

**STATE OF MICHIGAN**  
**ATTORNEY GRIEVANCE COMMISSION**

**Annual Report**

**January 1, 2016 to December 31, 2016**

**Attorney Grievance Commission  
535 Griswold St., Suite 1700  
Detroit, MI 48226-3259**

# **Attorney Grievance Commission Staff**

(January 2017)

Alan M. Gershel, Grievance Administrator

Robert E. Edick, Deputy Administrator  
Cynthia C. Bullington, Assistant Deputy Administrator

Gina M. Kakish, Office Manager

## Associate Counsel:

Ruthann Stevens	Dina P. Dajani
Stephen P. Vella	John K. Burgess
Rhonda Spencer Pozehl	Charise L. Anderson
Emily A. Downey	Sarah C. Lindsey
Kimberly L. Uhuru	Jordan P. Paterra
	Nathan P. Pitluk
	Michael M. Mazur

Investigators: Rhonda Warner  
Jason Miciuda

Investigative Specialist: Yulanda Burgess

Paralegals: Erin Farler  
Kimberly Billings

Investigative Analyst: Natasha Kakish

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Intake Assistants: Monica Garza  
Jane Brown

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Receptionist: Margarita Kipreos

Mail Clerk: Consuelo Gonzalez

File Clerk: Zachary Gilreath

**Attorney Grievance Commission Staff**



# State of Michigan

## Attorney Grievance Commission

### Annual Report

January 1, 2016 – December 31, 2016

#### Overview

The Attorney Grievance Commission was established by the Michigan Supreme Court on October 1, 1978, succeeding the former State Bar Grievance Board. The Commission acts as the prosecutorial arm of the Supreme Court for the discharge of its constitutional responsibility to supervise and discipline Michigan attorneys. The Commission exercises state-wide jurisdiction and is located in the city of Detroit.

#### Commission Composition

The Commission consists of nine members, who serve without compensation. The six lawyers and three non-lawyers are each appointed by the Michigan Supreme Court for a term of three-years. A member may not serve more than two terms.

The Commission's Chairperson and Vice-Chairperson are appointed to one-year terms by the Michigan Supreme Court. The Commission's Secretary is elected by its members.

- **Charles S. Kennedy, III, Chairperson** - term ending 10/1/17
- **Victor A. Fitz, Vice-chairperson** - term ending 10/1/17
- **Jeffrey T. Neilson, Secretary** – term ending 10/1/17
- **Pastor R. B. Ouellette, Lay person** – term ending 10/1/17
- **Valerie R. White, Attorney member** – term ending 10/1/18
- **Cathy Joan Pietrofesa, Lay person** – term ending 10/1/18
- **Megan K. Cavanagh, Attorney member** – term ending 10/1/19
- **Jeffrey Sakwa, Lay person** – term ending 10/1/19
- **LaToya Willis, Attorney Member** – term ending 10/1/18

## The Grievance Administrator's Staff

The Grievance Administrator and Deputy Administrator are appointed by the Supreme Court pursuant to MCR 9.109. The Grievance Administrator is empowered under MCR 9.111 to hire legal and support staff, with the approval of the Commission. During the year 2016, the Grievance Administrator supervised a staff of thirteen attorneys, two investigators, and seventeen administrative and clerical staff. Additionally, the Commission accepts law students for a legal intern program in connection with their respective law schools.

## Commission Procedures

The grievance and discipline process is governed by Subchapter 9.100 of the Michigan Court Rules. The disciplinary process is normally initiated when a Request for Investigation is filed with the Grievance Administrator against an attorney, or when the Grievance Administrator commences an investigation in his/her own name.

Upon the filing of a Request for Investigation, the Grievance Administrator must determine whether there exists a *prima facie* allegation of professional misconduct. The Request for Investigation may be rejected by the Grievance Administrator after preliminary investigation and/or analysis by the Intake Unit, or it may be assigned to a staff counsel for a full investigation. Common investigative procedures include legal research and analysis, witness interviews, and/or the procurement of court records or banking records. When such an investigation is concluded, the Grievance Administrator must submit the investigative file to the Commission for its review and disposition.

In each investigative file referred to the Commission, the Grievance Administrator may recommend to the Commission that: (1) the matter be closed as there is insufficient evidence of professional misconduct; (2) the Respondent attorney be placed on contractual probation, a diversion program where minor misconduct is significantly related to alcohol or other substance abuse, or other impairment, pursuant to MCR 9.114(C)(3) the Respondent attorney be admonished under MCR 9.114(B), a confidential disposition requiring the attorney's consent or (4) authority be granted to file a formal complaint against the Respondent attorney for allegations of professional misconduct pursuant to MCR 9.114(A)(2). The Grievance Administrator must inform the complainant and the Respondent, if the Respondent answered the Request for Investigation, of the final disposition of every Request for Investigation MCR 9.114(F).

## Investigations

During 2016, the Commission docketed **2270** Requests for Investigation [grievances]. This number includes **190** Requests for Investigation generated under the Trust Account Overdraft Notification (TAON) rule, which requires notification to the Grievance Administrator by a financial institution when an attorney has overdrawn his or her client trust account. The Commission received nearly 18,000 phone calls in the year 2016.

Appendix A (page 18 of this report) includes a 10-year comparison of the Requests for Investigation filed since 2007.

As shown in Table 1 (below), the areas of practice most likely to lead to a grievance are criminal law, domestic relations, probate, and personal injury law.

**Table 1 – Nature of underlying legal matter in grievances filed, 2016 and 2015**

<b>Subject Matter</b>	<b>% of Total Grievances 2016</b>	<b>% of Total Grievances 2015</b>
Criminal law	33.00	37.8
Domestic relations	14.00	13.83
Probate law	10.00	9.02
Commercial litigation	5.00	3.8
Bankruptcy law	3.00	4.21
Real estate transactions	2.00	1.64
Insurance law	1.00	1.0
Immigration law	2.00	1.63
Employment/labor law	2.00	2.0
Personal Injury	11.00	9.63
All Others	15.00	15.44

Table 2 (below) compares the final disposition of the grievances resolved by the Grievance Administrator or the Commission in 2016 compared to 2015. In 2016, the Commission received **2080** grievances. The **2265** dispositions in 2016 included **1741** grievances dismissed by the Grievance Administrator pursuant to MCR 9.112(C)(1)(a) and MCR 9.114(A)(1); **248** grievances closed by the Commission; **91** admonitions issued by the Commission; **18** contractual probations approved by the Commission; **160** individual grievances approved by the Commission for the filing of a formal complaint; **7** judgment of convictions were authorized for formal action.

**Table 2 – Disposition of Grievances, 2016 and 2015.**

	<b>2016</b>	<b>2015</b>
Total Grievances Received	2080	2014
Total Grievances Disposed	2265	2240
Rejected by the GA or Closed in Intake	1741	1657
Total Disposed of by the Commission after full investigation	524	583
Closed by the Commission	248	278
Admonishments	91	120
Contractual Probation	18	27
Approved for Formal Complaints	160	136
Approved for Judgment of Conviction	7	22

There were **586** open investigative files pending with the Commission on January 1, 2016. On December 31, 2016, the open investigative caseload was **586**. The dispositions of grievances for a particular year are not necessarily dispositions of all grievances filed for that year. The dispositions for 2016 included grievances filed before January 1, 2016, and some of the grievances filed during the year were pending on January 1, 2016.

## **AGC CASE SUMMARIES**

### **Deputy Grievance Administrator: Robert E. Edick**

*Grievance Administrator v Steven G. Cohen, ADB Case No. 15-28-GA*

Respondent represents an interested party in probate proceedings involving the estate of civil rights icon Rosa Parks. Respondent filed a pleading in the probate case that he labeled a “conspiracy petition” and that named as a defendant the probate judge handling the Rosa Parks estate. The conspiracy petition alleged that the probate judge had conspired with the two co-fiduciaries to loot the estate. Respondent also filed a motion to disqualify the probate judge which was based, in part, on the existence of the conspiracy petition.

Respondent’s motion to disqualify was denied and his conspiracy petition was dismissed. On appeal, the Court of Appeals affirmed the probate court and found that Respondent’s purpose in filing the conspiracy petition was to provoke the disqualification of the probate judge.

The hearing panel determined that Respondent’s effort to provoke the probate judge’s disqualification was conduct prejudicial to the administration of justice. The hearing panel also determined that Respondent’s conspiracy petition constituted undignified and discourteous conduct towards a tribunal. The hearing panel entered an order of 180 day suspension effective May 26, 2017.

### **Assistant Deputy Grievance Administrator: Cynthia C. Bullington**

*Petition for Reinstatement of Robert Slameka, ADB Case No. 16-1-RP*

Robert Slameka was denied reinstatement by a hearing panel following admissions by Slameka that he did not have a traditional law office before his suspension but would regularly meet clients in the lobby of a Detroit casino. One panelist commented said that Slameka sounded like the lawyer in a TV show called, “Better Call Saul”. Robert Slameka also had his driver’s license suspended because he owed more than \$600 in unpaid parking tickets. At the reinstatement hearing, Slameka blamed his “drunken” wife for the 42 outstanding infractions, saying she would become intoxicated and throw the tickets away without telling him. However, his wife was deceased at the time when some of the tickets were issued. Slameka’s mother was also dead but he signed her name posthumously to checks and deposited them into his bank account. On August 17, 2016, the panel issued its report denying reinstatement because his “casual attitude toward the truth demonstrates a lack of good faith to be reinstated.”



*Grievance Administrator v Andrew Shirvell*, ADB Case No. 15-49-GA

Andrew Shirvell was an assistant attorney general when he was fired in 2010. He had criticized Christopher Armstrong on an anti-gay blog, in Facebook posts, and during visits to the Ann Arbor campus. Respondent claimed that he was exercising his First Amendment right to free speech. Respondent's speech included calling Armstrong "dangerous," "Satan's Representative," a "radical homosexual activist," and a "major-league fanatic who is obsessed with imposing the radical homosexual agenda on the student body." Respondent also set up a Facebook "fan page," Respondent wrote: "I will not be SILENCED by the likes of Armstrong. You're going down fruity-pebbles." Respondent also wrote, "I better not see Chris Armstrong at MY [church] parish in Charlotte -that's all I got to say." Respondent further commented, "Remember the good old days when 'guys' like this would get their asses kicked at school."

The panel also found that Respondent committed misconduct with a frivolous lawsuit against Armstrong's attorney, Deborah Gordon. Count Two of the formal complaint alleged that Respondent's conduct in the *Shirvell v Gordon* lawsuit resulted in numerous violations under the Michigan Rules of Professional Conduct. In 2011, while the Armstrong litigation was pending in the U.S. District Court for the Eastern District of Michigan, Respondent initiated a separate suit, a three-count complaint against Gordon which consisted of: (i) tortious interference with a business relationship; (ii) defamation; and, (iii) false light invasion of privacy.

Currently, the parties are awaiting the panel's decision as to the sanction.

**Senior Associate Counsel: Stephen P. Vella**

*Petition for Reinstatement of Lamont M. Walton*, ADB Case No. 14-112-RP

In ADB Case No. 06-51-GA, Lamont Walton was retroactively suspended from the practice of law for 35 months for misappropriation of funds entrusted to him as a fiduciary of a non-profit organization. At the time, he had a cocaine addiction. The date of the order of suspension was June 5, 2009, effective on June 27, 2009, but the period of suspension began retroactively on July 1, 2006. While the disciplinary case was pending, but before the order of suspension was entered, in March 2007, Petitioner applied for admission to the State Bar of Illinois, without examination, based on his then good-standing with the State Bar of Michigan. After the June 5, 2009 order of suspension was issued, Petitioner asserted that he sent it to the Illinois Board of Admissions to the Bar (IBAB). He did not inform the IBAB that he remained suspended until he successfully petitioned the Michigan Attorney Discipline Board for reinstatement pursuant to MCR 9.124. There was no such reinstatement requirement in Illinois. Petitioner was conditionally admitted to practice law in Illinois on March 18, 2011. The probationary period was lifted on April 2, 2013. There was also evidence of domestic abuse committed by Petitioner in January 2014, as well as in prior years. The hearing panel denied the Petition for Reinstatement on March 29, 2016, Petitioner appealed to the Board, and the

matter is currently pending for a Board decision.

*Petition for Reinstatement of William C. Roush, ADB Case No. 15-36-RP*

In ADB Case No. 13-130-JC, on March 3, 2015, the Attorney Discipline Board increased the hearing panel's order of suspension of William Roush's license to practice law from 133 days to 180 days. His suspension was based on an August 27, 2011 incident which resulted in a July 2013 misdemeanor conviction of aggravated indecent exposure. Following the conclusion of the reinstatement hearing, the panel reopened the record for acceptance of further testimony of medical professionals on the topic of Petitioner's sexual addiction condition. Following the depositions of expert psychiatrists who testified for Petitioner and the Grievance Administrator, the panel denied Petitioner's reinstatement to the practice of law, pursuant to a two to one decision, which included a dissenting opinion. On appeal, the Board reversed the majority and adopted the dissenting opinion, finding that Petitioner met his burden to be reinstated to the practice of law pursuant to MCR 9.124.

**Senior Associate Counsel: Rhonda S. Pozehl**

*Grievance Administrator v David J. Gorosh, ADB Case No. 16-15-GA*

Respondent was retained to defend an individual against criminal charges arising out of a collision resulting in the death of a police officer who was operating a motorcycle. In a separate matter, Respondent was retained to defend an individual against criminal charges of larceny in a building and financial transaction device, stealing, retaining without consent. As to each of the cases, despite having been paid retainer fees and having notice of the proceedings Respondent failed to appear for scheduled hearings in the matter, including show cause hearings regarding his repeated failures to appear. Respondent also failed to communicate with his clients, the prosecutors and the courts. Respondent failed to answer a request for investigation filed by one of the clients and failed to answer each request for investigation filed by the presiding judges in the matters. Respondent was disbarred and ordered to pay restitution in the total amount of \$15,000.

*Grievance Administrator v Thomas O. Mix, Jr., ADB Case No. 16-75-JC*

Respondent and the Grievance Administrator filed a stipulation containing Respondent's admission that he was convicted of larceny in a building, a felony, and contempt of court for failure to appear at his probation violation hearing. In accordance with the stipulation of the parties, the hearing panel ordered that Respondent be disbarred.

**Senior Associate Counsel: Frances Rosinski**

*Grievance Administrator v Ali S. Zaidi*, ADB Case No. 14-117-GA

Respondent was disbarred for lying on his resume, and in his online advertisements about his law firm, where he was admitted, where he had worked in the past, and he even falsely claimed to have participated on a U.S. Olympic team. In disbaring Respondent, the Board stated in its opinion of January 11, 2017 that, "Respondent did not misspeak, commit scrivener's errors, or even simply "fudge the truth" once or twice. Rather, his misrepresentations ran the gamut from outlandish and extravagant to what might be termed modifications of his record inspired by some actual events." The Board concluded that, "Collectively, Mr. Zaidi's actions are indicative of a cumulative pattern of a lack of honesty and candor, which is contrary to the fundamental characteristics of an attorney. Although respondent does not have any prior discipline, there is no question he has an established track record of deceit. Given the number and pattern of violations, respondent's dishonesty, and his overall lack of candor and cooperation, the panel properly found that disbarment is appropriate in this case."

*Grievance Administrator v Charles T. Busse*, ADB Case No. 16-99-GA

On November 3, 2016, Respondent was convicted, by guilty plea, of conspiracy to defraud the United States, bribery of a public official, tax evasion, and failure to report currency transactions of more than \$10,000 in the United States District Court for the Eastern District of Michigan. He was automatically suspended upon those convictions. A formal complaint was also filed against Respondent arising out of his representation of several immigration clients, two clients in a Liquor Control Commission appeal, and one client in a criminal matter. Respondent agreed to a consent discipline consisting of a disbarment for multiple ethical violations including failing to render competent representation, neglect, failing to seek his clients' lawful objectives, lack of diligence, failing to adequately communicate with clients, charging or collecting excessive fees, failing to refund unearned fees, entering into impermissible business or pecuniary relationships with his clients, knowingly making a false statement of law to a tribunal, engaging in disrespectful conduct toward persons involved in the legal process, sharing legal fees with a nonlawyer, engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and engaging in conduct that is prejudicial to the administration of justice.

**Senior Associate Counsel: Emily A. Downey**

*Grievance Administrator v Geoffrey L. Craig*, ADB Case No. 14-123-GA

A Formal Complaint was filed against Respondent charging him with neglect, lack of diligence, knowingly disobeying an obligation under the rules of a tribunal, failing to notify a client or third person when funds in which the client or third person has an interest are received, failing to promptly pay or deliver funds that a client or third person is entitled to receive, and engaging in dishonest conduct. Respondent had been conservator for his

father. He failed to file accountings and inventories. The court suspended his fiduciary powers. He failed to turn over conservatorship funds in the amount of approximately \$62,500. The court entered a surcharge against Respondent and the surety company. The surety company paid the surcharge. Respondent did not pay any of the surcharge nor did he indemnify the surety company for any of the surcharge paid.

Respondent did not file an answer to the Formal Complaint. A default was entered against Respondent, but he did appear at the hearing. The hearing panel ordered that Respondent be suspended for 180 days and pay restitution in the amount of \$62,500. The Grievance Administrator appealed the discipline, arguing that the Hearing Panel imposed insufficient discipline and that disbarment is warranted for Respondent's conversion of funds. Oral argument was held in April of 2016. The Board has not yet issued a decision.

*Grievance Administrator v Stuart Lee Sherman, ADB Case No. 15-89-GA*

A Formal Complaint was filed against Respondent charging him with knowingly disobeying an obligation under the rules of a tribunal, failing to promptly pay or deliver funds that a client or third person is entitled to receive, and engaging in dishonest conduct. Respondent represented the trustee of three trusts. After the court made a verbal ruling that no additional attorney fees were to be paid, but before the court issued a written decision, Respondent instructed his assistant to back date deposit slips and deposit approximately \$394,000 in funds from the trustee that had just been received at his office. He did not disclose this information to the court. Respondent later took approximately \$112,000 from his firm's account as funds to which he believed he was entitled as compensation. The Hearing Panel found that Respondent deceived the judge and violated the court's order. The Panel did not find that Respondent violated any rules when he took the \$112,000 from the firm. The matter is currently scheduled for a sanctions hearing.

*Grievance Administrator v Bradley F. Hubbel, ADB Case No. 16-81-RD*

This matter involved a reciprocal discipline. The Ohio Supreme Court found that Respondent attempted to solicit sexual activity with a client. The court issued a six month stayed suspension, conditioned on him committing no further misconduct during that time period. Respondent and the Grievance Administrator filed a stipulation for consent order of discipline for a reprimand. The stipulation contained the parties' agreement that MCR 9.106 outlines the types of discipline in Michigan and that a stayed suspension is not included in the types of discipline. The parties stipulated that a reprimand constituted comparable discipline in this matter. The Board accepted the stipulation and ordered that Respondent be reprimanded.

**Senior Associate Counsel: Kimberly L. Uhuru**

*Grievance Administrator v Neil McQuarrie*, ADB Case No. 15-94-GA

Respondent was disbarred effective December 7, 2016 for misappropriation of \$39,076.16 from a probate estate. Respondent was appointed by the court to safeguard the funds of an 8-year-old minor whose father died in a car accident. Respondent used the funds to pay personal expenses including tax liens and civil judgments. Respondent also filed false accountings with the court and filed a false receipt indicating that the minor (now an adult) had appeared at Respondent's office and received full payment in cash. In addition to disbarment, the panel ordered that Respondent pay full restitution of the misappropriated funds and be required to reimburse the victim for costs and attorney fees associated with filing a surcharge proceeding in probate court.

*Grievance Administrator v Cynthia Lardner*, ADB Case No. 15-132-GA

Respondent was suspended 180 days effective April 27, 2016 for criminal conduct. Respondent was convicted of disorderly conduct after engaging in a physical altercation with Macomb County sheriff deputies. The deputies were trying to remove Respondent from a court room after a hearing and she refused to leave. Respondent later failed to appear for several court hearings in the matter and a bench warrant was issued for arrest. Respondent remains suspended. She is required to undergo a psychological examination prior to being reinstated.

*Grievance Administrator v John MacDonald*, ADB Case No. 15-110-GA

Respondent was disbarred effective April 11, 2016 for misappropriation of a client's \$15,000 settlement check. Respondent also failed to file a divorce proceeding and failed to refund the client's \$1980 retainer. Respondent fully repaid both clients as a condition of the discipline.

**Senior Associate Counsel: Dina P. Dajani**

*Grievance Administrator v John C. Schultes*, ADB Case No. 16-43-GA

Tri-County Hearing Panel #28 issued an Order of Disbarment and Restitution with Condition, effective November 2, 2016. In his capacity as the successor trustee of his clients' (a married couple) trust, Respondent embezzled more than \$200,000 and used the money for his personal benefit. One of the beneficiaries of the trust had inquired about the tax return, to which Respondent was not responsive. Following the initiation of a probate court matter in the Macomb County Probate Court, the probate judge removed Respondent as the trustee and ordered an accounting. A review by the beneficiary of the relevant bank records revealed the conversion of the trust funds by Respondent. The hearing panel ordered Respondent to make restitution consistent with the amount ordered by the probate judge.

**Senior Associate Counsel: John K. Burgess**

*Grievance Administrator v Meier, ADB Case No. 16-43-GA*

In a three-count Formal Complaint, Respondent was found to have committed misconduct based on a pattern of neglect, incompetence, lack of diligence, and making false and misleading statements to his clients. Respondent was suspended for a period of two years, a very significant discipline. This matter was significant as Respondent had previously successfully used non-refundable fee agreements to shield himself from discipline in prior cases involving similar fact patterns. In this matter, the Panel became convinced that Respondent was essentially engaging in “fraudulent” practices by accepting non-refundable fees without the actual intent to perform competent legal services. The case is still under appeal at this time.

*Grievance Administrator v Ruza, ADB Case No. 16-11-JC*

Respondent had been convicted of multiple counts of false pretenses for accepting advanced fees to assist with mortgage foreclosure and refinance matters, on cases in which the clients likely did not need an attorney to accomplish their objectives or could not accomplish their objectives even with counsel. This office worked closely with the office of the Attorney General to secure the revocation of Respondent’s law license and obtain a comprehensive order of restitution for the victims of Respondent’s conduct.

*Grievance Administrator v Marvin Barnett, ADB Case Nos. 16-97-GA, 16-118-GA, Wayne Circuit Court Case No. 16-013819-P2*

Respondent was suspended for three years effective in October, 2015. After the date of his suspension, evidence came to light that Respondent was still engaging in the practice of law, or was, at a minimum, holding himself out as an attorney contrary to the terms of his suspension. A decision was made to file a Formal Complaint against Respondent, and to file a contempt action in Circuit Court to protect the public and possibly obtain an injunction.

In the contempt action, this office sought and obtained an Order prohibiting Respondent from holding himself out as an attorney and having contact with clients or potential clients during the period of his suspension. This Order is significant, because if Respondent violates the Order with any new or existing clients, he is violating a Circuit Court Order, not just a disciplinary Order, and would likely subject himself to monetary sanctions and possible imprisonment.

**Associate Counsel: Charise L. Anderson**

*Grievance Administrator v Matthew R. Miller, ADB Case Nos. 16-51-GA, 16-52-JC*

On December 15, 2016, an Order of Suspension and Restitution was issued in this matter, suspending Respondent from the practice of law for two years. On July 28, 2016, a hearing was held at which six complainants testified at the request of the panel. The panel issued its December 2016 Report and concluded, among other things, that Respondent collected retainers from each complainant, and then performed little to no work, failed to communicate with them, misrepresented the status of the clients' matters, causing all to suffer serious injury including but not limited to, court sanctions and the loss of child custody. The panel also concluded that Respondent failed to return the unearned fees as requested by the clients and knowingly made a false statement of material fact in connection with a disciplinary matter by representing that an unearned fee had been returned when in fact, it had not. Respondent was ordered to pay restitution to six complainants in the total amount of \$15,600.00.

**Associate Counsel: Sarah C. Lindsey**

*Grievance Administrator v Wilfred Eric Steiner*, ADB Case Nos. 16-78-GA, 16-79-JC

On December 16, 2016, an Order of Disbarment and Restitution was issued in this matter. After a hearing was held on September 19, 2016, the panel determined that in order to protect the public, an interim order immediately suspending Respondent's license was necessary. In its December 2016 Report, the hearing panel concluded, among other things, that Respondent forged a court document in order to gain an advantage for a client in a custody dispute, misused client funds and failed to place unearned fees in a trust account, knowingly deceived clients with the intent to benefit himself, and caused serious injury to clients, not only because they lost money, but in some cases, they had judgments entered against them or bankruptcy cases dismissed. Respondent was ordered to pay restitution to seven complainants in the total amount of \$21,848.50.

### **Prosecutions and Other Litigation**

#### **A. Proceedings before Hearing Panels of the Attorney Discipline Board.**

When the Commission authorizes that a prosecution be commenced, a formal complaint is filed with the Attorney Discipline Board (ADB) setting forth the alleged misconduct, pursuant to MCR 9.115. The matter is scheduled before a hearing panel of three volunteer lawyers appointed by the ADB. Upon the conclusion of the hearing, the panel must issue an order dismissing the complaint or imposing public discipline, which may include probation, reprimand, license suspension or disbarment. The Grievance Administrator filed **85** formal complaints in 2016, compared to 85 filed in 2015. Appendix A (page 18) includes a 10-year comparison of the formal complaints filed with the Attorney Discipline Board.

The Grievance Administrator is also empowered by MCR 9.120 to initiate Judgment of Conviction (JOC) proceedings against attorneys who are convicted of a crime. These

proceedings are show cause proceedings in which the level of discipline is the principal issue. Attorneys who are convicted of a felony are automatically suspended from the practice of law until a hearing panel of the ADB has issued a final order of discipline. Attorneys who are convicted of misdemeanors are not automatically suspended. The Grievance Administrator will regularly file a JOC proceeding for a felony conviction, while exercising discretion to initiate a JOC proceeding for a misdemeanor conviction. The Administrator filed **31** new matters in 2016 based on an attorney's criminal convictions, compared to **31** convictions filed in 2015.

Attorneys who are disciplined in other jurisdictions (state or federal) will be subject to a reciprocal discipline proceeding initiated by the Grievance Administrator pursuant to MCR 9.120(C). These proceedings, like JOC proceedings, resemble a show cause proceeding in which the principal issues are whether the attorney received due process in the underlying litigation and whether a reciprocal discipline should be imposed. Reciprocal proceedings were instituted in **6** cases in 2016, compared to **0** in 2015.

The Grievance Administrator is also a participant in ADB reinstatement proceedings initiated by attorneys who have been suspended for more than 180 days in accordance with MCR 9.124(C). The burden of proof is on the attorney to establish his or her fitness by clear and convincing evidence. In those cases, the Grievance Administrator must conduct an investigation and file a written report with the hearing panel. The Grievance Administrator may contest the petitioner's eligibility for reinstatement. Three (**3**) state reinstatement petitions were filed in 2016, compared to **15** in 2015.

The Grievance Administrator may seek an order from the ADB declaring that an attorney is incapacitated to continue the practice of law because of mental or physical infirmity or disability, or because of addiction to drugs or intoxicants, either by filing proof that the attorney has been judicially declared incompetent or by alleging incapacity in a complaint to be adjudicated by a hearing panel. The Grievance Administrator instituted **1** such proceedings in 2016, compared to **6** in 2015. In addition, there were **8** miscellaneous filings with the ADB.

## **B. Appeals and Other Proceedings.**

### **Review by the Attorney Discipline Board:**

The Grievance Administrator, as well as the Respondent attorney and the complainant, may file a petition with the Attorney Discipline Board seeking review of the hearing panel's decision. During the year 2016, the ADB ruled on **24** petitions for review following briefing and oral arguments presented by the Grievance Administrator and the Respondent. The Grievance Administrator, the Respondent, and the complainant may appeal a decision by the Attorney Discipline Board to the Supreme Court which may, in its discretion grant leave to appeal.



### **Appeals to the Supreme Court:**

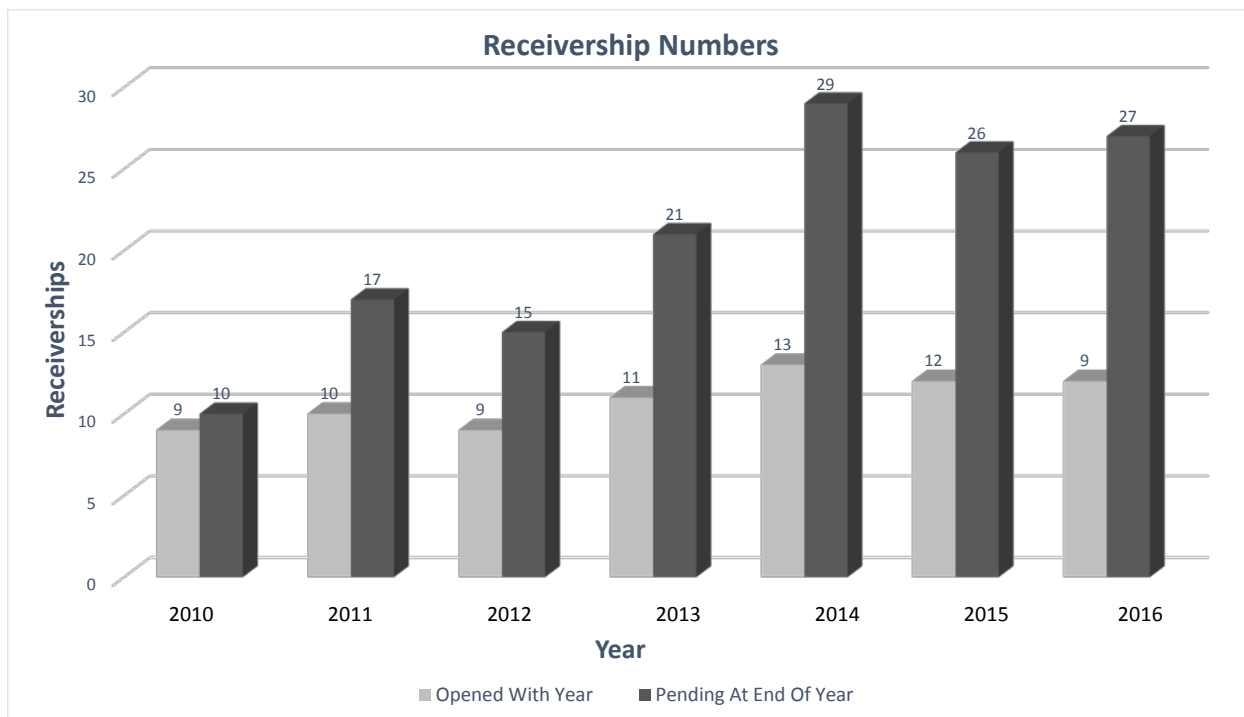
The Grievance Administrator is a party in complaints for superintending controls filed with the Michigan Supreme Court by complainants who disagree with the decisions of the Grievance Administrator or the Commission to reject or close an investigative file. The Grievance Administrator filed an appearance in **8** matters filed with the Supreme Court in 2016. In addition to the complaints for superintending control filed, there were **5** applications for leave to appeal with the Supreme Court and **2** miscellaneous matters.

### **Reconsideration:**

Apart from the formal review or appeal processes, the Grievance Administrator has a long-standing policy of accepting requests for reconsideration of files dismissed through the Intake Unit. This process acts as a quality control measure while providing further accountability to complainants. Upon the receipt of a request for reconsideration, a senior attorney will review the file and determine whether an issue or a relevant fact was overlooked by the Intake Unit, or whether new information has been provided that could change the analysis or outcome of the matter. If such information is provided, the file may be reopened for further investigation.

### **Receiverships:**

Under MCR 9.119(G), if an attorney leaves the practice of law (whether or not for disciplinary reasons), disappears, or is deceased and there is no person capable of conducting the attorney's affairs, the Grievance Administrator may file a petition for receivership with the circuit court in the county where the attorney maintained his or her office. In those cases, the Grievance Administrator acts as receiver, or co-receiver with the assistance of a local attorney, and must undertake a work-intensive process that includes cataloging and prioritizing the abandoned files, contacting clients, courts and opposing parties if there is a pending matter, and taking other action in order to protect the interests of clients. The Grievance Administrator opened **9** new receivership files in 2016, compared to **12** new receivership files in 2015. **11** receiverships were closed during the year 2016 compared to **15** in 2015. **27** open receivership files were pending at the end of 2016 compared to **26** 2015.



### **Federal Court Proceedings:**

The Grievance Administrator may be requested to participate in discipline or reinstatement proceedings in a federal district court. For example, the District Court of the Eastern District of Michigan regularly appoints the Grievance Administrator as an interested party in reinstatement proceedings involving lawyers who have been suspended from practice under the local rules of that court. In 2016, the Administrator appeared in **11** discipline or reinstatement proceedings conducted in the U.S. District Court for the Eastern District.

### **Pro Hac Vice Administration:**

Under the provisions of MCR 8.126, the AGC was tasked with processing requests for temporary admission in Michigan by out-of-state attorneys on a pro hac vice basis. In 2016, each pro hac vice applicant was required to file the proper documentation along with a fee of \$105 (a fee equal to the discipline and client protection portions of the annual dues paid by a Michigan attorney). For each applicant, the AGC must, within 7 days, determine whether the applicant has been granted limited admission in the last 365 days and provide that information to the appropriate court, administrative agency, or tribunal. In 2016, the AGC processed **274** pro hac vice motions with total costs charged to the applicants in the amount of **\$28,650**. The AGC's involvement in processing pro hac vice Motions ended on May 1, 2016. The State Bar of Michigan now processes pro hac vice motions.

## **Funding**

The Attorney Grievance Commission receives no public funds. The Commission and the Attorney Discipline Board are funded primarily from the discipline portion of the mandatory dues paid by all active members of the State Bar of Michigan. In 2016, annual dues for active members were **\$285**, of which **\$90** was specifically allocated to the two discipline agencies. For the fiscal year, which ended September 30, 2016, the combined operating expenses of the Attorney Grievance Commission and the Attorney Discipline Board were **\$5,119,688** The Attorney Grievance Commission's operating expenses for the fiscal year 2016 were **\$4,029,813**.

**Contact Information**

For further information regarding the Attorney Grievance Commission, please contact:


Attorney Grievance Commission  
535 Griswold St., Suite 1700  
Detroit, MI 48226-3259  
Telephone: (313) 961-6585

[www.agcmi.org](http://www.agcmi.org)



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Alan M. Gershel  
Grievance Administrator

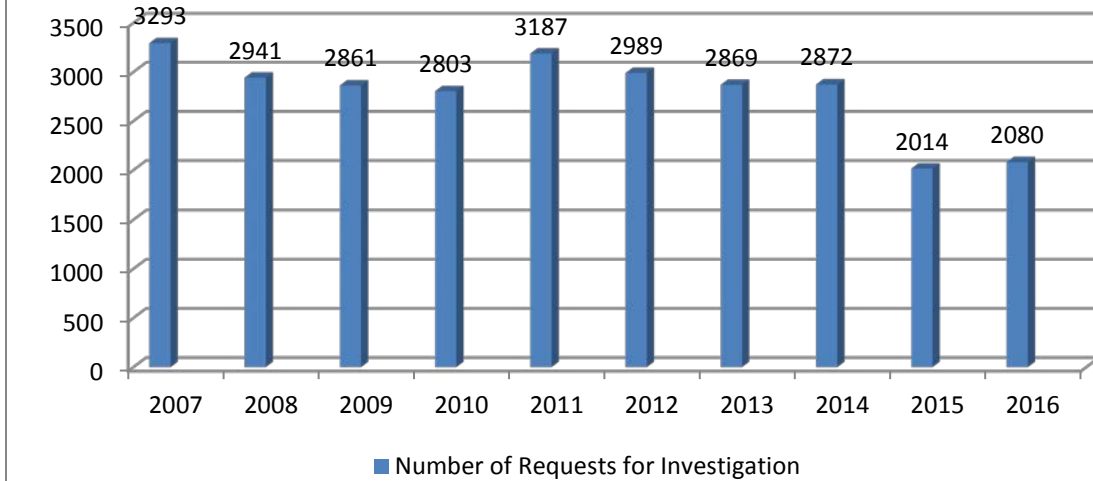


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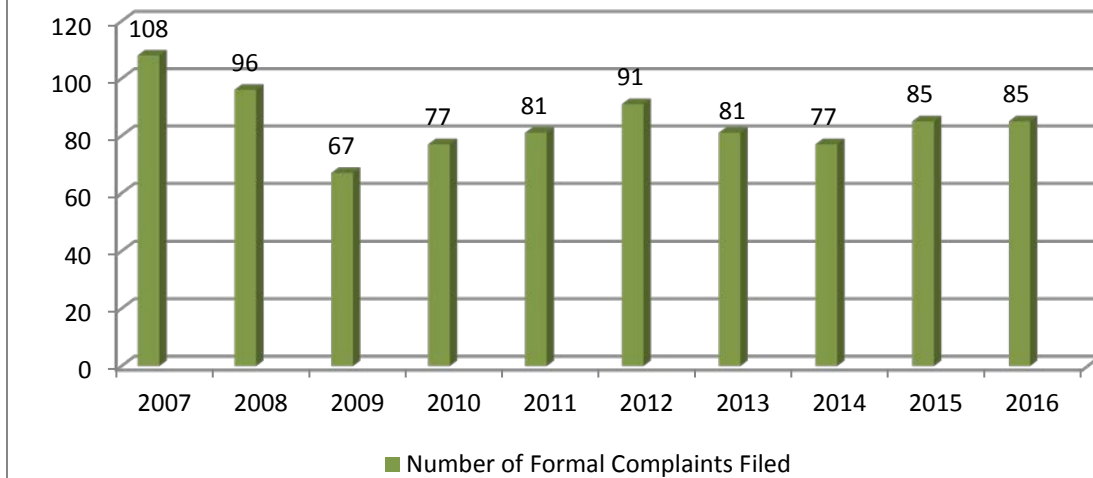
Charles S. Kennedy III  
Chairperson, AGC

## Appendix A

### 2007-2016 AGC 10-Year Comparison Chart Requests for Investigation



### 2007-2016 AGC 10-Year Comparison Chart Formal Complaints Filed



## Appendix B

### Attorney Grievance Commission Comparative Statement of Expense 2016 and 2015

Salaries	\$ 2,234,132.00	\$ 2,192,266.00
<b>One Time Distribution (.5%)</b>	\$ 454.00	\$ 10,961.00
Payroll Taxes	\$ 170,712.00	\$ 168,547.00
Employee's Insurance	\$ 440,000.00	\$ 440,000.00
Retiree Health Care	\$ 211,915.00	\$ 211,915.00
Pension Contributions	\$ 306,150.00	\$ 326,150.00
Rent	\$ 154,656.00	\$ 160,800.00
Electricity	\$ 15,510.00	\$ 15,510.00
Parking	\$ 5,000.00	\$ 5,000.00
<b>State Bar Bookkeeping Fee</b>	\$ 31,540.00	\$ 32,486.00
Payroll Processing Fee	\$ 10,700.00	\$ 11,021.00
<b>Witness and Subpoena Fees</b>	\$ 46,690.00	\$ 46,690.00
Receivership Expenses	\$ 10,000.00	\$ 10,000.00
Machine Rental	\$ 40,920.00	\$ 45,920.00
Meetings	\$ 4,700.00	\$ 5,200.00
Travel	\$ 22,000.00	\$ 22,000.00
Telephone	\$ 14,000.00	\$ 14,000.00
<b>Books, Dues and Subscription</b>	\$ 15,500.00	\$ 16,000.00
Office Supplies	\$ 30,000.00	\$ 30,000.00
Printing and <b>Stationery</b>	\$ 4,000.00	\$ 4,000.00
Postage	\$ 38,000.00	\$ 30,000.00
<b>Directors and Officers Insurance</b>	\$ 42,368.00	\$ 44,063.00
<b>Liability Insurance</b>	\$ 5,252.00	\$ 5,462.00
Technology Expenses	\$ 30,000.00	\$ 30,000.00
<b>Repairs and Maintenance</b>	\$ 14,000.00	\$ 15,000.00
Dues	\$ 5,900.00	\$ 5,900.00
<b>Continuing education</b>	\$ 4,000.00	\$ 8,000.00
<b>Capital (office) Expenditures</b>	\$ 25,000.00	\$ 25,000.00
Miscellaneous	\$ 3,000.00	\$ 3,000.00
<b>Total</b>	<b>\$ 3,936,099.00</b>	<b>\$ 3,934,891.00</b>
Depreciation	\$ 44,371.00	\$ 50,000.00
<b>Total</b>	<b>\$ 3,980,016.00</b>	<b>\$ 3,984,891.00</b>