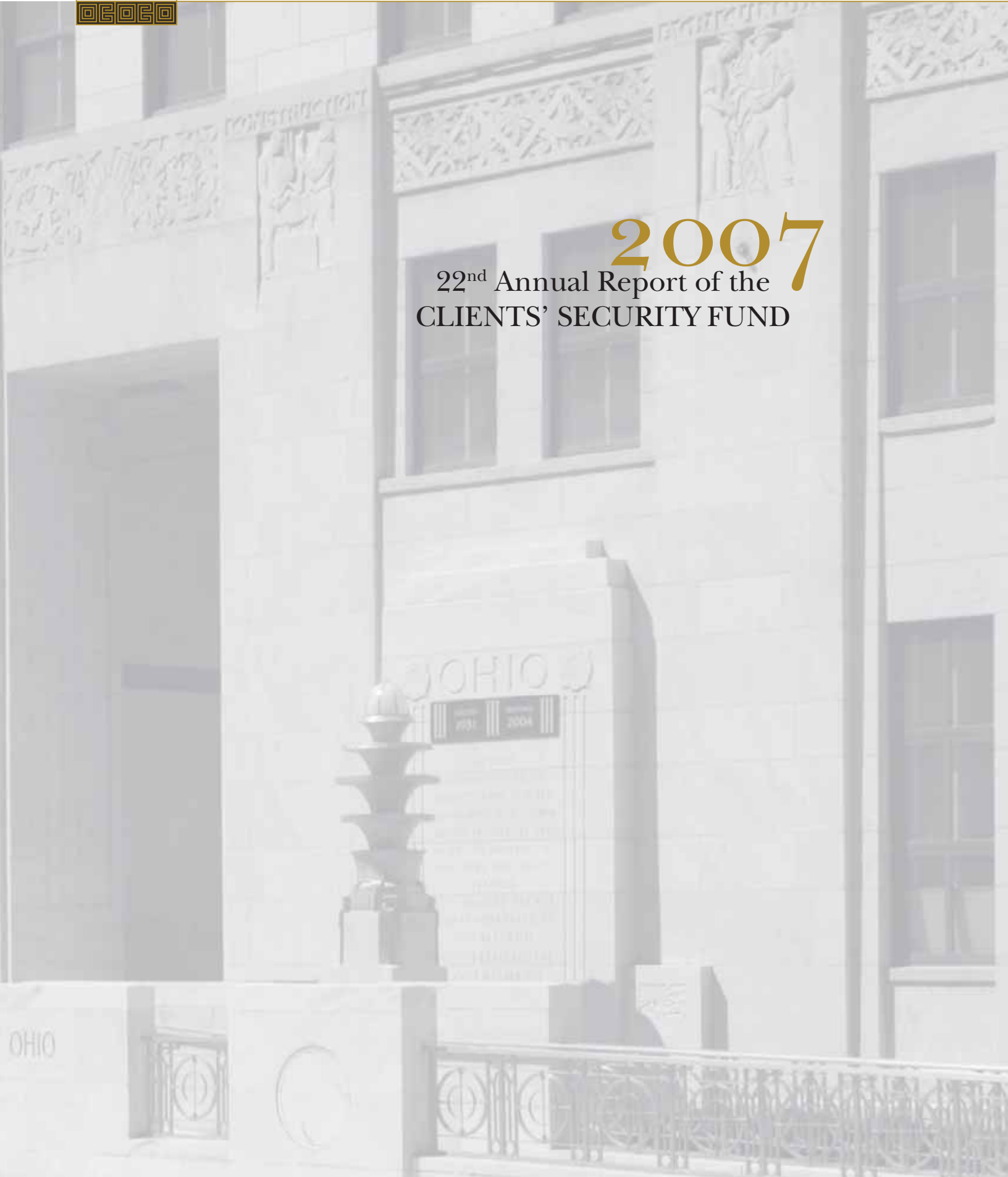




THE SUPREME COURT *of* OHIO



**2007**  
22<sup>nd</sup> Annual Report of the  
**CLIENTS' SECURITY FUND**

OHIO



22<sup>nd</sup> Annual Report of  
THE SUPREME COURT *of* OHIO  
CLIENTS' SECURITY FUND  
FISCAL YEAR 2007

PRESENTED *to*  
CHIEF JUSTICE THOMAS J. MOYER  
JUSTICE PAUL E. PFEIFER  
JUSTICE EVELYN LUNDBERG STRATTON  
JUSTICE MAUREEN O'CONNOR  
JUSTICE TERRENCE O'DONNELL  
JUSTICE JUDITH ANN LANZINGER  
JUSTICE ROBERT R. CUPP

PRESENTED *by*  
THE BOARD OF COMMISSIONERS OF THE CLIENTS' SECURITY FUND

William S. Newcomb Jr.

CHAIR

JANET GREEN MARBLEY  
ADMINISTRATOR AND SECRETARY

THE SUPREME COURT of OHIO 2007



SEATED (*l to r*)

JUSTICE PAUL E. PFEIFER  
CHIEF JUSTICE THOMAS J. MOYER  
JUSTICE EVELYN LUNDBERG STRATTON

STANDING (*l to r*)

JUSTICE JUDITH LANZINGER  
JUSTICE MAUREEN O'CONNOR  
JUSTICE TERRENCE O'DONNELL  
JUSTICE ROBERT R. CUPP

*Clients' Security Fund*  
ANNUAL REPORT  
FISCAL YEAR 2007  
(July 1, 2006 – June 30, 2007)

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To obtain a CSF Application for Reimbursement,  
call 614.387.9390 or 800.231.1680 (toll-free in Ohio).

Visit CSF on its Web site  
at [www.supremecourtofohio.gov/client\\_security/](http://www.supremecourtofohio.gov/client_security/).

# INTRODUCTION *Clients' Security Fund*

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This report is the 22<sup>nd</sup> Annual Report of the Clients' Security Fund of Ohio (CSF). Included in this report is a summary of the overall operations of the CSF along with a detailed analysis of claims activity for the fiscal year beginning July 1, 2006, and ending June 30, 2007.

The CSF was created in 1985 by Rule VIII of the Supreme Court Rules for the Government of the Bar (*see* Appendix A). The Clients' Security Fund of Ohio continues to achieve its goal of providing assistance to clients who have been financially harmed by the dishonest conduct of a licensed Ohio attorney. Claim activity during fiscal year 2007 included the following:

- 281 requests for CSF applications for reimbursement. A total of 256 new applications were received and 121 applications were dismissed.
- Board meetings on Sept. 15, 2006; Dec. 1, 2006; March 2, 2007; and June 8, 2007, during which 151 claims were considered. The board determined 118 claims were eligible for reimbursement, 31 claims were ineligible for reimbursement and two claims were tabled. Both tabled claims were resolved before the end of the fiscal year. Three applications for attorney fees were considered and approved by the board.
- Board awards of \$890,173.23 for claims and \$875 in attorney fees.
- 32 attorneys against whom CSF claims were paid in fiscal year 2007.

Since its inception in 1985, the CSF has awarded more than \$12 million to 1,567 former law clients (*see* Appendix B). All fund losses are attributable to less than 1 percent of Ohio's more than 42,270 licensed attorneys, 35,421 of whom are engaged in the active practice of law in Ohio.

This report confirms that the overwhelming majority of Ohio lawyers observe high standards of integrity when entrusted with law-client money or property. However, the dishonest acts of a few can affect the public's image of and confidence in the legal profession as a whole. The CSF seeks to restore public confidence in the legal profession by reimbursing law clients for losses sustained as a result of the dishonest conduct of their attorneys.

## A MESSAGE *from the chairman*

**D**uring fiscal year 2007, the Board of Commissioners of the Clients' Security Fund considered 151 claims and determined that 118 of those claims were eligible for reimbursement. The amount of money represented by these claims amounts to a decrease of \$56,794 in awards paid when compared to the \$946,967.38 for claims paid in 2006. Total reimbursements in fiscal 2007 were \$890,173.23. This represents a more than 6 percent decrease from last year's payments.

Unearned fees accounted for 81 percent of all claims, yet were only \$170,022 of the actual dollar volume. Settlement thefts, theft by deception and thefts by fiduciaries represented 19 percent of all eligible claims, and accounted for \$720,151.23 of the total paid for fiscal 2007.

The awards paid are the result of dishonest conduct by 32 Ohio attorneys. Though this is a significant number, it represents less than 1 percent of all active Ohio attorneys. It should be noted that the payment of awards is totally funded by Supreme Court of Ohio registration fees, which are paid by all Ohio lawyers registered for active status.

When I started with the fund in 2002, the maximum award available was \$50,000. That amount was later increased by the Supreme Court to \$75,000 following a unanimous request from the board. Ohioans can be proud of the fact that the Clients' Security Fund is in the top tier of states with regard to reimbursement of citizens for the dishonest acts of lawyers. There are only six states that offer reimbursement in excess of that provided by Ohio's fund.

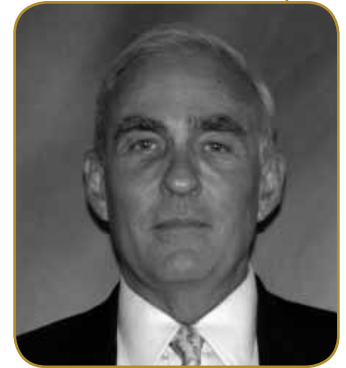
This is my final year as a commissioner, and currently as chairman, I wish to express my appreciation to the fund administrator, Janet Green Marbley, and her staff for the excellent assistance they provide to the board. They work tirelessly to assist Ohio citizens who have been harmed by the acts of a few dishonest lawyers.

I also would like to express my appreciation to the current and past board members with whom I have served. These individuals have volunteered their time to ensure clients are properly reimbursed and protected from lawyer misconduct.

Lastly, I would like to thank the Supreme Court for allowing me to serve on the board and for supporting the fund's mission. I will do all I can to support the mission given to us by the Court.

I look forward to reviewing future reports of the board, and I hope that further implementation of programs of prevention will be forthcoming in the near future.

—William S. Newcomb Jr.



## *Clients' Security Fund* BOARD OF COMMISSIONERS

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Gov. Bar R. VIII requires the appointment of a seven-member Board of Commissioners of the Clients' Security Fund of Ohio to determine the eligibility of claims filed with the CSF and to manage the fund's assets. The board currently consists of five attorneys, one judge and one non-attorney. Board members are appointed by the Justices of the Supreme Court of Ohio to three-year terms and may serve no more than two consecutive terms. They serve as volunteers and are compensated only for travel expenses.

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WILLIAM S. NEWCOMB JR. (*pictured on p. 3*) was appointed to the CSF board Jan. 1, 2002, and was reappointed to a second term Jan. 1, 2005. Mr. Newcomb was appointed chair in January 2004. He is a partner with the law firm of Vorys, Sater, Seymour and Pease in Columbus.

DIANE SMILANICK (*page 5, top left*) was appointed to the CSF board Jan. 1, 2001, and was reappointed to a second term Jan. 1, 2004, when she also was appointed vice-chair. Ms. Smilanick is an assistant Cuyahoga County prosecutor in Cleveland.

LUIS M. ALCALDE (*page 5, middle left*) was appointed to the CSF board Jan. 1, 2003, and reappointed to a second term Jan. 1, 2006. He is a partner with the law firm of Crabbe, Brown & James in Columbus.

EDWARD G. HACK (*page 5, bottom left*) was appointed to the CSF board Jan. 1, 2004, and reappointed to a second term Jan. 1, 2007. He is a partner with the law firm of Egert, Mayer & Hack in Westlake.

HON. PATRICIA ANN BLACKMON (*page 5, top right*) was appointed to the CSF board Jan. 1, 2004, and reappointed to a second term Jan. 1, 2007. Judge Blackmon serves on the 8<sup>th</sup> District Court of Appeals in Cleveland.

KENNETH DONCHATZ (*page 5, middle right*) was appointed to the CSF board in March 2004 to complete the term of former board member Brian Selden. Mr. Donchatz was reappointed to a second term Jan. 1, 2005. Mr. Donchatz is a former assistant disciplinary counsel and is a partner with the firm of Christensen, Christensen, Donchatz, Kettlewell & Owens of Columbus.

DIANE SMILANICK



HON. PATRICIA ANN BLACKMON



LUIS. M. ALCALDE



KENNETH DONCHATZ



EDWARD G. HACK



LT. CLIFTON SPINNER



CLIFTON SPINNER (*above, bottom right*) was appointed to the board in June 2006 to complete the second term of Robert W. Everett. He is a staff lieutenant with the Strategic Services of the Ohio State Highway Patrol in Columbus.



## *Clients' Security Fund* STAFF

Pursuant to Gov. Bar R. VIII, the Supreme Court of Ohio appoints an administrator to oversee the day-to-day operations of the Clients' Security Fund and to serve as secretary to the board. Attorney Janet Green Marbley, originally appointed by the Court in 1995, is the current administrator and board secretary. In fiscal 2007 CSF staff included Patricia Hagen, claims analyst; Pamela Leslie, fiscal specialist; and Meletha Dawson, secretary.

JANET GREEN MARBLEY  
Administrator



PATRICIA HAGEN  
Claims Analyst



PAMELA LESLIE  
Fiscal Specialist



MELETHA DAWSON  
Secretary



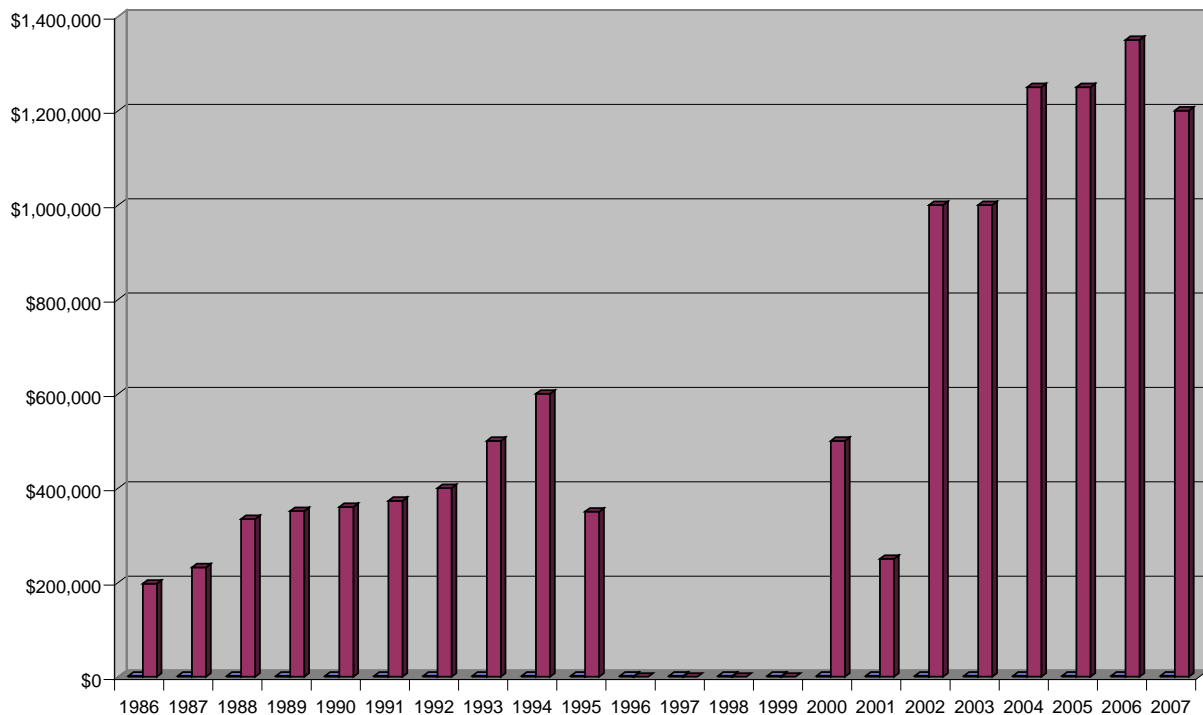
**ATTORNEY REGISTRATION FEES**

Every licensed Ohio attorney is required to register with the Supreme Court of Ohio on or before the first day of September in each odd-numbered year and to pay a registration fee of \$300. All registration fees are placed in the Attorney Services Fund. Pursuant to Gov. Bar R. VIII (1)(A), the Court allocates funds from this fund to the CSF. The CSF is funded entirely from the Attorney Services Fund, and does not receive tax revenue. Since the establishment of the CSF in 1985, the Supreme Court of Ohio has allocated nearly \$11.5 million from the Attorney Services Fund to the CSF for the payment of awards.

During fiscal year 2007, the Court allocated an additional \$1.2 million for the payment of awards and \$338,914 for the payment of operating expenses. The fund expended \$316,688 for operating expenses, which is 93 percent of the total allocation. Amounts allocated for the payment of awards are transferred to the CSF trust account at the Huntington National Bank. The trust account balance on June 30, 2007, was \$1,562,882.05.

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**ATTORNEY SERVICES ALLOCATIONS**



## INTEREST INCOME

The chair of the CSF Board of Commissioners, with the approval of a majority of the board, is responsible for the management and investment of funds allocated from the Attorney Services Fund for the payment of CSF awards. Gov. Bar R. VIII, however, limits investments to short-term insured obligations of the U.S. government. Interest income is not, therefore, a major source of revenue for the CSF.

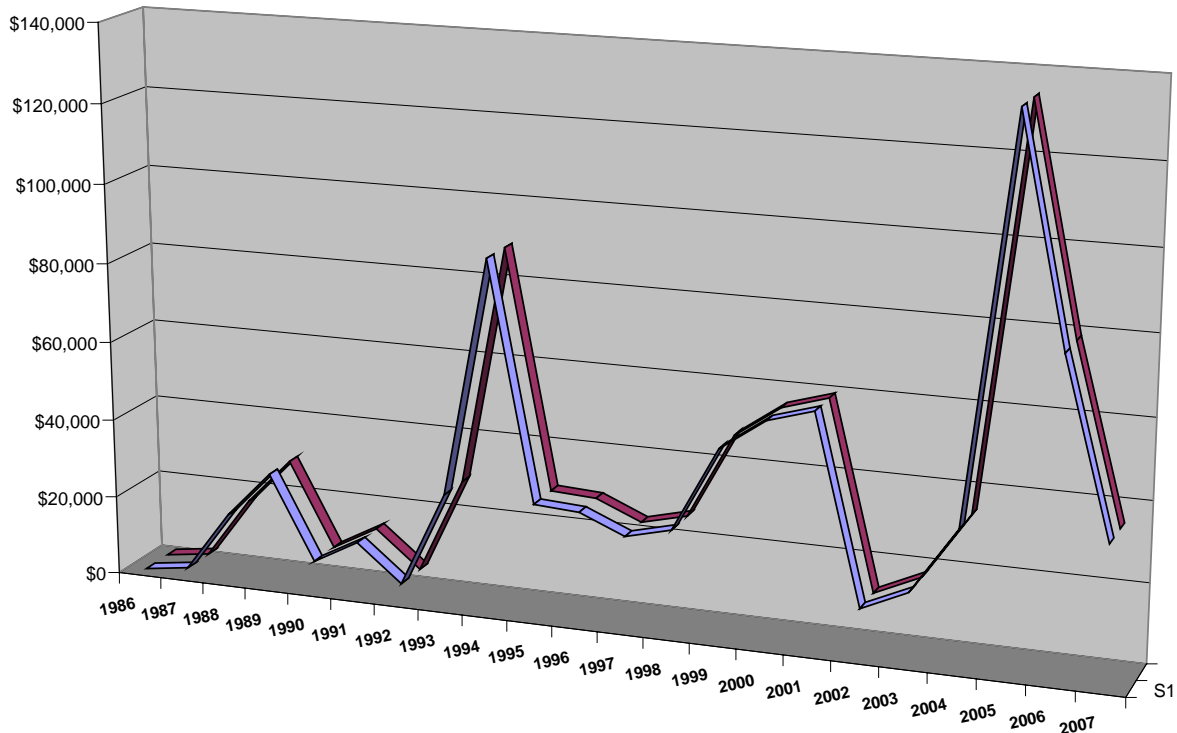
During fiscal year 2007, the fund earned \$82,761.51 in interest income.

## RESTITUTION/SUBROGATION PROCEEDS

Prior to receiving an award from the CSF, each claimant must execute a CSF Release and Subrogation Agreement. Pursuant to the assignment of rights contained in the agreement, the CSF initiates collection proceedings against the dishonest attorney. The amounts collected are deposited into the CSF trust account.

For the period July 1, 2006, through June 30, 2007, the CSF collected \$36,118.57 in restitution revenue.

### RESTITUTION/SUBROGATION PROCEEDS



The CSF continues to look for opportunities to publicize the existence of the fund. Referrals by the Office of Disciplinary Counsel, the Board of Commissioners on Grievances & Discipline, and local bar associations account for the majority of the CSF applications for reimbursement. The CSF distributes copies of its informational pamphlet and its application for reimbursement to these agencies for distribution to law clients. The CSF also distributes material to various other legal organizations, community and civic organizations and business organizations.

#### PRESS RELEASES

The CSF, with the assistance of the Court's Office of Public Information, prepares and distributes a press release following each meeting of the Board of Commissioners. The press release contains a brief description of the awards made by the board and includes the names of attorneys involved in CSF claims. The CSF's press release is distributed statewide to the media, bar associations and other professional associations, newspapers and other publications, legislators, county prosecutors and other governmental offices. The CSF continues to gain increased exposure from the distribution of its press release.

#### CSF WEB SITE

The CSF is online at [www.supremecourtofohio.gov/client\\_security](http://www.supremecourtofohio.gov/client_security) and is also accessible by e-mail at [csfo@sconet.state.oh.us](mailto:csfo@sconet.state.oh.us). Thanks to the assistance of the Office of Court Technology, current information about the CSF, including an application for reimbursement, may be obtained online.

#### CONTINUING LEGAL EDUCATION

CSF Administrator Janet Green Marbley is the current chair of the American Bar Association's Standing Committee on Client Protection. The committee sponsors a National Forum on Client Protection annually in conjunction with the National Conference on Professional Responsibility. The forum provides an excellent opportunity to interact with those involved in client protection nationwide. The 2007 forum was held June 1 and 2 in Chicago.

The CSF administrator also attended the Ohio State Bar Association's workshop on Ohio's new Rules of Professional Conduct.

## *Clients' Security Fund* CLAIMS PROCEDURE

### INTAKE AND EVALUATION

A claimant seeking reimbursement from the fund must complete an Application for Reimbursement (*see* Appendix C). Upon receipt of a claimant's application, the CSF administrator reviews the information to determine whether the application alleges a loss resulting from the dishonest conduct of a licensed Ohio attorney. If the claim fails to allege dishonest conduct and/or a loss as defined in Gov. Bar R. VIII, the CSF administrator prepares a written explanation to the claimant and the application is closed (*see* Appendix D, *CSF Board Rule 11*).

### INVESTIGATION

Applications alleging a loss resulting from the dishonest conduct of a licensed Ohio attorney are investigated by the CSF claims analyst to verify the claimant's allegations. The investigation begins with written notice to the attorney advising him or her of the nature of the claim, the alleged loss amount and the name of the claimant. The notice instructs the attorney to submit a written response to the claim.

The CSF investigation attempts to verify the existence of the eligibility criteria found in Gov. Bar R. VIII:

- An attorney/client relationship must exist between the claimant and the attorney involved in the claim (or a fiduciary relationship customary to the practice of law).
- The application for reimbursement must be filed within one year of the occurrence or the discovery of the dishonest act. The one-year time period may be tolled if the client takes some other affirmative action, i.e., files a court action against the attorney.
- The attorney against whom the claim is filed must have been disciplined by the Supreme Court of Ohio, unless the attorney has resigned or is deceased.
- The attorney involved in the claim must have committed a dishonest act, in the nature of an embezzlement or theft of money or property, or the misappropriation or conversion of money or property. Losses resulting from negligence, malpractice, fee disputes, or claims involving client dissatisfaction are not eligible for reimbursement from the fund.

## BOARD REVIEW

Gov Bar R. VIII gives the CSF Board of Commissioners sole discretion to determine which claims merit reimbursement from the fund and the amount, time, manner, conditions, and order of payments of reimbursement. The board may request additional information or hold an informal hearing before reaching its decision. A claimant or an attorney may request permission to appear before the board in person, in which case the board chair decides whether to grant the request. During fiscal year 2007 there were no requests to appear before the board.

### CLAIMS ACTIVITY 1986-2007

YEAR	NEW CLAIMS FILED	CLAIMS PRESENTED TO BOARD	INELIGIBLE	ELIGIBLE	ELIGIBLE AMOUNTS	CLAIMS PENDING AT YEAR END
1986	N/A	93	36	54	\$176,123.91	N/A
1987	125	82	18	54	\$187,630.73	116
1988	193	79	27	42	\$220,338.98	73
1989	162	53	21	32	\$215,410.00	49
1990	96	67	25	42	\$265,786.11	82
1991	279	65	32	33	\$239,756.50	293
1992	152	117	32	60	\$584,103.84	360
1993	103	178	62	92	\$450,617.29	311
1994	200	179	74	77	\$456,851.06	107
1995	125	107	55	48	\$298,281.82	136
1996	143	73	17	49	\$349,245.71	116
1997	185	58	7	51	\$187,460.24	121
1998	146	77	5	72	\$312,674.87	130
1999	189	74	9	65	\$401,204.31	177
2000	241	75	16	55	\$949,453.42	222
2001	235	112	18	94	\$1,314,268.18	302
2002	174	130	20	106	\$810,137.90	335
2003	109	131	24	104	\$1,006,729.18	233
2004	133	142	25	116	\$1,019,555.54	200
2005	320	124	21	101	\$1,494,199.56	265
2006	257	135	33	102	\$946,967.38	289
2007	256	151	31	118	\$890,173.23	266
<b>TOTAL</b>	<b>3,823</b>	<b>2,302</b>	<b>608</b>	<b>1,567</b>	<b>\$12,776,969.76</b>	

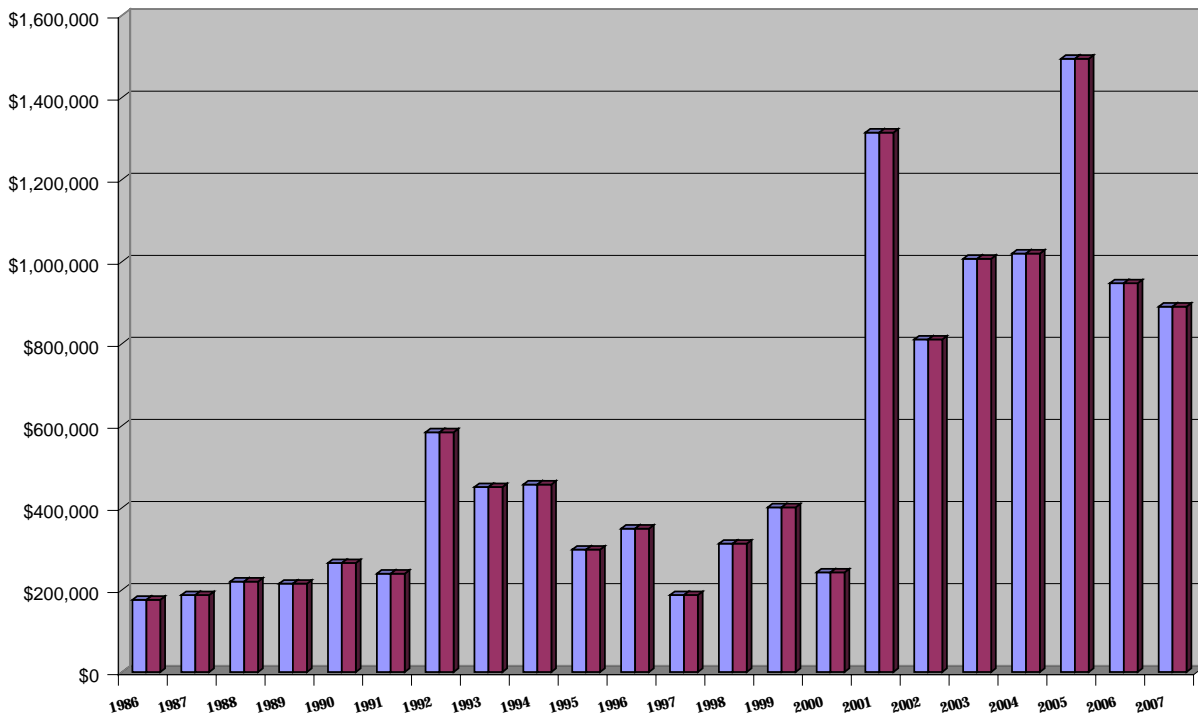
An affirmative vote of at least four commissioners is required for claim determinations. The CSF board rules provide that when a claim is determined ineligible for reimbursement, the claimant may, within 30 days after receipt of the board’s decision, request the board reconsider the claim (*see Appendix D, CSF Board Rule 9*).

Claimants need not be represented by counsel to file an Application for Reimbursement with the CSF. If the claimant is represented, Gov. Bar R. VIII specifically prohibits the payment of attorney fees out of the proceeds of an award. Board Rule 14 permits the payment of attorney fees out of the fund, up to a maximum of \$300, if the board determines the attorney’s services were necessary to process the claim.

### *Clients’ Security Fund* CLAIMS ACTIVITY SUMMARY

The CSF Board of Commissioners held four quarterly meetings and considered 151 claims. The board determined 118 claims eligible for reimbursement, and awarded \$890,173.23 (*see page 14*). The board also approved three attorney fee applications totaling \$875. Two claims received the maximum award amount of \$75,000 each. A total of 116 claimants received 100 percent reimbursement of their loss. The awards resulted from the dishonest conduct of 32 Ohio attorneys (*see page 15*).

**HISTORY OF AWARDS PAID**



Unearned-fee claims continue to constitute the largest category of claims filed with the CSF. These claims involve situations where the client pays for legal services, but the attorney fails to provide the agreed-upon services. The attorney's refusal or inability to refund the claimant's legal fee is considered "dishonest conduct," as set forth in Gov. Bar R. VIII. Unearned-fee claims can be difficult to evaluate, particularly where the attorney provides a portion of the services requested. The loss reimbursed in the typical unearned-fee claim is relatively low.

Conduct determined by the board to constitute theft by deception accounted for the largest loss amount reimbursed by the CSF against a single attorney in 2007. The amounts awarded to victims in this category resulted from the dishonest conduct of Herd Leon Bennett of Preble County. In the course of the attorney/client relationship, Mr. Bennett solicited and obtained loans from his clients by telling them he needed funds for medical expenses incurred by his daughter who was allegedly battling cancer. Mr. Bennett failed to repay the loans and his clients subsequently discovered Mr. Bennett's daughter was not ill and that he did not need the loan to pay her medical bills.

Claims involving theft by attorneys acting in a fiduciary capacity were the largest dollar amount of claims paid in 2007 (*see* page 14). These claims resulted from the receipt of client funds by the attorney which were never distributed or otherwise accounted for. Howard Alan Henkin of Cuyahoga County committed the majority of the thefts in this category.

## *Clients' Security Fund* CONCLUSION

This report confirms that the vast majority of Ohio's 42,270 active licensed attorneys are honest professionals who maintain the integrity of the legal profession. Less than 1 percent of all licensed Ohio attorneys have been involved in claims filed with the Clients' Security Fund of Ohio. The CSF attempts to restore law clients' trust in attorneys by providing a remedy for those who are victims of dishonest conduct. The fact the CSF is funded entirely by attorneys is further evidence of the profession's commitment to maintaining the highest standards of integrity.

The Board of Commissioners of the Clients' Security Fund volunteers its time to support this effort, and its members' service is greatly appreciated. Likewise, the CSF staff is dedicated to helping law clients who have been harmed as a result of a few dishonest lawyers. Their hard work also is greatly appreciated.

The CSF board and staff sincerely thank the Justices of the Supreme Court of Ohio for their continued support of and commitment to the CSF's purpose and goals.



### SUMMARY OF CLAIM INFORMATION FISCAL YEAR 2007

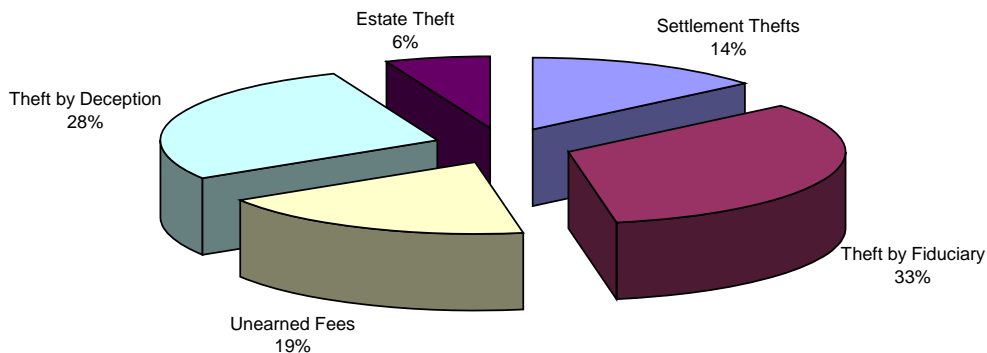
DATE	ELIGIBLE	INELIGIBLE	AMOUNT AWARDED
September 15, 2006	30	5	\$148,918.11
December 1, 2006	26*	11	\$350,620.23
March 2, 2007	24	9	\$104,953.56
June 8, 2007	38	6	\$285,981.33
<b>TOTAL</b>	<b>118</b>	<b>81</b>	<b>\$890,173.23</b>

\*Two claims tabled from the Sept. 15 meeting were found eligible for payment.

### 2007 THEFT CATEGORIES

CATEGORY OF CLIENT LOSS	NUMBER OF AWARDS	AMOUNT OF AWARDS
Settlement Thefts	4	\$123,200.00
Theft by Fiduciary	15	\$296,151.23
Unearned /Unreturned Legal Fees	86	\$170,022.00
Theft by Deception	12	\$246,538.62
Estate Theft	1	\$54,261.38

### PERCENTAGE OF LOSSES BY DOLLAR AMOUNTS



**AWARDS BY DISCIPLINED OR DECEASED ATTORNEYS FISCAL YEAR 2007**

ATTORNEY	COUNTY	TOTAL AWARDED	THEFT TYPE	AWARDS
Herd Leon Bennett	Preble	\$246,538.62	Theft by Deception	12
Mark Steven Colucci	Mahoning	\$26,250.00	Unearned Fees	6
Candie Lynn Cornett	Butler	\$20,500.00	Unearned Fees	11
Michael F. Dadisman	Cuyahoga	\$5,577.64	Unearned Fees	1
Derek Anthony Farmer	Franklin	\$7,915.00	Unearned Fees	1
James Edwin Fox	Montgomery	\$1,000.00	Unearned Fees	1
Arthur Ray Frazier	Cuyahoga	\$7,645.77	Unearned Fees	3
William Alan Gardner	Franklin	\$800.00	Unearned Fees	1
Winston Grays	Cuyahoga	\$3,500.00	Theft by Fiduciary	2
Cynthia June Harris	Franklin	\$1,826.00	Unearned Fees	1
Steven Isaac Helfgott	Cuyahoga	\$500.00	Unearned Fees	1
Howard Alan Henkin	Cuyahoga	\$159,295.62	Theft by Fiduciary	7
Richard Roman Huber	Erie	\$3,865.00	Unearned Fees	4
James Lemieux	Ashtabula	\$148,900.00	Settlement Theft	9
Steven Lo Dico	Stark	\$20,850.00	Unearned Fees	8
John Albert Lord	Cuyahoga	\$2,144.00	Unearned Fees	2
Eric John Moesle	Franklin	\$185.00	Unearned Fees	1
Daniel Lloyd O'Brien	Montgomery	\$9,489.00	Unearned Fees	2
Diane Yvette Politi	Cuyahoga	\$1,205.00	Unearned Fees	1
Corey James Rubino	Cuyahoga	\$300.00	Unearned Fees	1
Renee B. Scott-Chestang	Cuyahoga	\$11,678.70	Unearned Fees	6
Perry Raynard Silverman	Delaware	\$101,998.50	Settlement Theft	4
Daniel Scott Smith	Franklin	\$14,349.00	Unearned Fees	13
Albert Frederick Swartz	Trumbull	\$54,261.38	Theft by Fiduciary	1
Mary Ann Torian	Franklin	\$26,500.00	Unearned Fees	7
Deborah Ann Tyack	Franklin	\$3,000.00	Unearned Fees	2
Jeffrey T. Vild	Lucas	\$550.00	Unearned Fees	2
Michael Troy Watson	Cuyahoga	\$4,200.00	Unearned Fees	3
David Claude Weick	Summit	\$1,250.00	Unearned Fees	2
James Cullen Williams	Cuyahoga	\$1,000.00	Unearned Fees	1
Leonard Young	Cuyahoga	\$1,600.00	Unearned Fees	1
Michael Lee Zaremsky	Cuyahoga	\$1,499.00	Unearned Fees	1

## The Supreme Court of Ohio

GOV. BAR RULE VIII  
CLIENTS' SECURITY FUND**Section 1. Establishment of Fund**

(A) There shall be a Clients' Security Fund of Ohio consisting of amounts transferred to the fund pursuant to this rule and any other funds received in pursuance of the fund's objectives. The purpose of the fund is to aid in ameliorating the losses caused to clients and others by defalcating members of the bar acting as attorney or fiduciary, and this rule shall be liberally construed to effectuate that purpose. No claimant or other person shall have any legal interest in such fund, or right to receive any portion of the fund, except for discretionary disbursements directed by the Board of Commissioners of the Clients' Security Fund of Ohio, all payments from the fund being a matter of grace and not right.

(B) The Supreme Court shall provide appropriate and necessary funding for the support of the Clients' Security Fund from the Attorney Services Fund. The Clerk of the Supreme Court of Ohio shall transfer funds to the Clients' Security Fund at the direction of the Court.

**Section 2. Board of Commissioners of the Clients' Security Fund of Ohio; Administrator; Chair**

(A) **Creation; Members.** There is hereby created a Board of Commissioners of the Clients' Security Fund of Ohio consisting of seven (7) members appointed by the Supreme Court, at least one (1) of whom shall be a person not admitted to the practice of law in Ohio or any other state. The Court shall designate one member as chair and one member as vice-chair, who shall hold such office for the length of their term. All terms shall be for a period of three (3) years commencing on the first day of January. No member shall serve more than two consecutive three-year terms. The Board shall have its principal office in Columbus.

(B) **Administrator.** There shall be an Administrator of the Board of Commissioners of the Clients' Security Fund. The Court shall appoint and fix the salary of the Administrator. If the Administrator is an attorney admitted to practice in Ohio, he or she shall not engage in the private practice of law while serving in that capacity. The Administrator shall be the secretary to the Board. The Administrator shall appoint, with the approval of the Court, staff as required to satisfactorily perform the duties imposed by this rule. The Court shall fix the compensation of personnel employed by the Administrator.

(C) **Powers of the Board.** The Board shall do all of the following:

- (1) Investigate applications by claimants for disbursement from the fund;
- (2) Conduct hearings relative to claims;
- (3) Authorize and establish the amount of disbursements from the fund in accordance with this rule;
- (4) Adopt rules of procedure and prescribe forms not inconsistent with this rule.

(D) **Powers of the Chair.**

- (1) The chair of the Board shall be the trustee of the fund and shall hold, manage, disburse, and invest the fund, or any portion of the fund, in a manner consistent with the effective administration of this rule. All investments shall be made by the chair upon the approval of a majority of the Board. Investments shall be limited to short-term insured obligations of the United States government. Deposits at interest in federally insured banks or federally insured savings and loan institutions located in the state of Ohio, and no-front-end-load money market mutual funds consisting exclusively of direct obligations of the United

States Treasury, and repurchase agreements relating to direct Treasury obligations, with the interest or other income on investments becoming part of the fund. Annually and at additional times as the Supreme Court may order, the chair shall file with the Supreme Court a written report reviewing in detail the administration of the fund during the year. The fund shall be audited biennially by the Auditor of State at the same time as the Supreme Court's regular biennial audit. The Supreme Court may order an additional audit at any time, certified by a certified public accountant licensed to practice in Ohio. Audit reports shall be filed with the Board, which shall send a copy to the Supreme Court. The report shall be open to public inspection at the offices of the Board.

- (2) The chair and vice-chair of the Board shall file a bond annually with the Supreme Court in an amount fixed by the Supreme Court.
- (3) The chair of the Board shall have the power and duty to render decisions on procedural matters presented by the Board and call additional meetings of the Board when necessary.
- (4) The vice-chair of the Board shall exercise the duties of the chair during any absence or incapacity of the chair.

(E) **Meetings.** The Board shall meet at least two (2) times a year, in Columbus and at other times and locations as the chair designates.

(F) **Expenses.** Expenses for the operation of the Board as authorized by this rule shall be paid from the fund, including bond premiums, the cost of audits, personnel, office space, supplies, equipment, travel, and other expenses of Board members.

(G)

**Section 3. Eligible Claims.** For purposes of this rule, an eligible claim shall be one for the reimbursement of losses of money, property, or other things of value that meet all of the following requirements:

(A) The loss was caused by the dishonest conduct of an attorney admitted to the practice of law in Ohio when acting in any of the following capacities:

- (1) As an attorney;
- (2) In a fiduciary capacity customary to the practice of law;
- (3) As an escrow agent or other fiduciary, having been designated as an escrow agent or fiduciary by a client in the matter or a court of this state in which the loss arose or having been selected as a result of a client-attorney relationship.

(B) The conduct was engaged in while the attorney was admitted to the practice of law in Ohio and acting in his capacity as an attorney admitted to the practice of law in Ohio, or in any capacity described in division (A) of this section.

(C) On or after the effective date of this rule, the attorney (has) been disbarred, suspended, or publicly reprimanded, has resigned, or has been convicted of embezzlement or misappropriation of money or other property and the claim is presented within one year of the occurrence or discovery of the applicable event. The taking of any affirmative action by the claimant against the attorney within the one-year period shall toll the time for filing a claim under this rule until the termination of that proceeding. In the event disciplinary or criminal proceedings, or both, cannot be prosecuted because the attorney cannot be located or is deceased, the Board may consider a timely application if the claimant has complied with the other conditions of this rule.

(D) The claim is not covered by any insurance or by any fidelity or similar bond or fund, whether of the attorney, claimant, or otherwise.

## APPENDIX A

(E) The claim is made directly by or on behalf of the injured client or his personal representative or, if a corporation, by or on behalf of itself or its successors in interest.

(F) The loss was not incurred by any of the following:

- (1) The spouse, children, parents, grandparents and siblings, partner, associate, employee or employer of the attorney, or a business entity controlled by the attorney. The Board may, in its discretion, recognize such a claim in cases of extreme hardship or special and unusual circumstances.
- (2) An insurer, surety or bonding agency or company, or any entity controlled by any of the foregoing;
- (3) Any governmental unit.

(G) A payment from the fund, by way of subrogation or otherwise, will not benefit any entity specified in division (F) of this section.

**Section 4. Dishonest Conduct.** For purposes of this rule, dishonest conduct consists of wrongful acts or omissions by an attorney in the nature of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property, or other things of value.

**Section 5. Maximum Recovery.** The Board shall determine the maximum amount of reimbursement to be awarded to a claimant. No award shall exceed seventy-five thousand dollars (\$75,000.00).

**Section 6. Conditions of Payment; Attorney Fees.**

(A) As a condition to payment, the claimant shall execute any interest, take any action, or enter into any agreements as the board requires, including assignments, subrogation agreements, trust agreements, and promises to cooperate with the Board in prosecuting claims or charges against any person. Any amounts recovered by the Board through an action shall be deposited with the fund.

(B) No attorney fees may be paid from the proceeds of an award made to a claimant under authority of this rule. The Board may allow an award of attorney fees to be paid out of the fund if it determines that the attorney's services were necessary to prosecute a claim under this rule and upon other conditions as the Board may direct.

**Section 7. Claims Procedure.**

(A) *Forms.* The Board shall provide forms for the presentation of claims to Disciplinary Counsel, all bar associations, and to any other person upon request. The Board shall create a complaint form for the use of claimants that shall include, but not be limited to the name and address of the claimant, the name and last known, address of the attorney against whom the claim is made, the date of the alleged wrongful act, a clear and simple statement describing the wrongful act, the amount of the claimed loss, and a statement as to whether other affirmative action has been taken as described in Section 3(C) of this rule. A claim shall be considered as filed on the date the Board receives written notification of the claim, even in the absence of the prescribed form. However, completion of the formal application may subsequently be required by the Board.

(B) *Notice.* Upon receipt of a claim against an attorney, the secretary of the Board shall notify the attorney by certified mail, when possible, of the fact of its filing. All parties shall be notified of any action taken by the Board with respect to a claim.

(C) *Investigation; Cooperation with Disciplinary Counsel and Local Bar Associations.*

- (1) The Board shall investigate or cause to be investigated all claims received under this rule.

- (2) At the request of the Board, Disciplinary Counsel and local bar associations authorized to investigate attorney discipline complaints under Gov. Bar Rule V shall make available to the Board all reports of investigations and records of formal proceedings in their possession with respect to any attorney whose conduct is alleged to amount to dishonest conduct under this rule. Where the information sought is the subject of a pending investigation or disciplinary proceeding required by Gov. Bar Rule V to be confidential, disclosure shall not be required until the termination of the investigation or disciplinary proceeding, or both.
- (3) Where the Board receives a claim that is ineligible because disciplinary proceedings have not been undertaken, the Board shall hold the claim in abeyance, forward a copy of the claim to Disciplinary Counsel for further action, and advise the claimant that these procedures have been undertaken and that disciplinary action is a prerequisite to eligibility under this rule. If filed within the time limits prescribed in Section 3(C) of the rule, the claim shall be considered timely regardless of the time it is held in abeyance pending the outcome of disciplinary proceedings. Disciplinary Counsel shall advise the Board as to the disposition of the complaint.

(D) *Hearings; Subpoenas.* The Board may conduct hearings for the purpose of resolving factual issues. Upon determining that any person is a material witness to the determination of a claim made against the fund, the Board, chair, or vice-chair shall have authority to issue a subpoena requiring the person to appear and testify or produce records before the Board. All subpoenas shall be issued in the name and under the Seal of the Supreme Court, signed by the chair, vice-chair, or Administrator, and served as provided by law.

(E) *Confidentiality.* All claims filed under this rule and all records obtained by the Board pursuant to this rule shall be confidential. If an award is made under this rule, the award, the name of the claimant, the name of the attorney, and the nature of the claim may be disclosed.

(F) *Consideration of Claims.* The Board, in its sole discretion, but on the affirmative vote of at least four (4) members, shall determine the eligible claims that merit reimbursement from the fund and the amount, time, manner, conditions, and order of payments of reimbursement. No award may include interest from the date of the award. In making each determination, the Board shall consider, among other factors set forth in this rule, all of the following:

- (1) The amounts available and likely to become available to the fund for the payment of claims and the size and number of claims that are likely to be presented;
- (2) The amount of the claimant's loss as compared with the amount of losses sustained by other eligible claimants;
- (3) The degree of hardship suffered by the claimant as a result of the loss;
- (4) The degree of negligence, if any, of the claimant that may have contributed to the loss;
- (5) Any special or unusual circumstances.

To preserve the fund, the board may adopt rules implementing a sliding scale whereby eligible claims are compensable at fixed percentages of the total loss but not to exceed the maximum award allowed by this rule.

**The determination of the Board shall be final.**

# APPENDIX B

## OHIO LAWYERS INVOLVED IN AWARDS SINCE 1986

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Paul Wesley Allison	1	\$15,059.09	Unearned Fees	Seneca
Stephen Philip Allison	1	\$25,000.00	Trust	Mahoning
William Mujahid Al'Uqdah	9	\$11,725.00	Trust/Unearned Fees	Hamilton
James Franklin Anadell	4	\$61,710.19	Escrow	Lorain
Delores Joan Anderson	1	\$1,500.00	Unearned Fees	Lucas
Mark Edward Anderson	3	\$37,280.85	Fiduciary	Lucas
Richard Taylor Andrews III	1	\$1,100.00	Settlement Theft	Cuyahoga
Joseph John Armon	4	\$1,655.80	Unearned Fees	Cuyahoga
William R. Arnold Jr.	15	\$123,896.02	Estate/Trust/Unearned Fees	Geauga
Guerin Lee Avery	10	\$63,927.95	Unearned Fees	Cuyahoga
Robert Joseph Bacisin	3	\$5,275.00	Other/Trust/Unearned Fees	Lorain
Ronald Allen Banig	1	\$2,774.49	Escrow	Cuyahoga
Yale Arthur Barkan	1	\$11,050.00	Escrow	Cuyahoga
Robert Francis Barnes Jr.	1	\$5,548.00	Unearned Fees	Hamilton
David Carl Barnett	4	\$10,975.00	Unearned Fees	Champaign
Phillip Anthony Barragate	16	\$261,450.21	Estate/Settlement	Cuyahoga
David Allan Beck	1	\$200.00	Unearned Fees	Cuyahoga
Avery Ian Becker	9	\$6,913.00	Unearned Fees	Cuyahoga
Garry Allen Beckett	1	\$200.00	Unearned Fees	Franklin
Alan Scott Belkin	1	\$1,500.00	Unearned Fees	Cuyahoga
Angelia Diane Bell	2	\$1,325.00	Unearned Fees	Lucas
Dale John Belock	5	\$47,132.14	Unearned Fees	Cuyahoga
Herd Leon Bennett	22	\$420,839.88	Theft by Deception	Preble
David Stephen Bernardic	4	\$67,179.50	Estate	Cuyahoga
Walter David Bertsche Jr.	2	\$1,657.00	Unearned Fees	Hamilton
Gary Franklin Billiter	1	\$1,685.00	Unearned Fees	Scioto
Thomas Michael Billson	4	\$2,000.00	Unearned Fees	Lake
Jeffrey Alan Blankenship	1	\$660.00	Unearned Fees	Franklin
Andrew Paul Bodnar Jr.	1	\$300.00	Escrow	Summit
Karen Suzanne Bond	4	\$101,150.00	Other/Unearned Fees	Fairfield
Timothy Mark Bowman	1	\$200.00	Unearned Fees	Lake
L. Reuben Boykin	3	\$2,383.67	Unearned Fees	Franklin
Robert Lawrence Braddock	1	\$600.00	Unearned Fees	Hamilton
Ronald Lance Bradley	4	\$19,600.00	Unearned Fees	Hamilton

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
George Braun	15	\$110,826.09	Unearned Fees	Cuyahoga
William Brenner	2	\$100.00	Unearned Fees	Cuyahoga
Barry Frederick Brickley	12	\$13,969.95	Other/Trust/Unearned Fees	Richland
Patrick Lee Brown	21	\$55,109.52	Unearned Fees	Hamilton
Stanley Brown	1	\$400.00	Unearned Fees	
Thomas Christopher Brown	1	\$500.00	Unearned Fees	Ashtabula
Bruce Harry Brubaker	1	\$9,050.00	Estate	Summit
Ernest Everett Bryant Jr.	1	\$25,000.00	Escrow	Franklin
Bruce Alan Buren	1	\$16,532.94	Escrow	Montgomery
Douglas Allen Burt	1	\$20,000.00	Unearned Fees	Seneca
Alvah Noel Caliman	2	\$9,355.77	Fiduciary	Hamilton
William Russell Callery Jr.	1	\$3,588.83	Escrow	Hamilton
Donald Card	4	\$2,900.00	Unearned Fees	Cuyahoga
Thomas Edward Carney	2	\$49,244.54	Estate	Trumbull
James Pendleton Carpenter	2	\$50,000.00	Estate	Ross
James Bernard Carter	1	\$560.00	Unearned Fees	Montgomery
Robert Allen Carter Jr.	4	\$16,619.00	Settlement Theft	Franklin
James Edward Caywood	2	\$412.50	Unearned Fees	Lake
Everett Alfred Chandler	1	\$450.00	Unearned Fees	Cuyahoga
Dea Lynn Character	1	\$2,950.00	Unearned Fees	Cuyahoga
Clarence Louis Chavers Jr.	7	\$6,700.00	Estate/Unearned Fees	Cuyahoga
Kenneth Dale Christner	3	\$52,622.05	Estate	Lawrence
Robert Joseph Churilla	2	\$4,575.00	Unearned Fees	Cuyahoga
Leonette Frances Cicirella	1	\$150.00	Unearned Fees	Cuyahoga
Jeffrey Ramon Cimaglio	3	\$2,600.00	Unearned Fees	Lake
Eunice Adelman Clavner	1	\$500.00	Trust	Cuyahoga
James Kenneth Clower	2	\$4,650.00	Unearned Fees	Richland
Charles Richard Cole	3	\$6,550.00	Unearned Fees	Butler
Donald Franklin Colegrove	1	\$5,500.00	Trust	Hamilton
Mark Steven Colucci	58	\$251,037.49	Unearned Fees	Mahoning
Michael Stephen Conese	1	\$1,000.00	Unearned Fees	Butler
Daniel Edward Connaughton	1	\$23,867.00	Estate	Butler
John Joseph Connors Jr.	10	\$21,250.00	Unearned Fees	Franklin
Michael Charles Conway	1	\$150.00	Unearned Fees	Summit
Robert James Coombs	6	\$245,760.84	Estate/Unearned Fees	Summit
James John Corbett	1	\$13,202.00	Estate	Mahoning



## APPENDIX B

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Candie Lynn Cornett	11	\$20,500.00	Unearned Fees	Butler
Lawrence Virgil Cox	1	\$1,250.00	Unearned Fees	Cuyahoga
Roosevelt Cox	3	\$1,575.00	Unearned Fees	Cuyahoga
Charles Wyatt Creger	3	\$75,000.00	Fiduciary	Hamilton
John Allison Crist	2	\$50,000.00	Estate	Butler
George Francis Crummey	2	\$23,733.33	Estate	Van Wert
Michael F. Dadisman	11	\$113,536.31	Estate/Unearned Fees	Cuyahoga
Alfred Elmer Dahling	43	\$17,142.00	Unearned Fees	Trumbull
Richard Adam Damiani	14	\$42,976.29	Unearned Fees	Cuyahoga
Edwin Davila	2	\$49,000.00	Settlement Theft	Stark
Stephen Patrick Deffet	1	\$500.00	Unearned Fees	Franklin
Gregory William Demer	1	\$2,145.00	Settlement Theft	Cuyahoga
Robert Louis DeVictor	1	\$25,000.00	Estate	Franklin
Anthony Clarence DiCillo	6	\$13,424.10	Settlement Theft	Cuyahoga
Edward Anthony DiGiantonio	3	\$64,333.33	Settlement Theft	Summit
Michael Emmett Dillon	1	\$25,000.00	Fiduciary	Hancock
Carter Rodney Dodge	3	\$21,300.00	Settlement Theft	Cuyahoga
James Colvin Dodge	12	\$626,529.55	Fiduciary	Butler
William Dean Dorfmeier	8	\$99,262.63	Estate	Montgomery
J. Walter Dragelevich	1	\$2,500.00	Unearned Fees	Trumbull
William Geoffrey Droe	1	\$1,703.25	Escrow	Cuyahoga
Richard T. Dugan	4	\$24,396.08	Escrow/Estate	Hamilton
Michael Myrone Edwards	3	\$48,252.76	Estate	Hamilton
John Wakeman Elliott	2	\$35,000.00	Estate	Delaware
Gary Ellison	10	\$5,500.00	Unearned Fees	Hamilton
Wesley Charles Emerson	2	\$1,700.00	Unearned Fees	Franklin
Richard Lee Emmett	1	\$18,500.00	Escrow	Cuyahoga
Milliard Eugene Farley	1	\$2,059.90	Escrow	Cuyahoga
Derek Anthony Farmer	1	\$7,915.00	Unearned Fees	Franklin
Elliot Tod Fishman	2	\$2,775.00	Unearned Fees	Franklin
Joe Richard Fodal	12	\$8,154.33	Unearned Fees	Greene
Matthew Fortado	1	\$2,853.41	Settlement Theft	Stark
Thomas Joseph Foster	2	\$1,100.00	Unearned Fees	Franklin
Albert Edwin Fowerbaugh	2	\$125,000.00	Estate	Cuyahoga
James Edwin Fox	1	\$1,000.00	Unearned Fees	Montgomery
Norman Albert Fox Jr.	1	\$2,500.00	Unearned Fees	Cuyahoga

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Arthur Ray Frazier	8	\$24,862.77	Unearned Fees	Cuyahoga
John Bebb Frease	5	\$12,065.00	Unearned Fees	Stark
Ben Alan Freeman	1	\$200.00	Unearned Fees	Franklin
Lorraine Theresa Furtado	1	\$32,871.78	Escrow	Franklin
Lawrence Charles Gaba	1	\$2,668.92	Escrow	Franklin
Gregory John Galan	3	\$58,000.00	Escrow	Lake
John William Gall	2	\$50,000.00	Estate	Trumbull
William Allen Gardner	1	\$800.00	Unearned Fees	Franklin
Thomas Wayne Garrison	1	\$25,000.00	Escrow	Franklin
David Warren Gatwood	3	\$24,450.00	Escrow	Lucas
Richard Norman Gaudet	10	\$6,337.00	Unearned Fees	Montgomery
James Arthur Gay	2	\$950.00	Unearned Fees	Cuyahoga
Donald Elias George	1	\$20,012.75	Estate	Summit
Susan Marie Glatki	1	\$2,883.92	Unearned Fees	Cuyahoga
Richard Dennis Goldberg	30	\$1,099,441.15	Estate/Settlement	Mahoning
Kurt Stephan Gottschalk	1	\$1,076.68	Escrow	Lucas
Winston Grays	2	\$3,500.00	Unearned Fees	Cuyahoga
Michael Irwin Greenwald	7	\$80,885.96	Estate/Settlement	Cuyahoga
Willie Louis Griffin	1	\$5,722.00	Estate	Cuyahoga
Curtis Griffith Jr.	3	\$5,898.00	Unearned Fees	Perry
James William Guest Jr.	1	\$2,500.00	Escrow	Cuyahoga
Milton Jerome Guth	1	\$13,700.00	Settlement Theft	Cuyahoga
Richard Roy Gygli	1	\$25,000.00	Escrow	Lake
Howard Michael Hackman	1	\$13,668.17	Settlement Theft	Franklin
Leo Craig Hallows	1	\$22,618.55	Trust	Miami
William Albert Hamann Jr.	8	\$166,951.88	Estate/Trust	Cuyahoga
Jerome Robert Hamilton	1	\$10,000.00	Unearned Fees	Greene
John Marshall Hannah Jr.	1	\$1,000.00	Unearned Fees	Montgomery
Clyde Patrick Harkins	1	\$25,000.00	Trust	Franklin
Edward Luther Harp	13	\$8,550.00	Unearned Fees	Brown
Cynthia June Harris	3	\$4,966.00	Unearned Fees	Franklin
Edward William Hastie II	1	\$380.00	Unearned Fees	Franklin
William Jack Hatfield	1	\$573.50	Unearned Fees	Hamilton
Steven Isaac Helfgott	1	\$500.00	Unearned Fees	Cuyahoga
Pippa Lynn Henderson	1	\$100.00	Unearned Fees	Cuyahoga
Howard Alan Henkin	7	\$159,295.62	Estate/Fiduciary	Cuyahoga

## APPENDIX B

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Albert James Henry IV	1	\$21,412.00	Trust	Clermont
David Hyre Hersman	8	\$17,214.89	Estate/Settlement	Wayne
James Roy Hodge	1	\$5,000.00	Escrow	Summit
Steven Lawrence Howland	6	\$16,950.27	Unearned Fees	Cuyahoga
Richard Roman Huber	5	\$5,165.00	Unearned Fees	Erie
William Henry Huber	1	\$511.00	Unearned Fees	Cuyahoga
Albert Herman Huge Jr.	2	\$43,598.00	Estate	Hamilton
Walter Jay Hunston	2	\$9,314.40	Estate	Columbiana
Joyce Dean Hunter	1	\$300.00	Unearned Fees	Knox
Jay Craig Immelt	4	\$46,397.90	Estate/Settlement	Lake
Kenneth Howard Inskip	8	\$217,074.23	Estate	Trumbull
Aaron Nathaniel James	3	\$1,475.00	Unearned Fees	Cuyahoga
Frank Mortimer James	1	\$1,300.00	Unearned Fees	
Willard Richard James	1	\$73.00	Other	Stark
William Kent James	1	\$73.00	Other	Montgomery
Thomas Lorraine Jaynes	10	\$4,250.00	Unearned Fees	Summit
Janice Lorraine Jessup	1	\$2,612.50	Unearned Fees	Montgomery
Barbara Lynn Johnson	1	\$1,250.00	Unearned Fees	Lucas
Charles Walter Johnson	1	\$15,455.00	Estate	Richland
Michael Richards Johnson	8	\$6,015.00	Unearned Fees	Licking
Mitchell Lee Johnson	4	\$5,567.16	Unearned Fees	Cuyahoga
Shirley May Jones	3	\$10,209.00	Unearned Fees	Summit
Timothy Van Jones	1	\$167.00	Other	Hamilton
Willie Kaye Jones	1	\$400.00	Unearned Fees	Cuyahoga
Edward Francis Katalinas	1	\$200.00	Unearned Fees	Cuyahoga
Robert Campbell Keeler	2	\$16,515.12	Unearned Fees	Cuyahoga
Jeffrey Carl Keith	1	\$25,000.00	Fiduciary	Cuyahoga
Elliott Ray Kelley	1	\$675.00	Unearned Fees	Cuyahoga
James Andrew Keplar	2	\$30,959.59	Trust/Unearned Fees	Delaware
Mary Kerns	9	\$357,931.25	Estate	Union
Michael Leonard King	1	\$350.00	Unearned Fees	Cuyahoga
John Wallace Kitchen	1	\$1,957.85	Unearned Fees	Lucas
Avery Bruce Klein	5	\$125,000.00	Unearned Fees	Cuyahoga
James Lee Knight	1	\$4,331.25	Estate	Lucas
Paul Anthony Komarek	1	\$250.00	Unearned Fees	Hamilton
Anthony Thomas Koury	1	\$500.00	Unearned Fees	Mahoning

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Joseph Alan Kral	5	\$53,000.00	Estate	Cuyahoga
Phillip Kurtz	2	\$26,000.00	Unearned Fees	Cuyahoga
Louis Bernard LaCour	3	\$60,483.00	Estate/Unearned Fees	Franklin
William Cyril Lange	2	\$2,440.65	Unearned Fees	Hamilton
Charles Jeffery Lantz	5	\$16,250.00	Unearned Fees	Fairfield
Patricia S. Lautzenheiser	7	\$2,762.00	Unearned Fees	Lucas
William Joseph Lavin	2	\$932.00	Unearned Fees	Cuyahoga
David Alan Lawrence	1	\$22,000.00	Fiduciary	Cuyahoga
Herbert Lee Lawrence	3	\$3,819.00	Unearned Fees	Franklin
Gerald Phillip Leb	2	\$4,718.75	Unearned Fees	Summit
Richard Eugene Leeth	1	\$120.00	Unearned Fees	Trumbull
Marc Alexander Lehotsky	1	\$225.00	Unearned Fees	Cuyahoga
James Michael Lemieux	10	\$175,144.04	Settlement Theft	Ashtabula
Elliott Michael Lester	16	\$70,204.21	Estate/Unearned Fees	Cuyahoga
Neal Brent Levine	7	\$7,270.00	Unearned Fees	Lucas
Larry Gene Lillback	2	\$32,600.00	Trust	Greene
Robert Alan Linder	12	\$211,227.17	Estate/Settlement	Clermont
George Liviola Jr.	3	\$75,000.00	Trust	Ashtabula
Ronald Kevin Lloyd	4	\$6,678.00	Unearned Fees	Jefferson
Steven Lewis Lo Dico	8	\$20,850.00	Unearned Fees	Stark
Thomas Gene Locke	3	\$10,300.00	Unearned Fees	Lake
Richard Charles Longacre	1	\$21,550.00	Other	Cuyahoga
John Albert Lord	2	\$2,144.00	Unearned Fees	Cuyahoga
John Rolland Louden	2	\$25,331.25	Unearned Fees	Franklin
Gerald Samuel Lubitsky	1	\$1,254.87	Settlement Theft	Lucas
John George Ludeman	2	\$53,053.29	Estate	Lucas
Randall Jay Luginbuhl	3	\$3,781.64	Settlement Theft	Franklin
Susan Marie Lutz	1	\$600.00	Unearned Fees	Wayne
James Patrick Madden Jr.	4	\$127,567.00	Estate	Cuyahoga
Alexander Maiorano	9	\$9,320.33	Unearned Fees	Fulton
Sidney Serge Mallory Jr.	6	\$3,420.00	Unearned Fees	Cuyahoga
Patrick Michael Maniscalco	1	\$4,000.00	Unearned Fees	Cuyahoga
Raymond Lemoine Marchbank Jr.	1	\$2,624.00	Unearned Fees	Stark
David Steele Marshall	2	\$1,750.00	Unearned Fees	Lake
Thomas Adrian Mason	2	\$465.00	Unearned Fees	Cuyahoga
Anthony Robert Mazzocco	1	\$25,000.00	Estate	Lake

## APPENDIX B

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Mark Anthony McClain	3	\$4,500.00	Unearned Fees	Cuyahoga
Darlene Donna McClellan	5	\$7,132.00	Unearned Fees	Cuyahoga
David Bernard McClure	2	\$2,220.00	Unearned Fees	Erie
James Michael McCord	1	\$2,000.00	Unearned Fees	Franklin
John Alvin McCoy Jr.	5	\$17,924.48	Unearned Fees	Franklin
Charles Alexander McCrae	1	\$1,533.34	Unearned Fees	Scioto
Eddie Winther McCroom	1	\$8,000.00	Unearned Fees	Mahoning
Richard Elwood McCune	1	\$1,500.00	Unearned Fees	Summit
Michael Douglas McDonald	1	\$46.08	Settlement Theft	Franklin
Gregory Alan McDowell	1	\$25,000.00	Other	Huron
Michael Edward McGill	2	\$52,934.85	Settlement Theft	Lucas
John Michael McGinley	2	\$1,500.00	Unearned Fees	Franklin
Virgil Milton McGuffin Jr.	4	\$63,000.00	Estate	Mahoning
James Raymond McKenna	1	\$7,020.00	Estate	Jefferson
Patrick Lynn McKinney	3	\$1,660.00	Unearned Fees	Stark
Thomas Lynn Meros	5	\$36,666.00	Unearned Fees	Cuyahoga
Philip Anthony Mesi	1	\$15,800.00	Escrow	Cuyahoga
Paul Frederick Meyerhoefer	6	\$39,200.00	Estate	Huron
Michael Angelo Mirando	1	\$2,000.00	Settlement Theft	Ashtabula
Eric John Moesle	1	\$185.00	Unearned Fees	Fairfield
Michael Joseph Molnar	3	\$24,286.65	Estate/Other/Theft by Deception	Cuyahoga
George Andrew Mondrut	1	\$17,968.09	Trust	Mahoning
William Julius Moore	10	\$22,142.47	Unearned Fees	Lucas
Warren Newton Morford Jr.	3	\$1,110.00	Unearned Fees	Lawrence
David Allen Morton	8	\$67,175.17	Estate/Unearned Fees	Franklin
Freddie Melvin Mosely	1	\$5,500.00	Estate	Cuyahoga
Michael Lee Moushey	4	\$41,349.25	Escrow/Unearned Fees	Franklin
Peter Michael Muhlbach	2	\$23,700.00	Fiduciary	Cuyahoga
Kalam Muttalib	2	\$4,797.00	Unearned Fees	Cuyahoga
Chris Frank Nardi	2	\$17,500.00	Unearned Fees	Cuyahoga
Fuad Bahige Nasrallah	93	\$226,443.00	Unearned Fees	Montgomery
John Norbert Nentwick	5	\$1,879.00	Unearned Fees	Columbiana
T. Brent Newman	2	\$775.00	Unearned Fees	Franklin
LeRoy Alvin Nichols	2	\$875.00	Unearned Fees	Franklin
Thomas Graham Nicholson	4	\$1,355.00	Unearned Fees	Crawford
Ford Lee Noble	1	\$2,000.00	Other	Medina

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Daniel Lloyd O'Brien	4	\$11,589.00	Unearned Fees	Montgomery
Michael Joseph O'Connell	1	\$1,200.00	Unearned Fees	Lucas
Darlene Edna Odar	4	\$1,699.00	Unearned Fees	Stark
Geoffrey Lynn Oglesby	1	\$1,000.00	Unearned Fees	Erie
Lee Oliver	5	\$6,927.00	Unearned Fees	Cuyahoga
Michael James O'Neill	2	\$685.00	Unearned Fees	Franklin
Stanley Lutz Orr III	3	\$4,080.00	Unearned Fees	Cuyahoga
Ronald Anthony Pagano	1	\$1,080.00	Escrow	Hardin
James Thomas Patnode	1	\$360.00	Unearned Fees	Lake
Brent Paul Patterson	1	\$1,000.00	Unearned Fees	Franklin
Craig William Patton	1	\$11,000.00	Unearned Fees	Cuyahoga
Randall William Pees	1	\$8,076.10	Settlement Theft	Franklin
Thomas Ewing Phillips	2	\$303.50	Unearned Fees	Ross
Diane Yvette Politi	3	\$10,205.00	Unearned Fees	Mahoning
Robert Jordan Potter	2	\$17,916.36	Settlement Theft	Lucas
Byron Lee Potts	3	\$6,580.79	Unearned Fees	Franklin
Dominic Joseph Potts	1	\$25,000.00	Settlement Theft	Jefferson
William Thomas Powell	3	\$625.00	Unearned Fees	Ashtabula
Laurence James Rab	1	\$575.00	Unearned Fees	Montgomery
William McKinley Randle	1	\$650.00	Estate	Cuyahoga
Rebecca Anne Rea	5	\$10,803.25	Unearned Fees	Stark
Ronald Elsworth Reichard	2	\$30,287.02	Trust	Miami
Margaret Anne Reis	2	\$1,250.00	Unearned Fees	Hamilton
Rockford Howard Richardson	1	\$500.00	Unearned Fees	Perry
David Riebel	1	\$8,000.00	Unearned Fees	
Edward George Rinderknecht	1	\$10,910.21	Settlement Theft	Hamilton
John Edward Rockel	3	\$102,000.00	Estate/Unearned Fees	Hamilton
Jonathan Samuel Rocker	1	\$25,000.00	Escrow	Cuyahoga
Les Evan Rockmael	19	\$159,394.25	Unearned Fees	Cuyahoga
Thomas George Rockman	1	\$4,300.00	Unearned Fees	Cuyahoga
John Joseph Roddy Jr.	2	\$1,555.00	Unearned Fees	Cuyahoga
Myers Rollins Jr.	1	\$875.00	Unearned Fees	Cuyahoga
Michael Anthony Ross	2	\$68,054.72	Settlement Theft	Lorain
Corey James Rubino	1	\$300.00	Unearned Fees	Cuyahoga
Walter Herman Rubinstein	7	\$5,540.00	Unearned Fees	Cuyahoga
Carmen Joseph Russo	10	\$16,869.44	Settlement Theft	Cuyahoga

## APPENDIX B

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Terence Lee Ryan	4	\$50,193.71	Escrow/Estate	Franklin
Robert Harold Sack	1	\$175.00	Unearned Fees	Hamilton
Burt Henry Sagen	1	\$25,000.00	Estate	Cuyahoga
William Sams	1	\$550.00	Unearned Fees	Montgomery
Daniel Joseph Sanders	7	\$5,773.00	Unearned Fees	Lucas
Thomas Frank Sands	3	\$25,348.37	Settlement Theft	Muskingum
Kenneth Thomas Schachleiter	1	\$50,000.00	Estate	Hamilton
John Michael Schafer	1	\$250.00	Unearned Fees	Franklin
William Walter Scheub	5	\$16,647.45	Escrow/Estate	Summit
Elroy Hugh Schofield	1	\$849.50	Estate	Hamilton
Allen Schwartz	9	\$374,224.86	Estate	Hamilton
Sander Schwartz	1	\$300.00	Unearned Fees	Cuyahoga
Renee B. Scott-Chestang	6	\$11,678.70	Fiduciary/Unearned	Cuyahoga
Ronald Howard Sebree	1	\$500.00	Unearned Fees	Franklin
William Frederick Seebohm	2	\$25,000.00	Estate	Hamilton
Robert Leroy Seeley	2	\$86,454.18	Estate	Montgomery
Robert Bruce Selnick	9	\$27,092.00	Escrow	Hamilton
Douglas Ray Sexton	3	\$6,758.00	Unearned Fees	Richland
Michael Shafran	45	\$322,913.42	Unearned Fees	Summit
Theodore Roberts Shaman Jr.	2	\$32,203.07	Escrow	Montgomery
Herschel Murray Sigall	27	\$44,556.00	Unearned Fees	Franklin
Perry Raynard Silverman	17	\$647,583.43	Estate/Settlement	Delaware
Nathan Simon	1	\$10,000.00	Escrow	Cuyahoga
Eric William Slack	5	\$39,565.17	Settlement Theft	Lucas
Charles Eddie Smith	12	\$16,154.00	Unearned Fees	Franklin
Daniel Scott Smith	13	\$14,349.00	Trust/Unearned Fees	Franklin
Thomas Lynn Smith	5	\$104,214.20	Escrow	Allen
Scott Walter Snyder	1	\$1,352.46	Settlement Theft	Summit
Michael Paul Socha	1	\$50,000.00	Estate	Cuyahoga
Eric Steven Solowitch	1	\$25,000.00	Escrow	Cuyahoga
David Kent Speaker	1	\$50,000.00	Other	Cuyahoga
Richard Fisher Spencer, Jr.	1	\$15,000.00	Unearned Fees	Hamilton
Scott W. Spencer	3	\$2,302.08	Unearned Fees	Franklin
Ross Frederick Sprague	2	\$750.00	Unearned Fees	Cuyahoga
Cedric Arthur Stanley	1	\$5,000.00	Unearned Fees	Warren
Christopher Danahy Stanley	7	\$14,100.00	Unearned Fees	Cuyahoga

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
Howard Thomas Sterling	1	\$749.00	Unearned Fees	Cuyahoga
James Michael Sterner	6	\$58,530.17	Unearned Fees	Franklin
Chuck Ray Stidham	5	\$16,635.00	Estate/Unearned Fees	Hamilton
Ronald John Stidham	1	\$200.00	Unearned Fees	Cuyahoga
Curtis Perry Stranathan	1	\$500.00	Unearned Fees	Cuyahoga
Chris Meade Streifender	3	\$50,500.00	Escrow	Franklin
Kathleen Warrington Striggow	8	\$105,475.34	Settlement Theft	Wood
Albert Strobel	25	\$19,060.54	Unearned Fees	Mahoning
Robert Lee Summers	2	\$180.00	Unearned Fees	Cuyahoga
Albert Frederick Swartz	1	\$54,261.38	Estate	Trumbull
John Thomas Sweeney	12	\$55,974.51	Escrow	Cuyahoga
Daniel Thomas Todt	3	\$56,000.00	Unearned Fees	Cuyahoga
Rebecca Louise Todt	3	\$56,000.00	Unearned Fees	Cuyahoga
Mary Ann Torian	9	\$39,500.00	Unearned Fees	Franklin
Randall Charles Treneff	2	\$3,750.00	Unearned Fees	Franklin
Kimberlee-Joy Trumbo	1	\$883.00	Unearned Fees	Cuyahoga
Deborah Ann Tyack	2	\$3,000.00	Unearned Fees	Franklin
Mell Gilbert Underwood Jr.	1	\$1,000.00	Estate	Perry
Joseph Stephen Vala	3	\$1,180.00	Unearned Fees	Cuyahoga
Jeffrey Thomas Vild	3	\$1,170.00	Unearned Fees	Lucas
Jack Patrick Viren Jr.	2	\$600.00	Unearned Fees	Lucas
John William Vitullo	1	\$2,602.50	Unearned Fees	Cuyahoga
Thomas Bernard Walker	5	\$32,648.00	Estate/Unearned Fees	Hamilton
Braden Edwin Wallace	1	\$746.00	Unearned Fees	Lucas
John Thomas Waller	1	\$1,135.00	Unearned Fees	Summit
Margaret Anne Walter	1	\$28,000.00	Escrow	Ottawa
Victor Wangul	1	\$25,000.00	Estate	Cuyahoga
Dale Harriet Washington	2	\$1,075.00	Unearned Fees	Cuyahoga
William Terry Washington	2	\$6,544.00	Unearned Fees	Montgomery
Timothy William Watkins	2	\$1,515.00	Unearned Fees	Stark
Martin Luther Watson IV	6	\$5,100.00	Unearned Fees	Hamilton
Michael Troy Watson	5	\$5,800.00	Trust/Unearned Fees	Cuyahoga
Paul Marion Weaver, III	1	\$750.00	Unearned Fees	Hamilton
David Claude Weick	2	\$1,250.00	Trust/Unearned Fees	Summit
Richard Lee Weiner	9	\$1,685.00	Unearned Fees	Cuyahoga
David Lee White II	1	\$750.00	Escrow	Morgan



## APPENDIX B

ATTORNEY	AWARDS	AMOUNT	THEFT TYPE	COUNTY
David Otto White	3	\$29,530.64	Escrow/Estate	Clark
James Cullen Williams	1	\$1,000.00	Unearned Fees	Cuyahoga
Lawrence Edward Winkfield	1	\$1,800.00	Other	Franklin
Gerald Patrick Wolfe II	1	\$1,331.25	Unearned Fees	Franklin
Carl Thompson Wolfrom	6	\$24,600.00	Unearned Fees	Franklin
Roger Allen Wood	1	\$1,600.00	Other	Lucas
Leonard Young	6	\$27,892.61	Estate/Unearned Fees	Cuyahoga
Michael Lee Zaremsky	1	\$1,499.00	Unearned Fees	Cuyahoga
Marcus Anthony Zolnier	1	\$25,000.00	Escrow	Franklin
Robert William Zumstein	1	\$199.34	Trust	Franklin

The Clients' Security Fund  
AN AGENCY OF THE SUPREME COURT OF OHIO

JANET GREEN MARBLEY  
ADMINISTRATOR

WILLIAM S. NEWCOMB JR.  
CHAIRMAN

THOMAS J. MOYER  
CHIEF JUSTICE

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APPLICATION FOR REIMBURSEMENT

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INSTRUCTIONS

- Answer every question on this application. If space is inadequate, please attach additional pages.
- It is important that you submit all evidence that documents your loss, such as canceled checks, cash receipts, letters, court judgments, etc.
- Mail the completed application to: The Clients' Security Fund of Ohio, Ohio Judicial Center, 65 South Front Street, 5<sup>th</sup> Floor, Columbus, Ohio 43215-3431. Telephone Number: 614.387.9390 (1.800.231.1680 in Ohio only).

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APPLICANT INFORMATION

Full name of applicant: \_\_\_\_\_

Address of applicant: \_\_\_\_\_

\_\_\_\_\_ ZIP Code: \_\_\_\_\_ County: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_ Business: (\_\_\_\_) \_\_\_\_\_

ATTORNEY INFORMATION

Full name and address of attorney: \_\_\_\_\_

\_\_\_\_\_

ZIP Code: \_\_\_\_\_ County: \_\_\_\_\_

SUMMARY OF FACTS

- 1) When did you hire this attorney? Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_
- 2) What legal services did you ask this attorney to perform for you?
- 3) What legal services were actually rendered?
- 4) Explain in detail how your loss occurred.

## APPENDIX C

- 5) How much did you pay this attorney for the services to be provided? Please provide documentation to verify your payments, i.e., copies of receipts, cancelled checks, etc.
  
- 6) Was your agreement for services with the attorney in writing?  
Yes \_\_\_\_\_. No \_\_\_\_\_. If yes, attach a copy of the agreement. If not, please explain the terms of your agreement.
  
- 7) What is your alleged loss amount? \_\_\_\_\_ If loss was property, give details and value of property on a separate sheet.
  
- 8) What is the date you became aware or learned of the loss? \_\_\_\_\_
  
- 9) What happened that made you aware of the loss?
  
- 10) Were you, at the time of the loss, the spouse, child, parent, grandparent or sibling of the attorney, or a partner, associate, employee or employer of the attorney or a business entity controlled by the attorney?  
Yes \_\_\_\_\_. No \_\_\_\_\_. If yes, give relationship: \_\_\_\_\_  
\_\_\_\_\_
  
- 11) Has any part of the loss been recovered? If so, when? \_\_\_\_\_  
From whom? \_\_\_\_\_ In what amount? \$ \_\_\_\_\_
  
- 12) Was the loss covered by any insurance or bond? If so, please give the name and address of the insurance or bonding company. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- 13) Describe what steps you have taken to recover the loss directly from the attorney, or any other source:

Any recovery made by claimant from other sources prior to a CSF determination of eligibility must be reported to the fund. Recoveries not reported to the fund are grounds to deny a claim. Any recovery made by claimant after a CSF determination of eligibility will be subrogated back to the fund. The fund will retain all subrogation rights if compensation is made to the client by the fund. The claimant must execute a CSF Release and Subrogation Agreement before receiving an award.

AFFIRMATIVE ACTION

14) Have you reported this loss to any of the following agencies: If you checked any of the items below, please indicate the date reported, name/address of the agency and contact person, if known.

Local Prosecutor: \_\_\_\_\_ Local Police Department: \_\_\_\_\_

Date Reported: \_\_\_\_\_ Date Reported: \_\_\_\_\_

Office of Disciplinary Counsel: \_\_\_\_\_ Local Bar Association: \_\_\_\_\_

Date Reported: \_\_\_\_\_ Date Reported: \_\_\_\_\_

Name of Bar Assn. \_\_\_\_\_

15) If you are currently being represented by an attorney, please provide the following information:

Attorney's Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

ZIP Code \_\_\_\_\_ Telephone: Area Code ( ) \_\_\_\_\_

16) How did you learn of the Clients' Security Fund?

- Court rules do not permit attorneys who help clients process claims with the fund to charge legal fees for that service. Attorneys may apply to the fund for reimbursement of fees.
- Should you receive an award from the fund, the facts relating to your loss will become a public record.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Claimant

Date \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Second Claimant

Date \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date

**RULES OF THE BOARD OF COMMISSIONERS OF THE  
CLIENTS' SECURITY FUND**

[All Rules are adopted pursuant to Gov. Bar Rule VIII(2)(C)(4)]

**CSF BOARD RULE 1**

(Adopted 9/19/85)

Powers of Administrator.

1. The Administrator shall have full power and authority to employ such personnel as are necessary to satisfactorily perform the duties imposed by Gov. Bar R. VIII. The Administrator shall fix the salaries of personnel within the pay ranges established by the court. All personnel shall serve under the direction and at the pleasure of the Administrator subject to the approval of the court.

2. The Administrator shall have full power and authority to enter into contracts and leases, purchase equipment and supplies and to incur obligations on behalf of the Board of Commissioners of the Clients' Security Fund, necessary to perform the duties imposed by Gov. Bar R. VIII. Authorized expenditures shall include, but not be limited to, the costs of establishing and maintaining offices for the Board: Advertisement and promotion costs; and expenses incurred in the printing and distribution of forms, records, etc., for the processing of claims. The Administrator shall make available to the Board such information and reports as are requested by the Board from time to time and shall cooperate with the Board in carrying out the functions assigned to the Board under Rule VIII.

3. The Administrator shall execute the duties of his office within the guidelines established by Gov. Bar R. VIII and the court, without the necessity of prior approval by the Board of Commissioners of the Clients' Security Fund. All expenses incurred shall be duly recorded and reported to the Board.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

**CSF BOARD RULE 2**

(Adopted 11/8/85)

1. The Administrator is authorized to withdraw funds from accounts of the Clients' Security Fund of Ohio to pay for services and meet obligations and expenses entered into pursuant to Board Rule 1, not exceeding \$5,000.

All withdrawals in excess of \$5,000 shall require the additional signature of the Chairman or Vice-Chairman.

2. Payments for all claims allowed by the Board of Commissioners shall have the signature of the Chairman and the Administrator.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

**CSF BOARD RULE 3**

(Adopted 11/8/85)

Quorum. A majority of the Board of Commissioners, in person, shall be requisite to constitute a quorum at any meeting of the Commissioners, but less than such majority may adjourn the meeting from time to time and at any such adjourned meeting any business may be transacted which might have been transacted if the meeting had been as originally called.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

**CSF BOARD RULE 4**

(Adopted 11/8/85)

The Secretary shall keep the minutes of all proceedings of the Board of Commissioners of the Clients' Security Fund and make a proper record of the same, which shall be attested by the Secretary. The Secretary shall keep such books and records as may be required for the business of the Clients' Security Fund and shall perform generally, all duties incident to the office.

Richard N. Koehler, Chairman

Walter A. Savage, Secretary

**CSF BOARD RULE 5**

(Adopted 5/9/86)

Transitional Rule. These rules shall apply to any application for reimbursement submitted to the Clients' Security Fund on or after May 9, 1986.

Richard N. Koehler, Chairman

Walter A. Savage, Secretary

**CSF BOARD RULE 6**

(Adopted 5/9/86)

(Revised 12/11/92)

Definitions.

1. Claim: A written statement to the Commission for compensation of a loss.
2. Claimant: A person or entity who has sustained a loss as a result of the dishonest conduct of an attorney.
3. Board: The Board of Commissioners of the Clients' Security Fund.
4. Commissioners: The Board of Commissioners of the Clients' Security Fund.
5. Fund: The Clients' Security Fund.
6. Attorney/Lawyer: A person who, at the time of the act complained of, was admitted to practice law in the State of Ohio.
7. Loss: The loss of money or property caused by the dishonest conduct of an attorney.
8. "Acting as an attorney at law" under Rule VIII. Section (3)(a)(1) necessitates the existence of an attorney-client relationship. "Attorney-client relationship" is further defined as being those situations where there has been work performed by the attorney on the client's behalf within the last thirty (30) days.

Richard N. Koehler, Chairman

Walter A. Savage, Secretary

## APPENDIX D

### **CSF BOARD RULE 7**

(Adopted 12/5/97)

#### Confidentiality of Clients' Security Fund ("CSF") Records And Proceedings.

1. All proceedings of the CSF and the work product of its Administrator and Staff regarding claims, are confidential; provided, however, that when the CSF determines a claim to be eligible for an award, the CSF Determination Entry reflecting the award and the Board's findings shall be open and available to the public.

2. This Rule shall not be construed to preclude access to CSF files and information by agencies responsible for the investigation of grievances pursuant to Rule V of the Rules for the Government of the Bar and by agencies responsible for admission of lawyers to practice law in any jurisdiction. If agencies responsible for the admission of lawyers to the practice of law in jurisdictions other than Ohio request information regarding claims against an identified lawyer, the CSF Administrator shall provide the requested information only after redacting the name of the claimant if a Determination Entry has not yet been entered.

3. All information provided to the CSF by a certified grievance committee, the Office of Disciplinary Counsel, or the Board of Commissioners on Grievance and Discipline shall remain sealed and confidential as required by Rule V of the Rules for the Government of the Bar.

4. An attorney accused of dishonest conduct in a CSF Application For Reimbursement may obtain, upon written request, the following:

- a. A copy of the claimant's CSF Application for Reimbursement.
- b. Copies of any documents submitted by the claimant in support of the Application For Reimbursement.

5. The CSF shall make its Annual Report and Annual Audit available to the public during all regular office hours.

David P. Kamp, Chairman  
Janet Green Marbley, Secretary

### **CSF BOARD RULE 8**

(Adopted 5/9/86)

(Revised 6/11/99)

#### Definition of Dishonest Conduct.

A. In determining whether an attorney's refusal or inability to refund the legal fees paid by the claimant meets the definition of "dishonest conduct" as set forth in Section 4 of Rule VIII, the Board may consider the following factors:

1. Whether the services actually provided by the attorney were significant, and thus the claim should be considered a fee dispute.
2. Whether the conduct complained of consists of errors and/or omissions by the attorney in the nature of negligence or malpractice.
3. A pattern of behavior evidencing the attorney's lack of a good faith intention to perform the services for which the claimant paid.
4. Work performed by a subsequent attorney hired by the claimant, and the amount paid for such work.
5. The existence of a court order regarding the legal fees.

B. If the Board's evaluation results in a determination that the attorney provided such an insignificant or minimal portion of the services that the refusal to refund the unearned fee constitutes a wrongful taking or conversion of money, the conduct complained of is consistent with Rule VIII's definition of "dishonest conduct", and the claimant is entitled to reimbursement from the Fund.

C. The Board may also consider whether the attorney's conduct resulted in a disciplinary violation. A finding of dishonest conduct for purposes of Rule VIII, however, does not require a finding that the conduct also violates the disciplinary rules.

E. James Hopple, Chairman  
Janet Green Marbley, Secretary

#### **CSF BOARD RULE 9**

(Adopted 5/9/86)

Reconsideration. The claimant may request reconsideration within thirty (30) days after receiving written notice of the denial or determination of the amount of a claim. If the claimant fails to make a request or the request is denied, the decision of the Commission is final.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

#### **CSF BOARD RULE 10**

(Adopted 5/9/86)

##### Claim Processing, Investigation, Summary.

A. The Administrator shall inquire into the facts and merits of each claim and conduct such investigation as seems necessary and desirable in order to determine whether the claim meets the criteria for reimbursement, established by Gov. Rule VIII.

B. A summary of the Administrator's investigation of each claim presented for determination of reimbursement, shall be provided to each commissioner at least thirty (30) days prior to any hearing on the respective claim by the Commission.

C. The commission, at its meetings, will conduct such review or inquiry as seems necessary or desirable in order to determine whether the claims are reimbursable and the extent of such reimbursement. The commission may determine that further evidence, testimony, or information is required before proceeding. Absent such determination, claims shall be processed on the basis of the information obtained from investigation and in the summary.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

#### **CSF BOARD RULE 11**

(Adopted 5/9/86)

##### No Loss, No Dishonest Conduct Claims.

A. When, in the opinion of the Administrator, a claim is clearly not for a reimbursable loss and the statements made by the claimant in support of the claim manifestly indicate that no loss or dishonest conduct as defined and contemplated by Gov. Rule VIII has occurred, no investigation shall be conducted, nor shall the attorney named in the claimant's statements be notified. The Administrator shall advise the claimant promptly that the claim does not meet the criteria established by Gov. Rule VIII.



## APPENDIX D

B. A claimant may request reconsideration under Rule 9. All claims to which this Rule applies shall be kept as permanent but separate records of the CSF and subject to the confidentiality provision of Sec. 8(e) Gov. Rule VIII.

Richard N. Koehler, Chairman  
Walter A. Savage, Secretary

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### **CSF BOARD RULE 12**

(Adopted 7/13/90)

#### Negotiating Settlements.

The administrator may, in consultation and agreement with the chairman, or vice-chairman in the chairman's absence, negotiate the settlement of subrogated claims. The administrator may utilize the services of CSF legal counsel if appropriate.

Richard N. Koehler, Chairman  
James E. Green, Secretary

### **CSF BOARD RULE 13**

(Adopted 10/26/90)

#### Executive Session.

A. The CSF Chairman, or in his absence a designee, may call an executive session of the Board of Commissioners of the Clients' Security Fund of Ohio to discuss and decide any administrative matters.

B. The executive session shall convene with only those board members duly appointed by the Supreme Court of Ohio and presently serving during an unexpired term.

C. A quorum, as defined by CSF Board Rule 3, shall be requisite to decide administrative matters during an executive session.

Richard N. Koehler, Chairman  
James E. Green, Secretary

### **CSF BOARD RULE 14**

(Adopted 2/15/91; amended 9/10/93)

(Revised 12/8/95)

#### Awards of Attorney Fees.

One of the goals of the Clients' Security Fund (CSF) is to enhance the public's perception of the legal profession. This goal is consistent with Rule VIII of the Supreme Court Rules for the Government of the Bar, which governs the CSF. As a means of achieving this goal, Attorneys are encouraged to provide pro bono legal assistance to persons filing claims before the CSF.

A. Governing Rule VIII, provides that CSF Commissioners may, in their discretion, award attorney fees to any attorney who assists a claimant in making a claim to the Ohio CSF. An application for attorney fees must be filed by the attorney who certifies that certain criteria have been met. The CSF Commissioners have determined that attorney fees will be awarded only if the following criteria are met:

1. The application seeks reimbursement for necessary services rendered to aid a client in preparing and filing a CSF claim;
2. The attorney will not charge as a fee any portion of a CSF award, but will look solely to this application for recovering fees incurred when assisting the client in pursuing a CSF claim;

3. The fee is reasonable charges for helping the client pursue a CSF claim.

B. The CSF Board of Commissioners have determined, based upon the following considerations, that an attorney assisting a claimant may qualify for an award of fees up to a maximum of three hundred dollars (\$300.00):

1. The process of presenting a claim to the CSF is not adversarial;
2. The CSF staff is available to assist the claimant in the investigation and verification of information necessary to support the claim, and the staff is responsible for presenting this information to the Board for a determination of eligibility.

C. When considering an application for attorney fees, the CSF Board of Commissioners reserves the right to request greater specificity before deciding on an application. An attorney's failure to comply with such a request will result in the denial of the application.

David S. Bloomfield, Chairman  
Janet Green Marbley, Secretary

### **CSF BOARD RULE 15**

(Adopted 11/1/91)

#### Pre-Hearing Instructions.

Pursuant to Rule VIII, Supreme Court Rules for the Government of the Bar, witnesses may be called to testify before the Board of Commissioners of the Clients' Security Fund. These instructions are offered to facilitate the orderly presentation of evidence and testimony of witnesses. The instructions should be reviewed carefully prior to the hearing.

1. Witnesses wishing to present any documents or exhibits shall submit copies of the documents or a description of the exhibits to the CSF Administrator not less than fourteen (14) days prior to the hearing.
2. Witnesses should review Rule VIII to familiarize themselves with the criteria for eligibility before attending the hearing.
3. The Ohio Rules of Evidence shall be liberally construed and applies for witnesses testifying at CSF hearings. The Chair will decide what evidence is relevant and properly admissible.
4. Witnesses appearing under subpoena are entitled to reimbursement at a rate approved by the Court. To obtain reimbursement, a subpoena must be under seal of the Supreme Court of Ohio and the witness must submit proof of their residential address.
5. Witnesses wishing to testify before the CSF Board of Commissioners should contact the Fund's Administrator prior to the hearing for procedural instructions and location and time of the hearing.
6. The CSF Administrator may rule on all pre-hearing motions.

Thomas A. Heydinger, Chairman  
James E. Green, Administrator

### **CSF BOARD RULE 16**

(Adopted 11/1/91)

#### Records Retention.

All records pertaining to claims filed with the Fund shall be maintained at the office of the Fund Administrator for a minimum of five (5) years following the disposition of the claim. Thereafter, the records may be destroyed provided that the Fund maintains a permanent record showing the name of the claimant, the name of the respondent's attorney and the disposition of the claim.

## APPENDIX D

All records pertaining to the fiscal operations of the Fund shall be maintained at the office of the Fund Administrator for a minimum of ten (10) years. Thereafter the records may be destroyed as dictated by needs of space.

Thomas A. Heydinger, Chairman  
James E. Green, Administrator

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### **CSF BOARD RULE 17**

(Adopted 12/11/92)

(Revised 12/6/02)

#### Loan Transactions.

A loan made to an attorney by a client is not reimbursable by the Clients' Security Fund (CSF) unless the loan arises out of, and during the course of an attorney/client relationship, and but for the attorney/client relationship, the loss would not have occurred.

In applying this rule the Board may consider factors such as:

1. The disparity in bargaining power between the attorney and the claimant.
2. The extent to which the attorney received information about the financial affairs of the claimant.
3. Evidence of a pattern of taking money from clients, bankruptcy or heavy indebtedness on the part of the attorney.
4. The terms of the loan and whether the attorney has made any payments on the loan.

A loan made to any attorney outside the scope of an attorney/client relationship is not reimbursable.

Jerome Phillips, Chairman  
Janet Green Marbley, Administrator

### **CSF BOARD RULE 18**

(Adopted 9/9/94)

#### Notification of Awards.

When a CSF award is made against an Ohio attorney or a former Ohio attorney, the Supreme Court of Ohio shall be immediately notified of the award, the amount of the award and the date the award was made. Notification shall be given except in cases where the attorney against whom the claim is filed is disbarred, resigned or deceased.

Thomas A. Heydinger, Chairman  
James E. Green, Administrator

### **CSF BOARD RULE 19**

(Adopted 12/5/03)

#### Investments.

Losses arising from business or personal investments outside the scope of the attorney/client relationship are not reimbursable by the Clients' Security Fund (CSF). In determining whether the loss arose out of and in the course of an attorney/client relationship, the Board shall apply the "but for" test: but for the attorney/client relationship, such loss would not have occurred.

In applying this rule, the Board may consider factors such as:

1. The disparity in bargaining power between the attorney and claimant.
2. The extent to which the attorney received information about the financial affairs of the claimant.
3. Evidence of a pattern of taking money from clients, bankruptcy, or heavy indebtedness on the part of the attorney.
4. Whether the principal part of the transaction was an activity that required a license to practice law.

Jerome Phillips, Chairman  
Janet Green Marbley, Administrator

### **CSF BOARD RULE 20**

(Adopted 12/1/06)

#### Reimbursement of Contingent Attorney Fees.

Pursuant to Rule VIII, Supreme Court Rules for the Government of the Bar, the Board of Commissioners of the Clients' Security Fund, in its sole discretion, is responsible for determining the amount of reimbursement to be awarded in each claim and the time, manner, conditions, and order of payments of reimbursement. When the claimant's loss includes a contingent fee previously agreed upon by the claimant and the attorney, the contingent fee shall be deducted from the amount to be reimbursed unless the Board, in the exercise of its discretion, determines that the claimant's loss including the contingent fee merits reimbursement. In making its determination, the Board may consider factors such as:

1. The terms of the contingent fee agreement between the attorney and client.
2. The services provided by the attorney.
3. The client's knowledge of and consent to the services provided by the attorney.
4. The nature of the dishonest conduct, including evidence of a pattern of taking money from clients.
5. Whether the client would be unjustly enriched by the reimbursement of the contingent fee.
6. Any other special or unusual circumstances.

William S. Newcomb, Jr., Chairman  
Janet Green Marbley, Administrator

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