance Commission reviews and may approve or modify recommendations to it by Bar Counsel (see discussion below regarding case reviews), and also conducts hearings on formal charges of misconduct, making findings and issuing its recommendations with respect thereto. The Grievance Commission may reprimand attorneys for misconduct, and in those cases where it recommends the discipline of an attorney by the Court (suspension or disbarment), shall direct that an information be filed with the Court by Bar Counsel.

2. Upon receipt by the Secretary to the Fee Arbitration Commission, and initial review by Bar Counsel, written

petitions setting forth disputes regarding legal fees paid to or charged by an attorney admitted to the bar of this State, are processed by the Secretary and then heard by a panel of the Fee Arbitration Commission.

3. The Professional Ethics Commission renders advisory opinions to the Court, the Board, Bar Counsel, the Grievance Commission and attorneys on matters involving the interpretation and application of the Code of Professional Responsibility (Maine Bar Rule 3).

I. GRIEVANCE COMMISSION

A. COMPLAINTS

A total of 140 new grievance complaints alleging professional misconduct by Maine attorneys were docketed by Bar Counsel in 1988, constituting a 25% decrease from the figure for 1987 (187), and a 48% decrease from the total grievances filed in 1986 (267).

B. PANEL MEETINGS AND HEARINGS

1. Case reviews: The five panels of the Grievance Commission, each comprised of two lawyers and one non-lawyer, met on 20 occasions for the purpose of conducting case reviews. This process involves the respective panel's deliberation with Bar Counsel or Assistant Bar Counsel for the purpose of reviewing the contents of grievance complaint files which have been investigated by the office of Bar Counsel. It is from this review process that the panel's initially determine the disposition of complaints as being 1) dismissal, 2) admonition (private non-discipline), 3) directing Bar Counsel to conduct further investigation, or 4) directing Bar Counsel to file a disciplinary proceeding before the Commission. Although the attached tables indicate that virtually all disciplinary hearings approved by the Grievance Commission were open to the public, the Maine Bar Rules do require that in certain instances the hearing remain confidential.

That is, if upon case review a panel finds probable cause for the issuance of a reprimand regarding the attorney's conduct, then the panel directs Bar Counsel to file a petition and hold a disciplinary hearing open to the public before

another panel of the Commission to determine if the facts support the issuance of that reprimand. After hearing, if the panel finds that the evidence requires a disposition more severe than a reprimand, then it shall direct Bar Counsel to file an information before the Court seeking the attorney's suspension or disbarment, despite the fact that the initial case review found probable cause for a reprimand.

On the other hand, Maine Bar Rule 7(e)(2) requires that when upon initial review the panel does not find probable cause for a reprimand to issue, then the panel directs that a further confidential disciplinary hearing take place either 1) to hear and determine contested facts not readily reconciled by a review of the file, or 2) because, based upon that review alone it already appears that disciplinary charges should be filed before the Court seeking suspension or disbarment. See Maine Bar Rule 7(e)(2).

As a result of those 20 meetings of the panels, 168 complaints were initially reviewed and an additional 13 matters were reconsidered by a panel under the provisions of Maine Bar Rule 5(b)(2)(A) allowing disposition in lieu of a previously authorized hearing. These 181 reviewed complaints constitute an 18% decrease from the total number (221) of complaints reviewed in 1987.

2. Disciplinary proceedings: In addition to the 20 case review meetings, panels of the Grievance Commission met on 16 occasions for the purpose of conducting disciplinary hearings involving 36 complaints. As shown by the attached statistical table, 12 reprimands (involving five attorneys) were issued by the Commission, with an additional 16 complaints (involving six attorneys) being directed for further Court proceedings seeking suspension or disbarment of those attorneys. These 36 complaints disposed of through hearing represent a 34% decrease in the number (53) of complaints heard in 1987, and a 40% increase in the number (25) of complaints heard in 1986. Perhaps of some significance, is the fact that the number (16) of complaints directed for Court proceedings constituted less than one-half, i.e., 44%, of the total complaints heard by panels of the Commission. In 1987, 62% of the complaints heard resulted in further Court proceedings being authorized.

The 12 reprimands issued in 1988 constituted one-third of the complaints heard, whereas in 1987, eight reprimands (15%) were issued by the Commission. Any such comparison should keep in mind, however, as will be seen from discussion below, that two attorneys accounted for nine of the reprimands issued in 1988.

A discussion of the complaints heard by the Commission in 1988 follows.

a. REPRIMANDS

Pursuant to Maine Bar Rule 7(e)(2), the Grievance Commission conducted disciplinary hearings open to the public regarding 34 complaints which involved 14 attorneys. As a result of these hearings, reprimands were imposed with respect to 12 of those complaints (relating to five attorneys), which may be briefly summarized as follows:

a. In June of 1988, a panel of the Grievance Commission reprimanded an attorney involving five unrelated complaints which indicated a fairly consistent pattern of serious neglect of clients' legal matters by that attorney. The factual hearing of these matters occurred in March of 1987, but disposition was continued until a final hearing in April of 1988. In the interim, the respondent was required by a quite stringent and explicit conditional order of the panel to pursue a number of remedial measures designed to enable the respondent to continue his practice with assurances that there would be no neglect or similar problems pending disposition, and also under procedures calculated to ensure that all pending matters

subject to complaint be attended to promptly and properly.

By way of answer to the Board's petition, as well as at the initial factual hearing, respondent had readily acknowledged his neglectful misconduct and very forthrightly took responsibility for his own actions. Certain severe personal and family problems over recent years had resulted in the almost total breakdown in respondent's professional life and practice and he sought out appropriate professional assistance as well as assistance of other members of the bar. Throughout this process, respondent was aided by one particular attorney who agreed to assist respondent as well as the panel between the initial factual hearing date and ultimate disposition date (a 13 month period) by acting as supervisor and mentor of respondent.

Shortly after the dispositional hearing, the panel issued its report and found that respondent had engaged in a pattern of serious and substantial neglect over a long period of time, and further found that much of that misconduct was explained (although certainly not justified) by serious personal circumstances affecting respondent's practice. Thus, in light of the fact that respondent 1) did not attempt to evade responsibility for his misconduct when called to task, 2) attempted to repair the damage he had done or to make restitution when necessary, and 3) had diligently and

successfully pursued remedial measures pending final disposition in order to prevent recurrence of similar misconduct, the panel ordered that the appropriate disposition of these complaints was a reprimand of respondent reference each complaint. Grievance Commission File Nos. 84-31, 84-35, 84-36, 86-86, 86-218.

b. The same Grievance Commission panel also heard another five unrelated complaints regarding a different respondent. The factual hearing relating thereto occurred in September of 1987, and for similar reasons, final disposition involving the second respondent was also deferred until April of 1988. Similar remedial and supervisory conditions were established regarding this respondent pending that final dispositional hearing.

This respondent had also acknowledged his misconduct and took responsibility for his neglect of client matters, as well as his failure to respond timely or properly to Bar Counsel's investigatory queries reference the complaints. This respondent's explanation involved his eventual, albeit belated realization that his busy small office practice had recently overwhelmed him, and caused a growing inability on his part to attend to his professional commitments fully and punctually. Pending disposition of these complaints,

respondent sought out assistance in coming to grips with his problems, modified his case intake practices, and restricted his practice to certain areas of law. He was assisted throughout this process by his own counsel, as well as an attorney mentor who supervised respondent's conduct on a regular basis. Thus, although the panel determined that respondent's actions involved substantial and serious neglect, mitigating factors and successful rehabilitation efforts pursued by respondent resulted in the panel's reprimand of respondent reference four of these complaints. One complaint was dismissed at the initial factual hearing by agreement of counsel due to Bar Counsel's failure to locate and produce the complainant despite diligent efforts. Grievance Commission File Nos. 84-170, 85-46, 85-76, 86-233 and 87-K-132.

c. In May of 1984, respondent undertook the representation of a debtor in a very substantial case involving a number of priority secured creditors, some 47 second-tier lien creditors, and numerous unsecured creditors. During the course of the bankruptcy, respondent and his staff received and responded to communications regarding the bankruptcy proceedings and transmitted requests for information or action to creditors and others participating in the bankruptcy case. These communications included requesting the consent of the lien

creditors to the sale of the assets of the debtor.

One of the lien creditors (apparently the only creditor without counsel) consented to the sale by taking action purporting to discharge its lien, waited for some period of time for payment, and when payment was not forthcoming, began a pattern of regularly writing or telephoning respondent seeking information as to the status of the bankruptcy and when the creditor might be paid. From April of 1986 until the date of the Grievance Commission panel disciplinary hearing, September of 1988, respondent sent no further written communication to this creditor regarding the status of the bankruptcy. Despite the entry of an order by the Bankruptcy Court in June of 1986, whereby the sale had been authorized and payment of non-priority liens deferred until further proceedings, respondent did not transmit a copy of that order to the inquiring creditor, although he was aware of the repeated demands for information or advice from that creditor.

Frustrated by the inability to obtain satisfactory information or any response whatsoever from the respondent, the creditor filed a letter of complaint with the Board in December of 1987. Bar Counsel requested a response from respondent within 20 days, but none was received. Bar Counsel then wrote to respondent and indicated that his continued refusal to cooperate or respond to Bar Counsel would ultimately be deemed

by the Grievance Commission to constitute a violation of Maine Bar Rule 2(c).

After hearing, the panel found that although it certainly was the preferred practice that respondent furnish some sort of answer to the creditor as to the status of the bankruptcy matter, particularly where counsel knew that particular party to the litigation was unrepresented, the panel did not find respondent's conduct violated any obligation under the Maine Bar Rules. The panel further determined, however, that if the respondent had lived up to his obligations under Rule 2(c) and had been cooperative with Bar Counsel's investigation, then Bar Counsel, the complaining creditor, the panel, other witnesses, and the respondent himself would most likely not have had to suffer the burden of a lengthy disciplinary hearing that probably never should have been necessary. Respondent's explanation that the demands of his busy practice did not allow his response to Bar Counsel, was found to be totally inadequate and unacceptable. Thus, although the panel dismissed the underlying merits of the complaint, respondent received a reprimand for his violation of Rule 2(c) due to his lack of response to Bar Counsel. Board of Overseers File No. 87-S-152.

d.A Stipulation of Facts was submitted by Bar Counsel and respondent's counsel, which stipulation included an admission

by respondent of a violation of Maine Bar Rule 3.6(a)(3) warranting the imposition of a reprimand under the facts of the particular case. Respondent represented a client regarding a real estate dispute which had progressed through the Cumberland County Superior Court to a trailing docket trial list in October of 1986. On October 14, respondent was advised by the Clerk of Courts that the present trial was expected to end the following day, and the Court would likely look for a longer case to complete the week's calendar schedule. Respondent's case was listed as a one-half day case. Respondent then left his office the following day at approximately 4:00 p.m. not having heard from the Clerk with regard to the trailing docket. After his departure, the Clerk did telephone respondent's office to indicate that his client's case had been reached and would be called for trial on October 16. Respondent did not receive that message through his office, and was then out of his office for several days resulting in a default judgment being entered by the Superior Court. More than nine months subsequent to the entry of default judgment, respondent finally communicated in writing to his client and informed him of dismissal of the court action and the reason the dismissal had occurred. Board of Overseers File No. 87-K-138.

e. Respondent represented a client in a zoning case which was in litigation. The adverse party on this matter was a special interest group, one of whose members, X, owned property which abutted the property in question. In order to avoid a problem with standing, X was also named as an individual party. The case was heard and the Superior Court ruled in favor of the special interest group, finding that X met the standing test. Respondent appealed to the Law Court with standing still being an issue.

Respondent's client then indicated that he had informally settled his differences with X, and that now X wanted nothing further to do with the litigation. Acting upon his client's request, respondent then drafted a notice of withdrawal of the lawsuit for X to sign. His client then took the document to Florida where he had X sign it, and then returned to Maine whereupon respondent filed the notice with the Law Court. Throughout the litigation in Superior Court, the interest group had been represented by counsel, and that same counsel had represented X. Respondent, aware of that representation, never attempted to ascertain the current status of the representation prior to his indirect communication with X. The Grievance Commission after a disciplinary hearing open to the public found a violation of Maine Bar Rule 3.6(j) and imposed a reprimand upon respondent. Board of Overseers File No. 86-132.

b. RECOMMENDATIONS FOR COURT PROCEEDINGS

Discussion of certain matters heard before the Grievance Commission resulting in a recommendation for further Court proceedings is set forth below. Those complaints which were as a result of hearing both authorized for Court action and disposed of by the Court in 1988 will be included in the later discussion regarding Court matters.

a. A panel of the Grievance Commission recommended proceedings before the Court seeking the suspension or disbarment of respondent regarding eight unrelated grievance complaints. These complaints involved in certain cases misrepresentations to clients, repeated neglect of various clients' matters and non-cooperation with Bar Counsel's investigation. Two separate disciplinary hearings occurred in August of 1988 and prior to the filing of an information with the Court, respondent submitted his resignation in December of 1988, and his resignation was acted upon by the Court and so ordered in January of 1989. Court Docket No. BAR-88-19.

b. Respondent received \$10,000 from his wife's step-grandmother and indicated to her that he would invest it on her behalf. He also drafted her will which divided all of

her assets between her two sons. Respondent negotiated the \$10,000 check to cash, which he retained in his office safe. Sometime thereafter, he supposedly loaned the money to a friend without any security, note or signed receipt. The step-grandmother later died and her personal representative then asked for the return of the \$10,000. Respondent never returned the money.

The Grievance Commission conducted a disciplinary hearing open to the public at which time respondent made certain admissions, and as a result of that hearing the Commission authorized an information be filed, which is presently pending before the Court. Subsequent to that hearing, respondent was indicted for theft of the \$10,000. During the pendency of the criminal investigation, respondent had authorized the Board to supply the Department of the Attorney General with materials relating to the disciplinary charges.

Upon indictment, respondent filed a motion to suppress statements he had made reference the Board's investigation which included 1) statements to former Bar Counsel in the presence of respondent's counsel; 2) statements to the Board's investigator; and 3) sworn testimony he provided at the Grievance Commission's hearing open to the public. That motion was granted, the Superior Court finding that the mandatory provisions of Maine Bar Rule 2(c) rendered those statements

involuntary for purposes of the criminal prosecution. The State has appealed that ruling. The information remains continued pending resolution of this related appeal to the Law Court. Board of Overseers File No. 83-11.

c. Respondent had previously been before the Court in March of 1986 at which time the Court heard oral argument to determine if the earlier directive of the Grievance Commission for a reprimand regarding his neglect of the same probate matter should be affirmed. At that time, respondent stated to the Court that he had taken certain specific steps to finalize that probate matter within the next month or so. Some two years later the original complainant reported to Bar Counsel that no progress had been made since that last Court hearing. After a further hearing, the Grievance Commission determined that this additional misconduct by respondent constituted egregious neglect of a probate matter, as well as misrepresentations to the Court. An information was thereupon filed, and this matter has been continued by the Court awaiting a decision by the New Hampshire Supreme Court, which has taken under advisement a recommendation for disbarment of respondent for similar conduct in that state where he is also licensed to practice. Board File No. 87-S-98.

d.A panel of the Grievance Commission heard charges against respondent for allegedly seriously neglecting three unrelated cases. The neglect included his failure to provide a title insurance policy although the premium had previously been paid. The most serious allegations of misconduct, however, related to his continued failure to respond in any way to Bar Counsel's inquiries regarding all three complaints. He did answer the petition and appeared at the Grievance Commission disciplinary hearing with counsel. As a result of that hearing, particularly relating to respondent's repeated violations of Rule 2(c), the panel authorized that an information be filed with the Court seeking respondent's suspension or disbarment. That information was filed in 1989, and remains pending before the Court. Board of Overseers File Nos. 87-K-66, 87-S-73 and 88-K-102.

C. CHARACTERIZATION AND AREA OF LAW

Neglectful conduct on the part of attorneys in violation of Maine Bar Rule 3.6(a)(2) and (3) continues as the area resulting in the highest number (46) of complaints received in 1988, as well as the highest number (82) regarding those

matters disposed of by the Grievance Commission in 1988. Thirty-eight percent of all complaints reviewed and heard in 1988 related to neglectful conduct on the part of the respective attorneys. Similarly, review of attached Dispositional Table 5 indicates that of all Court and Commission hearings authorized, 38% were neglect complaints. That is, although only 21% of the neglect complaints resulted in hearings being authorized, that number of complaints (17), constituted 38% of the total matters authorized for hearing, indicating that neglect matters continue to far outweigh other categories in terms of the characterization of complaints resulting in disciplinary hearings.

As earlier noted in the Board's Annual Report for 1987, a disturbing trend of attorney conduct relating to misrepresentation, fraud or interference with justice continues to increase as a common source of complaints, as well as those being authorized for disciplinary hearings, second only to neglect.

A change occurred regarding the area of law of the complaints received in 1988, with real property constituting the highest number (34), being 24% of the complaints received compared to 22% relating to family law matters, the predominate category in 1987. On the other hand, in terms of those cases heard and reviewed resulting in authorizations for further

disciplinary hearings, 27% of such hearings authorized related to criminal law matters.

D. SOURCE OF COMPLAINTS/SIZE OF LAW OFFICE

The attached statistical tables regarding grievance complaints received in 1988, indicate that clients continue to file the majority of complaints (56) with 18% being filed by the opposing party and a total of 17% filed by a court or other counsel.

The historical trend for complaints being filed against sole practitioners (41%) continues, representing a slight increase as compared to those received in 1987 (38%). By comparison, there was a slight decrease in the number of complaints against offices comprised of two lawyers (14%), with a slight increase in the number filed against lawyers from firms containing three to six lawyers (30%). According to information supplied to the Board from attorney registration statements (as of the date of this report), there are 614 sole practitioners and 128 two lawyer offices from a total of 3,205 resident active Maine lawyers. (Non-resident active lawyers: 134, and 25 respectively, from a total of 534 such lawyers).

Of much greater concern, however, is the fact that the majority (63%) of the 16 attorneys that appeared before panels of the Grievance Commission for disciplinary hearings in 1988 were sole practitioners. Further, of the 11 attorneys who had matters addressed by the Court in 1988, nine attorneys were sole practitioners. The growing number of serious complaints

received and heard regarding sole practitioners has been of increasing concern and an area of some study by the Board.

E. BAR COUNSEL FILES

Bar Counsel Files which, pursuant to Maine Bar Rule 5(b)(2), constitute matters which upon their initial review by Bar Counsel do not appear to allege professional misconduct, totalled 181 in 1988, representing an 8% increase over the number filed in 1987. As in 1987, this increase, although small, coupled with the decrease in the number of grievance complaints alleged against attorneys, continues to represent Bar Counsel's practice to initially docket ambiguous letters of complaint as Bar Counsel Files until additional investigation and information may substantiate specific allegations of professional misconduct. In all instances, Bar Counsel's screening and docketing of such Commission matters is subject to review by either Grievance Commission Chairman Diane S. Cutler of Bangor, or Vice Chairman Gerald F. Petruccelli, Esq. of Portland, and through their mutual unsparing efforts, 173 such matters were so reviewed in 1988, nearly matching the number of new matters docketed as Bar Counsel Files.

II. COURT MATTERS

Twelve discipline-related orders were issued by the Court in 1988 in the following different categories: 1) Disbarments - 2; 2) Suspensions - 4; 3) Resignations - 2; 4) Reprimands - 4. A brief discussion of certain of these matters is set forth below.

A. DISBARMENTS

1. A report was rendered by the Grievance Commission in early 1988 after a disciplinary hearing in late 1987. Respondent was charged therein with having failed to file an affidavit as required by Maine Bar Rule 7(n)(2) in light of a Court ordered suspension from the practice of law for a six month period. He was further alleged to have practiced law in New Hampshire (where he was not admitted to practice) during his suspension. As a result, an information was authorized to be filed with the Court reference this conduct.

In the meantime, an additional complaint charging the respondent's neglect of a medical malpractice matter and his misrepresentation to the client as to the status of that case, was filed by Bar Counsel. In light of the fact that another Court disciplinary proceeding had previously been authorized,

Bar Counsel, pursuant to Maine Bar Rule 7(e)(6)(H) proceeded directly to Court regarding this additional grievance. That earlier authorized disciplinary proceeding charged respondent with egregious neglect of a personal injury case in one instance, and his failure to appear for a Maine District Court hearing in an unrelated matter.

All of these grievances involving the same respondent were heard before the Court in July of 1988, and as a result of the entire testimony and evidence, the Court found that respondent had acted in violation of provisions of the Maine Bar Rules regarding all allegations except those relating to his practicing law in New Hampshire. Referring to respondent's testimony provided in his own defense regarding certain of those allegations as a "fabrication", the Court ordered the respondent disbarred from the practice of law in the State of Maine. Respondent then filed an appeal to the Maine Law Court, and over the Board and Bar Counsel's objection, was granted a stay of his disbarment pending that appeal. That appeal was denied in April of 1989 and respondent's disbarment affirmed by the Law Court. See Board of Overseers of the Bar v. James Martin Dineen, No. 5048 (Me. April 12, 1989). Although respondent has filed a notice of appeal and intends to petition the U.S. Supreme Court for a writ of certiorari, his requests for a stay of his disbarment to both the Law Court and the U.S.

Supreme Court have been denied, and his disbarment took effect on May 26, 1989.

2. In April of 1988, the Grievance Commission directed that Bar Counsel seek the suspension or disbarment of a respondent based upon proven violations of Maine Bar Rule 2(c) reference his non-cooperation with Bar Counsel's investigation of two unrelated neglect complaints. As a result, an information was filed with the Court also alleging neglect and conflict of interest by respondent. Although respondent had appeared pro se and testified at the Grievance Commission hearing, and later acknowledged service of the information, he failed to file any answer to that information. He also failed to respond to the Board's Motion for Default Judgment, and as a result default was entered by the Clerk under M.R. Civ. P. 55(a).

After notice to the respondent, a hearing on the Motion for Default Judgment was held, and respondent failed to appear at that time as well. Default having been entered, the allegations of the information were accepted as true, and based upon those assertions together with respondent's prior disciplinary record, default judgment was entered thereby disbaring respondent from the practice of law in the State of Maine. Respondent subsequently through counsel appealed the

default judgment to the Maine Law Court, and also tendered his resignation. Pursuant to Maine Bar Rule 7(1), the Board considered that resignation and by majority vote recommended that the Court not accept it. After hearing, and particularly in light of respondent's appeal of the default judgment to the Law Court, the Court did not act on the resignation. On January 17, 1989, respondent's counsel and Bar Counsel stipulated to the dismissal of respondent's appeal of the default judgment, and his disbarment took effect. Court Docket No. BAR-88-13.

B. SUSPENSIONS

1. In January of 1988, as a result of a hearing open to the public, the Grievance Commission directed that Bar Counsel file an information with the Court for a violation of Maine Bar Rules 2(c) and 3.6(a)(3) regarding respondent's egregious neglect in his handling of the probate of an estate of a woman who had died in May of 1980. Pursuant to Maine Bar Rule 7(e)(6)(D) a de novo hearing was held before the Court in April of 1988.

The gravaman of respondent's neglect related to his assurance to the complainant (a daughter of the deceased) that the estate would be concluded and certain securities

distributed prior to the end of 1986. In fact, however, respondent did little work on the estate, and nothing was distributed in 1986. No distributions were made during 1987, despite repeated requests by the complainant that the securities, which were substantial in value, be distributed to her and her sister, the executrix of the estate. In March of 1987, the complainant filed her complaint with the Grievance Commission, and Bar Counsel thereupon requested in writing that respondent answer that complaint. He failed to respond to that request until July of 1987, and therein stated that distribution of the estate would be completed within a short period. Respondent made no further responses to Bar Counsel's subsequent requests for information regarding the status of the estate and as a result of hearing before the Court presented no satisfactory reason for failing to do so. As of the date of that hearing, the securities still had not been distributed to the beneficiaries. The Court found that the complainant/beneficiary was entitled to reasonably prompt distribution of the estate's assets, and that respondent acting as attorney for the estate, was the sole cause for the inordinate delay in the distribution of assets of that estate. Accordingly, the Court found that respondent violated Maine Bar Rule 3.6(a)(3) by his failure to employ reasonable care and skill in performance of his services and that he had neglected

a legal matter entrusted to him. By his failure without good cause to respond to inquiries by Bar Counsel, respondent was also found to have violated Maine Bar Rule 2(c). These violations were stated by the Court to be serious, requiring the imposition of a substantial sanction, and respondent (who had practiced in Maine for nearly 40 years) was thereby suspended from the practice of law for 60 days. Court Docket No. BAR-88-5.

2. In a matter heard by the Grievance Commission in 1987 and referred to in the Board's 1987 Annual Report (at section I(B)(2)(c), p. 12), the Court concluded that respondent had conducted himself in a manner unworthy of an attorney, and imposed a suspension from the practice of law for six months.

The Court found that respondent knowingly aided a suspended attorney in the unauthorized practice of law by rendering that suspended attorney assistance at a deposition for the purpose of permitting that attorney to evade and circumvent that lawful order of suspension. The Court further found that respondent had attended the deposition without any preparation and that he abjectly failed to employ any care and skill in the representation of his client. Finally, the Court found respondent's testimony at the hearing totally lacking in candor and termed his attempted explanation for his conduct as

verging on the preposterous. Court Docket No. BAR-87-23.

3. In August, 1988 the Court imposed an 18 month suspension regarding two separate informations filed against the same respondent. Regarding one information, no answer was filed by respondent, and therefore he was defaulted. He was charged in that matter with misusing the legal process in an effort to obtain an advantage regarding his own post-divorce litigation. Court Docket No. BAR-88-10.

In the other information, the respondent, who was also a member of his town's Board of Selectmen, impermissibly used his position as a public official to try to gain an advantage in his personal litigation with one of the town's police officers. Respondent had written numerous letters charging that officer with criminal conduct and recommending that he be suspended without pay. He engaged in a similar campaign to influence the Chief of Police, the Town Manager and a female police officer. His misconduct in this regard was found to have been in violation of Maine Bar Rules 3.2(d)(2) and (f)(4), and 3.6(d) and (k). Court Docket No. BAR-88-10(A).

Prior to the Court's decision in the above matters, the same respondent had been reprimanded by the Grievance Commission in June of 1987 for his conduct in filing lawsuits against his former wife's attorneys in divorce and post-divorce

litigation. Respondent petitioned for review of that reprimand, but the Court by Opinion and Order dated August 5, 1988 dismissed the petition as being untimely. Court Docket No. BAR-87-21. That earlier reprimand was relevant to and mentioned by the Court within its Opinion and Order of suspension reference BAR-88-10 dated August 16, 1988.

4. Regarding an information earlier filed by the Board reference allegations that respondent had commingled his assets with those of two clients in unrelated matters, Bar Counsel pursuant to Maine Bar Rule 7(i), filed with the Court a copy of the Judgment and Commitment Order of the Aroostook County Superior Court, convicting respondent of theft by misappropriation of property (Class B) and misuse of entrusted property (Class D) both reference one of those client matters. As a result, the Court ordered a show cause hearing to take place on June 29, 1988, at which time the respondent failed to appear having previously notified the Court in writing that he did not intend to appear for that hearing. The Court thereupon ordered that respondent be suspended from the practice of law pending final disposition of the disciplinary proceeding. Court Docket No. BAR-88-1.

C. RESIGNATIONS

Two resignations were ordered by the Court in 1988. One of the resignations was submitted pursuant to Maine Bar Rule 7(j)(2) based upon that attorney being incapacitated by addiction to drugs. Court Docket No. BAR-88-7. The other resignation was submitted pursuant to Maine Bar 7(l) while a disciplinary investigation and resulting Court information were pending reference an alleged violation of Maine Bar Rule 2(c). Court Docket No. BAR-88-12.

D. REPRIMANDS

1.The Grievance Commission reported in September of 1985 that respondent should be publicly reprimanded for violation of Maine Bar Rule 3.6(a)(2) and (3). An information was filed in September of 1987, and by order of January 11, 1988 the Court reviewed the record of the Grievance Commission under Maine Bar Rule 7(e)(6)(c)(iii) and found that the record amply supported the Commission's findings that respondent had neglected to pursue collection of a note and the foreclosure of a mortgage relating thereto. Court Docket No. BAR-87-19

2.In another matter discussed in detail in the Board's 1987

Annual Report (at section I(B)(2)(b), pp. 10-12) the Court ordered a reprimand on March 4, 1988 and further ordered that respondent pay \$500 to the Grievance Commission toward its costs. Respondent was found to have violated Maine Bar Rules 3.2(f)(3) and (4), and 3.6(j) by preparing a typed release on a printed legal form for the opposing party in a divorce matter to sign. That party had counsel and through that counsel had earlier filed a grievance complaint with the Board against respondent alleging a conflict of interest by him. The release purported to release respondent from all claims arising from the grievance complaint. Respondent had caused or permitted his client to present the release to the other party for a signature, knowing that she was represented by counsel and that counsel was not present. As a result, respondent either caused or permitted the complainant to believe that her obtaining the divorce was linked to the release and the withdrawal of her grievance against respondent. Court Docket No. BAR-87-12.

3. In still another matter referenced in the Board's 1987 Annual Report (at section I(B)(2)(h), pp. 17 - 18), by Opinion and Order of June 3, 1988 the Court reprimanded respondent for engaging in conduct unworthy of an attorney regarding his handling of a real estate transaction. Respondent had acted as broker for the sale of a house. By agreement with the buyer,

the actual sale price was raised \$2,000 and the sellers agreed to pay all closing costs. Respondent prepared documents and signed settlement statements that concealed from the lender on a Veterans Administration (VA) guaranteed mortgage that the closing costs were being financed, in effect, by the loan in violation of VA regulations. The Court found that respondent was clearly aware that it was necessary to conceal from the lender the fact that the buyer lacked the financial resources to cover closing costs. The respondent's conduct could have occurred in his capacity as an attorney, or at the same time, in his capacity as a real estate agent. Both the respondent and the sellers understood that the respondent was representing them in his capacity as a real estate agent and not as an attorney. The Court found, however, that which hat the respondent was wearing had little significance due to the fact that Maine Bar Rule 3.2(f)(3) prohibits an attorney from engaging in the proscribed conduct regardless of the capacity in which he acts. The Court thereupon determined that respondent's deceptive conduct reflected adversely, but not seriously, on his fitness to practice law. He was thereupon reprimanded for engaging in conduct unworthy of an attorney. Court Docket No. BAR-88-3.

4. The other reprimand imposed by the Court in 1988 was discussed earlier at pages 27 - 28. Court Docket No. BAR-87-21.

III. FEE ARBITRATION COMMISSION

In 1988, the Board of Overseers of the Bar's Secretary to the Fee Arbitration Commission, Ann S. Ingraham, received 133 requests for petitions for arbitration of fee disputes. Of these 133 requests, 57 (or 43%) were actually returned and filed, a slight increase in the number (47) received in 1987.

With the increasing number of petitions filed during the past few years against attorneys in York and Cumberland Counties, the Supreme Judicial Court amended Maine Bar Rule 9(c) effective February 15, 1988 and thereby established an additional panel to hear disputes in the southern section of the state. Thus, there are now five panels throughout the state, and the previous substantial backlog of pending petitions has been alleviated by the Secretary's and panels' diligent and proper attention to the scheduling and hearing of fee disputes.

With 28 petitions pending at the close of 1987, the 57 new petitions created a total docket of 85 petitions in 1988. The five designated panels met on 29 occasions throughout 1988 to dispose of 47 petitions. Fourteen other disputes were either dismissed, settled or withdrawn by consent of the parties. Some of these informal resolutions were with the assistance and

involvement of Bar Counsel and the Secretary. Three additional petitions were heard in 1988, but the Award and Determinations reference the respective disputes were not issued until January 1989. Thus, at the end of 1988, there were 21 petitions awaiting hearing by a panel of the Fee Arbitration Commission.

After seven years of service as Chairman of the Fee Arbitration Commission, Chadbourn H. Smith, Esq. of Bar Harbor resigned that position effective December 31, 1987. Mr. Smith remains as Chairman of the Board through October 31, 1990. On January 1, 1988, Frederick G. Taintor, Esq. of Auburn became Chairman of the Fee Arbitration Commission upon appointment by the Board, and has ably presided over all functions of the Commission. Mr. Taintor is also Chairman of Panel II of the Commission, and has been responsible for the updating of the Board's pamphlet titled, Summary of Procedures and Rules Governing the Fee Arbitration Commission of the Board of Overseers of the Bar. This document is forwarded to all individuals at the time they request information concerning the initiation of the arbitration of fee disputes by the Commission. This is the first time this pamphlet has been revised since the creation of the Commission in 1979.

As indicated in the 1987 Annual Report, the role of Bar Counsel in the fee arbitration process continues to be one of reviewing and screening petitions upon filing with the

Secretary for the purpose of determining if the matters warrant the attention of the Commission, should be more appropriately addressed by the Grievance Commission, or do not in fact allege any actual fee dispute. See Maine Bar Rule 9(e)(2). As mentioned above, to the extent that resources allow and where warranted, Bar Counsel in 1988 also attempted to take part in promoting and assisting in the informal resolution of certain of these petitions prior to hearing.

IV. PROFESSIONAL ETHICS COMMISSION

In 1988 the Professional Ethics Commission met 9 times, and as a result issued ten additional formal advisory opinions bringing the total of such opinions issued by the respective advisory agencies of the Board through December 31, 1988 to 92. The opinions issued in 1988 continue to provide valuable guidance and a resource for attorneys regarding ethical dilemmas relating to the following issues:

- No. 83: An attorney or his law firm who has represented a client in the preparation of a will, may not represent that client's former wife in an action for child support arrearages, unless the client's informed written consent is first obtained.
- No. 84: An attorney who has good reason to believe that a client has become incapable of making rational financial decisions, is permitted to make a limited disclosure of that belief to the client's family members provided they have no interest adverse to the client's affairs.
- No. 85: The distribution of a newsletter by a law firm which describes the legislative enactments, regulatory agency rulings, court decisions in certain areas of the law as well as alternative courses of action the reader could take in dealing with various legal problems, coupled with an invitation to contact Maine members of the law firm for certain information, would not violate the Maine Bar Rules as long as its content and method of distribution does not suggest harassment or intimidation and the firm members are properly identified within the letterhead as to the jurisdictions in which they are admitted.

- No. 86: An attorney may use the name of another attorney who will become "of counsel" to her or his law firm in the descriptive name of the law firm, as long as the terms of their relationship are such that the clients of each of them will be clients of the other for all purposes of the Maine Bar Rules.
- No. 87: An attorney may not operate a private lawyer referral service and charge fees for it.
- No. 88: An attorney who is informed by her or his client of the receipt of an unsolicited letter tending to show that a member of a tribunal before which the client has a matter pending is biased in favor of the client, may not reveal the existence of that letter as that would be detrimental to the client, and therefore is protected as a secret of the client.
- No. 89: An attorney may draft but not necessarily sign a pleading to be filed in court by a pro se litigant, as long as the pleading does not constitute a violation of M.R.Civ.P. 11.
- No. 90: An attorney may not write to members of a city council or board of selectmen regarding a legal position taken by the municipality where that municipality is represented by counsel, who has not consented to that communication.
- No. 91: An attorney who is a partner in another business which does not furnish legal services, may use her or his name on that business' letterhead with the appellation "Esq." following that description.
- No. 92: A law firm which has an interest in a limited partnership may represent that partnership in litigation provided that the interest was acquired separate and apart from the reasons for litigation, and full disclosure thereof is made.

V. MISCELLANEOUS MATTERS

A. Maine Manual on Professional Responsibility

The Board continued its arrangement with Tower Publishing Company of Portland and its publication of the Maine Manual on Professional Responsibility, which includes: 1) a membership list of the Board and its Commission members, 2) all of the Maine Bar Rules (including Reporter's Notes and Advisory Committee Notes to provide the history of the rules), 3) the text of Advisory Opinion Nos. 1 - 82 (including a subject matter index), and 4) the regulations of the Board. This publication had previously been updated in November of 1987, and by agreement of the Board and Tower Publishing, there was no update published in 1988. That is, commencing in 1989, it is the intent of the Board and Tower Publishing to update this document in May of each year, so as to correspond with and include any recent annual Court amendments to the Maine Bar Rules.

B. Amendments to the Maine Bar Rules

Changes within the Maine Bar Rules as amended and promulgated by the Court in 1988, may be summarized as follows:

Rule 3.2(f)(2) was amended to eliminate the traditional standard of "moral turpitude" as a definition of illegal conduct violating the Code of Professional Responsibility, and illegal conduct now constitutes professional misconduct only if it "adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

Rule 3.6(f)(5)(i) was amended to include the National Credit Union Administration Share Insurance Fund among the list of insurers appropriate for IOLTA accounts. The effect of this change is to make credit unions appropriate depositories for IOLTA funds.

Rule 4(d)(9) was amended to eliminate the appointment by the Board of alternate members of the Grievance Commission, due to the fact that by reason of the 1987 amendment to the rules whereby the Board may appoint an unlimited number of members to

the Grievance Commission, it is no longer necessary to appoint alternate members.

Rules 4(d)(12) and 9(a)(1) were amended to authorize the Board to appoint an unlimited number of members to the Fee Arbitration Commission similar to the rules covering Grievance Commission membership.

Rules 4(d)(2), (14) and (16) were amended and Rules 4(d)(21)(22) and (23) were added, all for the purpose of 1) requiring specific Court approval regarding various administrative and financial operations of the Board, 2) changing the Board's operation to a July 1 fiscal year, and 3) otherwise aligning its operations in these respects with those of the Court.

Rule 5(b)(2) was amended to permit Bar Counsel Files to be reviewed by either the Chairman or Vice Chairman of the Grievance Commission.

Rule 6(a) was amended so as to require Maine attorneys to provide their Social Security or Federal Identification number on their registration statements at the time of filing.

Rule 6(a) was also amended to provide that commencing in July of 1989 attorney registration statements be filed annually in July of each year, consistent with the Board's conversion to a fiscal year by amended Rule 4(d)(21).

Rule 6(b) was also amended to invoke the suspension procedures under the Maine Bar Rules for those attorneys who fail to comply with the practical skills course requirement of Maine Bar Admission Rule 12.

Rule 7(a) was amended to create the position of Vice Chairman of the Grievance Commission and to provide that both the Chairman and Vice Chairman thereof be appointed for a respective 1-year term by the Board.

Rule 7(b)(2) was amended to provide that either the Chairman or the Vice Chairman of the Grievance Commission with the consent of Bar Counsel and the Respondent may authorize a disciplinary hearing to be conducted by a commission panel composed of one lawyer and one non-lawyer.

Rule 7(i)(3) was amended to allow the Vice Chairman as well as the Chairman of the Grievance Commission to consent to

the commencement of an action before the Court without instituting formal proceedings before the Grievance Commission when an attorney has been convicted of a serious crime.

Rule 8(e)(6) was amended to require that when an attorney and a client enter into a contingent fee agreement, in order for the attorney to collect his expenses and disbursements from the client they must be specifically set forth in that agreement.

Rule 8(f)(5) was amended so that the suggested form following Rule 8(a) sets forth an addition to the form in conformity with the amendment to Rule 8(e)(6).

C. HEARING DEFERRAL - BOARD REGULATION NO. 12

Reference a matter discussed in the Board's 1987 Annual Report (at section V(D), pp. 35 - 36) relating to a conflict of interest complaint presently pending for a disciplinary hearing open to the public before a panel of the Grievance Commission, in 1988 the three respondents remained the subject of corresponding civil litigation instituted by the same complainant, involving substantially the same allegations and

issues as the grievance.

This matter had earlier been deferred pursuant to and consistent with Maine Bar Rule 7(h)(1) and Board Regulation No. 12. In September of 1987, and at the request of the complainant, the panel deferred the disciplinary hearing until March 1, 1988, understanding that by that time the civil litigation was expected to have been concluded. That litigation did not, however, commence before March of 1988, and as a result, a subsequent order was issued by the panel, further deferring the disciplinary hearing until December 1, 1988. Upon learning that the civil litigation would not commence until April 3, 1989, the panel ordered a prehearing conference for December 2, 1988 and scheduled the disciplinary hearing for January 4, 1989. Upon request of respondents' counsel and pursuant to the provisions of Board Regulation No. 12, by order dated December 16, 1988 the panel deferred hearing to July 10, 1989 in Augusta.

D. INFORMATION ABOUT COMPLAINT PROCEDURES
AND DISCIPLINE OF LAWYERS

In 1988, Bar Counsel drafted and the Board approved publication of a pamphlet titled Information About Complaint Procedures and Discipline of Lawyers. This publication provides a summary description of the purpose and operation of the Board and its Grievance Commission reference the processing of grievance complaints against Maine attorneys. It is the first such publication that the Board has issued reference that aspect of its duties, and is provided to anyone seeking information as to the procedure to be followed in the filing of such complaints. Although developed in 1988, the pamphlet was first published in February, 1989.

E. INFORMAL ADVISORY OPINIONS

In addition to the ten formal advisory opinions discussed above with respect to the Professional Ethics Commission, informal advisory opinions are provided by Bar Counsel and Assistant Bar Counsel to Maine attorneys on a daily basis, comprising approximately 20% of their daily operations. These

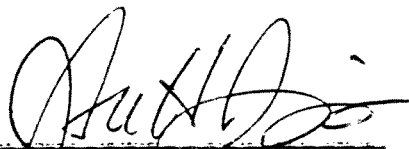
opinions are provided both in writing and over the telephone depending upon the issues involved and the preference of the inquiring attorney, and relate to an attorney's inquiry as to whether professional conduct, usually prospective in nature, is appropriate under the Maine Bar Rules. It is the perception of both the Board and the office of Bar Counsel that such opinions do provide great guidance to attorneys and are of assistance in avoiding potential future grievances in certain matters. Such opinions, however, are limited by both Advisory Opinion No. 67, as well as Board Regulation 28, to conduct regarding the inquiring attorney or that attorney's law firm, and are not provided regarding inquiries as to the propriety of another attorney's conduct. Those matters are required to be processed through the normal grievance complaint processes.

VI. CONCLUSION

From the above discussion as well as a review of the attached statistical tables, the continued fine and unsparing public service of the Board and the three Commissions is well demonstrated. As the nature and scope of the Board's responsibilities and operations continue to grow, these Commissions have responded by understanding and addressing the demands of both the public and the legal profession.

In sum, the Board, the Fee Arbitration, the Grievance Commission and the Professional Ethics Commission have all greatly contributed to the diligent regulating, advisory and arbitration functions of the Board's public service operations.

Respectfully submitted,



Dated: June 15, 1989

J. Scott Davis
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VII. APPENDIX

STATISTICAL ANALYSIS OF DISCIPLINE, DISCIPLINARY MATTERS,
AND FEE DISPUTES

GRIEVANCE COMMISSION 1988
COMPLAINT AND HEARING SUMMARY
January, 1988 to December 1988

I. COMPLAINTS REVIEWED - 181

ACTION:

Dismissals:	
issued after review:	112
in lieu of hearing:	10
Admonitions:	
issued after review:	25
in lieu of hearing:	3
Hearings authorized:	
confidential:	1
open to the public:	24
authorized to proceed directly to Court:	3
Processed directly by Board for Court action:	1
Recommended for action by Federal Court:	2

II. DISPOSITIONS AFTER HEARING - 36 complaints

A. CONFIDENTIAL HEARINGS - 2 complaints

ACTION:

Dismissals:	0
Admonitions:	1
Reprimands authorized:	0
Informations to be filed with Court:	1

B. HEARINGS OPEN TO THE PUBLIC - 34 complaints

ACTION:

Dismissals:	1
Admonitions:	6 (including 1 complaint heard in 1987 and report issued in January, 1988)
Reprimands issued:	12 (involving 5 attorneys)
Informations directed to be filed with Court:	15 (involving 5 attorneys)

III. Grievance Complaints docketed and reviewed

A. Complaints pending review at start of period:	89
B. New complaints docketed or submitted for rereview:	153
C. Total complaints docketed or activated:	242
D. Total complaints reviewed:	181
E. Complaints pending investigation and review at end of period:	61

IV. Matters before Supreme Judicial Court

A. Matters pending at start of period:	6
B. New informations or resignations filed:	13
C. Total Court pleadings docketed	19
D. Dispositions:	
1. Disbarments:	2
2. Suspensions:	4
3. Resignations:	2
4. Reprimands:	4
5. Dismissals:	<u>-</u>
Total dispositions:	12
E. Matters pending at end of period:	7

V. Total Disciplinary complaints pending at end of period

A. Grievance Commission:	
1. Complaints to be investigated and reviewed:	61
2. Complaints awaiting Grievance Commission disciplinary proceedings:	27
B. Maine Supreme Judicial Court	
1. Pending informations:	7
2. Complaints authorized for information but not yet filed: (6 attorneys)	19
C. Federal District Court	<u>1</u>
Total:	115

Table 1

1988 GRIEVANCE COMPLAINTS - CHARACTERIZATION

	<u>NUMBER:</u>	<u>PERCENT OF TOTAL:</u>
1. Trust Violation	2	1
2. Conflict of Interest	22	16
3. Neglect	46	33
4. Relationship w Client	10	7
5. Misrepresentation/Fraud	26	19
6. Excessive Fee	2	1
7. Interference w Justice	25	18
8. Improper Advertising/ Soliciting	1	1
9. Criminal Conviction	--	--
10. Personal behavior	--	--
11. Willful failure to cooperate	--	--
12. Medical Incapacity	--	--
13. Incompetence	3	2
14. No Jurisdiction	--	--
15. Conduct Unworthy of Attorney	1	1
16. Other	2	1
	<hr/>	<hr/>
TOTAL	140	100

Table 2

1988 GRIEVANCE COMPLAINTS - AREA OF LAW

	<u>NUMBER</u>	<u>PERCENT OF TOTAL</u>
A. Family	31	22
B. Juvenile	--	--
C. Criminal	14	10
D. Traffic	--	--
E. Probate/Wills	7	5
F. Guardianship	--	--
G. Commercial	5	4
H. Collections	4	3
I. Landlord/Tenant	2	1
J. Real Property	34	24
K. Foreclosure	--	--
L. Corporate/Bank	1	1
M. Torts	22	16
N. Administration	--	--
O. Taxation	--	--
P. Patent/Trademark	3	2
Q. Immigration	--	--
R. Antitrust	--	--
S. Environment	1	1
T. Contract/Consumer	1	1
U. Labor	2	1
V. Workers' Comp	2	1
W. Other/None	7	5
X. Bankruptcy	3	2
Y. Municipal	1	1
	<hr/>	<hr/>
TOTAL	140	100

1988 GRIEVANCE COMPLAINTS

<u>SOURCE OF COMPLAINT</u>	<u>NUMBER</u>	<u>PERCENT OF TOTAL</u>
1. Client	78	56
2. Other Party	25	18
3. Lawyer or Judge	24	17
4. Board or Staff	<u>13</u>	<u>9</u>
	140	100

TOTAL COMPLAINTS BY SIZE OF LAW OFFICE

1. Sole practitioner	58	41
2. 2	20	14
3. 3-6	41	30
4. 7-10	4	3
5. 11 or more	14	10
6. Government and Other	3	2
7. Unknown	<u>0</u>	<u>0</u>
	140	100

TOTAL COMPLAINTS BY AGE OF ATTORNEYS

1. 24-29	4	3
2. 30-39	57	40
3. 40-49	46	33
4. 50-59	15	11
5. 60+	18	13
6. Unknown	<u>0</u>	<u>0</u>
	140	100

DATE OF ADMISSION TO MAINE BAR

1. 1928-1949	1	1
2. 1950-1959	17	12
3. 1960-1969	12	9
4. 1970-1979	66	47
5. 1980-1987	44	31
6. Unknown	<u>0</u>	<u>0</u>
	140	100

Table 4

1988 GRIEVANCE COMPLAINTS

<u>COMPLAINTS BY COUNTY</u>	<u>NUMBER</u>	<u>PERCENT OF TOTAL</u>
1. Androscoggin	19	14
2. Aroostook	2	1
3. Cumberland	54	39
4. Franklin	1	.7
5. Hancock	9	6
6. Kennebec	7	5
7. Knox	5	4
8. Lincoln	1	.7
9. Oxford	0	0
10. Penobscot	12	9
11. Piscataquis	0	0
12. Sagadahoc	4	3
13. Somerset	1	.7
14. Waldo	2	1
15. Washington	4	3
16. York	14	10
17. Out of State	<u>5</u>	<u>4</u>
	140	100 (±)

Table 5

DISPOSITIONAL TABLE - CHARACTERIZATION OF CONDUCT - 1988

CHARACTERIZATION

CHARACTERIZATION	TOTAL NUMBER	PROCEEDINGS AUTHORIZED							RECOMMEND FEDERAL CT
		DISMISSALS	ADMONITIONS	REPRIMANDS	Commission	Court			
		123	35	12	25	20		2	
NEGLECT:	82	38	17	8	7	10		2	
*this disposition		30	49	67	28	50		100	
*this characterization		46	21	10	9	12		2	
REL. W/CLIENT:	16	13	1	1	1	0		0	
*this disposition		11	3	8	4	0		0	
*this characterization		82	6	6	6	0		0	
CONFLICTS:	20	13	5	0	2	0		0	
*this disposition		11	14	0	8	0		0	
*this characterization		65	25	0	10	0		0	
MISREPRESENTATION:	35	19	4	1	5	6		0	
*this disposition		15	11	8	20	30		0	
*this characterization		54	11	3	14	18		0	
INTERFERENCE W/JUSTICE:	35	21	3	2	8	1		0	
*this disposition		17	9	17	32	5		0	
*this characterization		60	9	6	22	3		0	
EXCESSIVE FEES:	8	4	4	0	0	0		0	
*this disposition		3	11	0	0	0		0	
*this characterization		50	50	0	0	0		0	
TRUST:	5	2	1	0	1	1		0	
*this disposition		2	3	0	4	5		0	
*this characterization		40	20	0	20	20		0	
ADVERTISING:	7	7	0	0	0	0		0	
*this disposition		6	0	0	0	0		0	
*this characterization		100	0	0	0	0		0	
OTHER:	9	6	0	0	1	2		0	
*this disposition		5	0	0	4	10		0	
*this characterization		67	0	0	11	22		0	
TOTALS	217	123	35	12	25	20		2	

1988 BAR COUNSEL FILES

<u>CHARACTERIZATION</u>	<u>NUMBER</u>	<u>% OF TOTAL</u>
1. Conspiracy	--	--
2. Disagreement over conduct of case	--	--
3. Habeas Corpus	12	7
4. Inquiry Only	--	--
5. Insufficient information	5	3
6. Lack of Professionalism	19	10
7. Malpractice	15	8
8. Personal Life	--	--
9. Request for legal assistance	125	69
10. Other	<u>5</u>	<u>3</u>
TOTAL	181*	100%

Bar Counsel Files pending at
start of period: 72

New Bar Counsel Files docketed: 181

Total Bar Counsel Files on docket: 253

Bar Counsel Files reviewed by
Grievance Commission Chairman or
Vice Chairman during period: 173

Bar Counsel Files pending at
end of period: 80

*Does not include 10 matters originally docketed as Bar Counsel Files, and later transferred to formal complaint status prior to December 31, 1988.

BAR COUNSEL FILESREPORTING PERIOD 1988

<u>AREA OF LAW</u>	<u>NUMBER</u>	<u>% OF TOTAL</u>
A. Family	40	22
B. Juvenile	--	--
C. Criminal	34	19
D. Traffic	--	--
E. Probate/Wills	17	9
F. Guardianship	--	--
G. Commercial	5	3
H. Collections	9	5
I. Landlord/Tenant	--	--
J. Real Property	30	17
K. Foreclosure	--	--
L. Corporate/Bank	--	--
M. Torts	13	7
N. Administration	1	.5
O. Taxation	--	--
P. Patent/Trademark/Copyright	1	.5
Q. Immigration	--	--
R. Anti-trust	--	--
S. Environment	--	--
T. Contracts/Consumer	--	--
U. Labor	--	--
V. Workers Comp.	2	1
W. Bankruptcy	--	--
X. Municipal	3	2
Y. Other/None	<u>26</u>	<u>14</u>
TOTAL	181	100%

FEE ARBITRATION COMMISSION
PETITION SUMMARY
January 1, 1988 through December 31, 1988

Petitions:

Pending at start of period:		28
Docketed during period:		<u>57</u>
Sub-total:		85
Dismissed, settled, withdrawn:	14	
Heard and closed:	47	
Heard and awaiting awards	3	
Total Petitions pending hearing at close of period:		21

Panel meetings:

Panel IA: (York)	3
Panel IB: (Cumberland)	8
Panel II: (Androscoggin, Franklin, Lincoln, Oxford, Sagadahoc)	8
Panel III: (Kennebec, Knox, Somerset, Waldo)	4
Panel IV: (Aroostook, Hancock, Penobscot, Piscatquis, Washington)	<u>6</u>
Total:	29

Petitions docketed:

1986:	57
1987:	65
1988:	57

