

CO-85-2205

OFFICE OF
APPELLATE COURTS

JUN 26 1995

ANNUAL REPORT OF THE
MINNESOTA CLIENT SECURITY BOARD

FILED

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June 1995

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June 26, 1995

Clerk of Appellate Courts
Suite 305
25 Constitution Avenue
St. Paul, MN 55155


Re: Client Security Board Annual Report

Dear Clerk:

Enclosed for filing are eight copies of the Annual Report of the Minnesota Client Security Board.

The Board approved the report at its June 19, 1995, meeting

Very truly yours,


Marcia A. Johnson
Director

jd

cc: Honorable Paul H. Anderson (no enclosure)

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I. OVERVIEW AND YEAR IN REVIEW.

Rule 1.10, Minnesota Rules of the Client Security Board (MRCSB), provides:

At least once a year and at such other times as the Supreme Court may order, the Board shall file with the Court a written report reviewing in detail the administration of the fund, its operation, its assets and liabilities.

This eighth annual report of the Minnesota Client Security Board covers the Board's fiscal year, which began July 1, 1994, and will end on June 30, 1995.

To a casual observer of the Client Security Board and its history, this past year may appear to have been a remarkably quiet year. The Board will pay fewer claims than ever before and considerably less money than ever before. The number of claims pending is slightly less than last year at this time. These basic facts would justify some congratulations for a stable year free from major new defalcations or crisis.

The Board has used this relatively quiet period to complete the review of its rules, as discussed in last year's Annual Report. At the first three meetings of the year, the Board completed the review and authorized the filing of a petition for rule change, which was filed on January 11, 1995 (Appendix A). The petition included several changes which will affect the Board's publicity policy. Most of the substantive changes dealing with claims were intended more to codify existing policy rather than break new ground. The petition also included many non-substantive changes to create gender-neutral language.

The Board hopes to better publicize payments and the proposed amendments to the rules will clearly allow that. The proposed rules will require the Board to publicize payments and identify the respondent attorneys. Claimants will not be identified without their specific approval. Also, the Board codified several payment policies concerning restitution on investment claims and unearned retainers. The new rules also eliminate the specific need to find intentional dishonesty, which has caused some confusion in cases of disability. Some of those proposals were

perceived as controversial by some pending claimants. The Court invited public comment (Appendix B) and heard argument on the Rules petition on May 12. Hopefully, a decision will be issued soon.

Although it was a quiet year for claim payment, several large claims remain pending before the Board, many of which were reported as pending last year too. All pending claims which were not filed this year are awaiting completion of related lawyer disciplinary proceedings. Only one claim not in that category is more than five months old. Since these large claims could not be resolved this year as anticipated, the Board did not spend a large percentage of its approved budget. The Board will seek permission of the Court to carry over the unused excess into FY'96.

The Board will pay out only \$62,421 this year in claims, which represents by far the lowest figure in the Board's eight-year history, and the first time the amount has not topped the \$100,000 mark. As noted, several major claims remain pending before the Board awaiting final completion of lawyer disciplinary proceedings. Many of these claims have been pending for over a year now. As was predicted last year, favorable resolution of these pending claims this coming year will result in a record amount of claims paid. The Board therefore budgeted \$355,000 for next year for claim payment, and will seek to amend that amount to include the unused carry-over from the current budget of \$462,000. The combination of these figures could prove necessary if all claims are approved.

After its June 19, 1995, meeting, the Board will have met six times during this fiscal year and resolved 31 claims. Fourteen claims will be approved for payment, in the amount of \$62,421. In the eight years of the Board's operation, the Board has now approved 173 claims and paid out \$1,758,000 against 51 different lawyers (*see* Appendix E). Seventeen claims were rejected this year as not qualifying for payment under the Board's rules. At the start of the fiscal year, 28 claims were pending before the Board. Twenty-seven new claims were received during the year (as of June 12) with 31 claims being resolved. Thus, 24 claims remain pending for the next year.

Again this year, the Board aggressively sought reimbursement through the Attorney General's Office from attorneys on whose behalf claims were paid. Martha Casserly and Janette Brimmer, Assistant Attorneys General, remain available to the Board to handle collection matters. \$35,185 has been collected so far this year.

The Board's current assessment of \$20 per attorney will generate \$324,000 in income for the Board this year. In addition, \$57,500 in interest/investment income will be received. At the end of the current fiscal year the Board expects to have approximately \$1,735,000 in the fund for use next year, including the carryover already budgeted for claims this year.

II. THE CLIENT SECURITY BOARD AND ITS PROCEDURES.

Board Members. The following individuals currently serve on the Board:

<u>Name</u>	<u>Term Expires</u>
Nancy B. Vollertsen, Rochester, Chair	June 30, 1995
Sister Mary Madonna Ashton, St. Paul	June 30, 1995
Bailey W. Blethen, Mankato	June 30, 1997
Daniel L. Bowles, Bloomington	June 30, 1997
Sandra M. Brown, Minneapolis	June 30, 1996
Earle F. Kyle, IV, Minneapolis	June 30, 1996
Kim Buechel Mesun, St. Paul	June 30, 1996

Ms. Vollertsen has served as Chair for the past two years. Her term expires at the end of June 1995 and she is not eligible to be reappointed. Due to the staggering of the terms of the Board's original members, of which Ms. Vollertsen is the last, she has served for eight years on the Board altogether, plus she was a member of the former MSBA Client Security Fund. Her experience and leadership will be greatly missed. At the Board's first meeting of the new year, a new Chair will have to be elected.

Sister Mary Madonna Ashton and Ms. Brown are the Board's two public members. Sister Mary Madonna is eligible to serve another three-year term and has indicated her willingness to do so. The MSBA has nominated Rochester attorney David Shulman to fill Ms. Vollertsen's vacancy as a Board member.

A new liaison on the Minnesota Supreme Court was appointed this year, Justice Paul Anderson. Justice Anderson has already exhibited a special interest in the operation of the Board. The Board looks forward to dealing with him regularly. The Board has greatly appreciated the help of Justice Gardebring as liaison for the past few years.

Rules of the Minnesota Client Security Board. The current rules took effect on July 1, 1987, and were amended in 1993. As discussed above, the Board devoted a portion of each of its meetings throughout the end of 1994 to complete a major internal rules review. A petition containing the Board's revisions was prepared and approved, along with a statement in support of the proposals. The petition was filed on January 11, 1995 (Appendix A). The Court set the matter on for hearing for May 12, 1995, and requested public comment (Appendix B). Only two individuals, both representing claimants with matters pending before the Board, submitted written comment and requested to speak at the hearing. The proposals remain under advisement by the Court at the time of this report.

Funding and Budget Procedures. Effective December 15, 1993, all practicing lawyers in Minnesota pay \$20 per year to the Fund as a part of their annual attorney registration fees. The order establishing that assessment directs that the Board is to notify the Court when it projects a Fund balance of \$1.5 million, so the assessment can be reviewed. With the carryover of unused claim payment money this year, the Board will so notify the Court. Since this money is already targeted for potentially valid existing claims, the Board believes the Court will continue the current assessment.

This year the assessment will raise approximately \$324,000. In FY'95 (ending June 30, 1995), the Fund should receive approximately \$57,500 in investment income and \$35,500 in restitution. The Board does not handle any funds directly or the investment of the Fund. The assessment is collected through the Office of Attorney Registration and placed into a segregated fund within the state treasury.

The Board's budget is prepared and filed publicly in March each year, for approval by the Minnesota Supreme Court. The Board's FY'96 budget has been submitted to the Court for review and hopefully will be approved. The Board budgets amounts to be paid in future for valid claims, many of which are not yet known, on the assumption that lawyer theft will continue on average as in the past. The Board presently remains budgeted to be able to pay \$525,000 in the current fiscal year, although much of that amount will now remain unused as noted. Most of this amount was due to the several large claims involving two lawyers with disciplinary charges against one of them remaining. Those proceedings will not be completed in time to consider these claims this year as hoped, so much of this amount will be reallocated to FY'96 with the Court's permission. Besides these claims, the Board has budgeted to pay an additional \$355,000 in claims in FY'96.

Administrative Staff. The Office of Lawyers Professional Responsibility provides staff services to the Client Security Board. Marcia Johnson is the Board's Director. Assistant Director Martin Cole and legal assistant Patricia Jorgensen continue to handle the Board's day-to-day operation as they have done for several years. With an experienced staff in place, administrative expenses of only \$23,400 will be incurred by the Board this year. As usual, payment of claims will account for well over 90 percent of the Board's expenses this year (*see* Appendix C).

The Minnesota Attorney General's Office provides legal services to the Client Security Board in enforcing the Board's subrogation rights against respondent attorneys or against third parties from whom payment may be obtained. Martha Casserly and Janette Brimmer, Assistant Attorneys General, remain the Board's

attorneys for all civil matters. The Board pays no attorney's fees for the Attorney General's representation, but is responsible for costs of collection efforts or litigation. Several attorneys are making payments to the Board on their obligations, pursuant to negotiated agreements. In addition, suspended or disbarred attorneys seeking reinstatement are required to reimburse the Client Security Fund for all claims paid on their behalf. This year it is expected that approximately \$35,500 will be recovered, the largest payment coming from the resolution on one matter for which \$14,000 was recovered from a deceased attorney's frozen trust account.

Claims Procedures. Claims are initiated by submitting the claim on forms approved by the Board to the Director's Office. Claimants are provided the necessary forms and a brochure to help explain the process. A new form and brochure are expected to be considered by the Board this coming year. The respondent attorney is given an opportunity to respond to the claim in writing, although frequently no response is received. The rules also allow the Board access to lawyer disciplinary proceeding files, which often contain considerable information.

The rules provide that claimants are expected to pursue reasonably available civil remedies. In order to avoid hardship, the Board frequently exercises its discretion by waiving this requirement where the Attorney General will be pursuing litigation against an attorney (on behalf of multiple claimants) under the Board's subrogation rights. In almost all cases, attorney disciplinary proceedings will have been completed before Client Security payment is made. The Board generally will rely on findings made in a related lawyer disciplinary action concerning misappropriation, or rely on related civil or criminal findings where possible.

If a claim is denied, the claimant is notified in writing of the Board's determination and provided its reasoning. The claimant has the right to request reconsideration and a meeting with the Board, so that the claimant will have full opportunity to present the merits of their claim before any denial is final.

The Board has developed some guidelines for consistently applying its rules to particular types of claims. If a claim fits into one of these categories, claimants are advised of the Board's general approach to their type of claim and offered the opportunity to present evidence to meet the Board's standards. Some of these categories will be codified into the Board's rules if the Court accepts the pending rule amendments proposed by the Board. Hopefully, codification will provide notice to claimants and eliminate some claims which are clearly outside the Board's jurisdiction, such as simple malpractice claims.

III. GOALS AND OBJECTIVES.

As a first order of business for the new year, a new Board Chair will be elected to replace Ms. Vollertsen. The new chair's goals and objectives will no doubt shape and influence the proceedings of the Board this year.

In FY'96, the Board hopes to promptly resolve all pending claims at the earliest available meetings. Once the large number of related claims against two attorneys get resolved, the Board's caseload will again be very manageable. Delays by the Board (following completion of related proceedings) are very rare. There will be no changes in the Board's commitment to fair and prompt resolution of claims and to making restitution to victims of lawyer dishonesty.

Respectfully submitted,

Dated: June 19, 1995.

Nancy B. Vollertsen
NANCY B. VOLLERTSEN, CHAIR
MINNESOTA CLIENT SECURITY BOARD

Dated: June 19, 1995.

Marcia A. Johnson
MARCIA A. JOHNSON, DIRECTOR
MINNESOTA CLIENT SECURITY BOARD

Dated: June 19, 1995.

Martin A. Cole
MARTIN A. COLE
ASSISTANT DIRECTOR

FILE NO. CO-85-2205

OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

JAN 1 1 1995

IN SUPREME COURT

FILED

In Re Petition to Amend the
Rules of the Minnesota Client
Security Board

PETITION OF THE
MINNESOTA CLIENT
SECURITY BOARD

TO: THE SUPREME COURT OF THE STATE OF MINNESOTA:

WHEREAS, the Rules of the Minnesota Client Security Board were adopted by the Minnesota Supreme Court effective July 1, 1987, and

WHEREAS, the Minnesota Client Security Board has apportioned part of its last six meetings to study and consider the Rules of the Minnesota Client Security Board, and

WHEREAS, the Board has studied the rules and proposed certain amendments to the rules, which the Board approved on November 7, 1994, and

WHEREAS, the Board believes that these proposed amendments would provide greater clarification and notice to members of the public and of the Minnesota bar concerning the requirements for payment by the Client Security Board, and therefore, are in the public interest,

NOW, THEREFORE, the Minnesota Client Security Board, pursuant to Rule 1.06(1), respectfully recommends that the Minnesota Supreme Court amend the Rules of the Minnesota Client Security Board as indicated in the attachment to this petition. The Board further recommends that the Court hold public hearings

concerning these proposed amendments. A statement in support of the proposed rule amendments will be filed by the Board.

Dated: January 10, 1995.

MINNESOTA CLIENT SECURITY BOARD
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By Nancy Brostrom Vollertsen
NANCY B. VOLLERTSEN, CHAIR
Attorney No. 12266X
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INDEX OF PROPOSED RULE CHANGES

<u>Rule No.</u>	<u>Nature of Change</u>
Rule 1.01	Gender neutral language.
Rule 1.02	Change to create consistency with other Supreme Court boards.
Rule 1.04	Gender neutral language.
Rule 1.08	Typographical changes for internal consistency.
Rule 1.09	Substitution of NEW RULE.
Rule 2.01	Change to match Rule 3.02.
Rule 2.04	Deletion of excess language.
Rule 2.05	Deletion of excess language.
Rule 3.02(b)	Change to clarify necessary relationship and to reflect actual Board policy.
Rule 3.02(c)	SUBSTANTIVE LANGUAGE CHANGE.
Rule 3.02(i)	NEW SECTION.
Rule 3.02(j)	NEW SECTION.
Rule 3.04	Gender neutral language and clarification of language to match Board policy.
Rule 3.06	Clarification of language to match Board policy.
Rule 3.07	Clarification of language to match Board policy.
Rule 3.08	Gender neutral language and title.
Rule 3.09	Title.
Rule 3.11	Gender neutral language and clarification of language to match Board policy.
Rule 3.12	Gender neutral language and clarification of language to match Board policy.
Rule 3.13	Clarification of language to match Board policy.

Rule 3.14(d)	Correction of inadvertent error.
Rule 3.15	New language to match Board policy.
Rule 3.16	New language to match Board policy.
Rule 3.17	New language to match Board and Attorney General policy.
Rule 3.18	Deletion of language to match Board policy.
Rule 3.19	Rule deleted.
Rule 4.01	New language to match Board policy.

RULES OF THE MINNESOTA CLIENT SECURITY BOARD
EFFECTIVE _____, 1995

I. RULES GOVERNING THE CLIENT SECURITY BOARD

RULE 1.01 MEMBERSHIP OF THE BOARD

The Supreme Court shall appoint seven members to the Client Security Board. Five shall be lawyers actively practicing in the state, three of whom shall be nominees of the Minnesota State Bar Association, and two shall be public members. The ~~b~~Board shall elect a ~~chairperson~~ Chair from its members.

RULE 1.02 TERMS OF OFFICE

Two members of the Board shall be appointed for one year, two members for two years and three members for three years, and thereafter appointments shall be for three-year terms. The terms of public members shall be staggered. Any vacancy on the Board shall be filled by appointment of the Supreme Court for the unexpired term. No member may serve more than two consecutive three-year terms, in addition to any additional shorter term for which the person was originally appointed.

RULE 1.03 REIMBURSEMENT

Members shall serve without compensation, but shall be paid their regular and necessary expenses.

RULE 1.04 MEETINGS

The Board shall meet at least annually, and at other times as scheduled by the ~~chairperson~~ Chair. A quorum shall consist of four members.

RULE 1.05 IMMUNITY

The Board and its staff are absolutely immune from civil liability for all acts in the course of their official duties.

RULE 1.06 DUTIES OF THE BOARD

The Board is authorized:

- a. To administer and operate the Minnesota Client Security Fund, pursuant to statutes, court rules and internal procedures;
- b. To make final determinations on disbursement from the Fund;

- c. To recommend to the Supreme Court limits for the amount payable per claim against the Fund, and for total reimbursement for claims arising from one lawyer's misconduct;
- d. To undertake investigation of claims, coordinating with the Office of Lawyers Professional Responsibility;
- e. To recommend to the Supreme Court means available to cover extraordinary losses in excess of the assets of the Fund;
- f. To annually establish an administrative budget which may be paid from the Fund;
- g. To enforce subrogation and lien rights of the Fund;
- h. To sue in the name of the Fund for restitution of payments made pursuant to claims;
- i. To cooperate in educational activities for theft prevention and risk management, and for remedial services for problem lawyers;
- j. To certify the financial condition of the Fund;
- k. To employ and compensate consultants, legal counsel and employees;
- l. To adopt internal rules of procedure not inconsistent with these rules, and make recommendations to the Supreme Court on rule changes.

RULE 1.07 CONFLICT OF INTEREST

- a. A member of the Board who has or had a lawyer-client relationship or financial relationship with a claimant or the lawyer subject to the claim shall not participate in the investigation or adjudication of the matter.
- b. A member of the Board who is a member or of counsel in the same law firm or company as the lawyer subject to the claim shall not participate in the matter.

RULE 1.08 DUTIES OF THE DIRECTOR

The Board may recommend to the Supreme Court a ~~d~~Director, who shall serve at the pleasure of the ~~e~~Court, to perform duties assigned to the Board, including but not limited to:

- a. Screening claims, coordinating investigations with the Lawyers' Professional Responsibility Board, and presenting claims at Board hearings;

- b. Coordinating enforcement of liens, restitution and subrogation rights of the Fund;
- c. Maintaining records of the Board, suitable for audit of the Fund;
- d. Keeping current on legal and procedural developments of the client security funds in other states;
- e. Performing other duties as assigned by the Board.

RULE 1.09 CONFIDENTIALITY

~~The files, records and proceedings of the Board and Director, as they may relate to or arise out of any claim are confidential and shall not be disclosed except as provided in these rules or the Rules of Lawyers Professional Responsibility.~~

Claims, proceedings and reports involving claims for reimbursement are confidential until the Board authorizes reimbursement to the claimant, except as provided below.

- a. After payment of the reimbursement, the Board shall publicize the nature of the claim, the amount of reimbursement and the name of the lawyer. The name and the address of the claimant shall not be publicized by the Board unless specific permission has been granted by the claimant.
- b. This Rule shall not be construed to deny access to relevant information by professional disciplinary agencies or other law enforcement authorities as the Board shall authorize, or the release of statistical information which does not disclose the identity of the lawyer or the parties.

RULE 1.10 ANNUAL REPORT

At least once a year and at such other times as the Supreme Court may order, the Board shall file with the Court a written report reviewing in detail the administration of the Fund, its operation, its assets and liabilities.

III. RULES GOVERNING THE FUND

RULE 2.01 ESTABLISHMENT OF THE FUND

There is created a Minnesota Client Security Fund to aid those persons directly injured by the dishonest act conduct of any lawyer during an attorney-client or fiduciary relationship.

RULE 2.02 FINANCING

The Fund shall be financed from:

- a. Lawyer restitution and subrogation for claims paid;
- b. Gifts and contributions;
- c. Upon order of the Supreme Court, assessments of licensed lawyers.

RULE 2.03 ORDERING, REINSTATEMENT AND CANCELLATION OF ASSESSMENTS

The Supreme Court may order, reinstate or cancel the collection of assessments after review of the financial condition of the Fund certified by the Client Security Board in its annual report.

RULE 2.04 FAILURE TO PAY ASSESSMENT

Upon failure to pay the assessment when due, the lawyer's right to practice law in the state shall be automatically suspended, ~~and the lawyer may not hold himself out as qualified to practice while in default.~~

RULE 2.05 DISBURSEMENTS FROM THE FUND

- a. Upon written authorization of the Board, claims may be paid from the Fund.
- b. The Board shall annually prepare an administrative budget to be approved by the Supreme Court, from which the Board may pay necessary expenses.
- c. ~~The Funds which are not required for the administrative budget or to pay claims shall be invested as provided by law.~~

III. RULES GOVERNING THE CLAIM PROCESS

RULE 3.01 CLAIMS PAYMENT DISCRETIONARY

Reimbursements of losses by the Board are discretionary, and not a matter of right. No person shall have a right in the Fund as a third party beneficiary or otherwise either before or after allowance of a claim.

RULE 3.02 FILING CLAIMS

The Board shall consider a claim filed on forms provided by the Board if:

- a. The claimant experienced a loss of money or property, excluding loss of profit, consequential damages, interest, and costs of recovery; and

b. The loss of the ~~client~~ claimant arose out of and during the course of a lawyer-client relationship of a matter in this state, or a fiduciary relationship between the lawyer and the claimant which arose out of a lawyer-client relationship in this state; and

c. The loss was caused by the ~~intentional~~ dishonesty conduct of the lawyer and the claim was not based on negligence; and

d. There is no reasonably available collateral source for reimbursement to the claimant, such as insurance, surety, bond, or some other fund; and

e. Reasonable efforts have been made by the claimant to exhaust administrative and civil remedies; and

f. The lawyer was licensed to practice law in this state at the time of the misconduct or was licensed within three years prior to the misconduct; and

g. Less than three years have elapsed between the filing of the claim and the date the claimant knew or should have known of the dishonest conduct; and

h. The dishonest conduct occurred on or after January 1, 1964.

i. As used in these Rules, "dishonest conduct" means wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, including but not limited to:

(1) Refusal or failure to refund an advance fee when the lawyer performed no work whatever, or an insignificant portion of the services that he or she agreed to perform. All other instances of a lawyer failing to return an unearned fee or the disputed portion of a fee are outside the scope of the Fund.

(2) Obtaining money or property from a client representing that it was to be used for investment purposes when no such investment was made. The failure of an investment to perform as represented to, or anticipated by, the applicant is outside the scope of the Fund.

j. For purposes of these Rules, including but not limited to those acts set out in Rule 3.02(i), all payments made by the lawyer to the client following the dishonest conduct, however denominated by the lawyer, shall be treated as restitution of principal.

RULE 3.03 PRIVILEGED COMPLAINTS

A claim filed pursuant to these Rules is absolutely privileged and may not serve as a basis for liability in any civil lawsuit brought against the claimant.

RULE 3.04 SCREENING CLAIMS

The Chairperson shall designate a Board member or the Director to screen a claim and to advise the lawyer named in the claim that ~~he~~ the lawyer has 20 days to respond to the Board in writing. The lawyer shall receive a copy of the claim: and be notified at the address on the records of the Supreme Court for his license. by first class mail sent to the lawyer's last known address.

RULE 3.05 CLAIM INVESTIGATION

If a claim is sufficient, the Director shall promptly request the Office of Lawyers Professional Responsibility to furnish a report on any investigation matter.

RULE 3.06 RIGHTS OF LAWYER SUBJECT TO CLAIM

A lawyer subject to a claim shall be entitled to receive a copy of the claim, to respond to the claim in writing to the Board, and to request a an evidentiary hearing as provided by ~~these~~ Rules 3.12.

RULE 3.07 LAWYER COOPERATION

It shall be the duty of a lawyer subject to a claim to cooperate and comply with the reasonable requests of the Board and the Board's investigator by furnishing papers, documents or objects, providing a full written explanation, and appearing at conferences and hearings. The lawyer's failure to respond or cooperate may be reported to the Office of Lawyers Professional Responsibility for possible discipline under this rule. ~~is grounds for discipline.~~

RULE 3.08 ~~INVESTIGATORY~~ SUBPOENA

With the approval of the Board Chairperson, the Director may subpoena and take testimony of any person believed to possess information concerning a claim.

RULE 3.09 JURISDICTION ~~INVESTIGATIVE CHALLENGE~~

The district court of Ramsey County shall have jurisdiction over issuance of subpoenas and over motions arising from the investigation of a claim.

RULE 3.10 ACTION AFTER INVESTIGATION

No later than 120 days from the date of the notification to the Office of Lawyers Professional Responsibility, whether or not the Director has received a

report from the Lawyer's Professional Responsibility Board, the Chairperson shall determine whether additional investigation should be conducted, a hearing should be held, or a determination may be immediately rendered.

RULE 3.11 PANELS

The Chairperson may divide the Board into panels, each consisting of not less than three Board members and at least one of whom is a nonlawyer, and shall designate a ~~chairperson~~ Chair for each panel. A panel may be assigned to ~~hear~~ consider a matter and make a recommendation to the entire Board, or may conduct a hearing under Rule 3.12 in lieu of a hearing before the entire ~~Board~~.

RULE 3.12 REQUEST FOR HEARING

If the claimant or the lawyer subject to the claim requests a an evidentiary hearing, the Chairperson may order such a hearing, defer the matter for further investigation or until any proceedings of the Lawyers Professional Responsibility Board have been completed, or deny the request.

RULE 3.13 HEARING

If a an evidentiary hearing under Rule 3.12 is ordered, both the claimant and the lawyer and their representatives may appear. The hearing shall be recorded and preserved for five years.

RULE 3.14 DETERMINATION

- a. Payment of a claim from the Fund shall be made only on affirmative vote of four members.
- b. In determining the amount of any payment, the Board may consider:
 - (1) Monies available and likely to become available to the Fund for payment of claims;
 - (2) Size and number of claims presented and likely to be presented in the future;
 - (3) The amount of a claimant's loss compared with losses sustained by others;
 - (4) The comparative hardship suffered by a claimant because of a loss;
 - (5) The total amount of losses caused by the dishonest conduct of any one lawyer;

(6) The culpability or negligence of the claimant contributing to the loss;

(7) The extent to which there is a collateral source for reimbursement to the claimant;

(8) The effort made by the claimant to exhaust administrative and civil remedies;

(9) Other factors as appear to be just and proper.

c. The maximum amount that may be paid to any claimant for a single claim is \$100,000. In exceptional circumstances, the Board may allow a greater or lesser amount based on the factors set forth in subdivision (b) of this rule.

d. The Board may, in its discretion, award interest on any award at the rate of interest payable under Minnesota § 549.042 from the date of filing the claim. In determining the amount of interest, if any, the Board may consider:

(1) The length of time between filing the claim and its disposition;

(2) The existence of third-party litigation; and

(3) Other factors outside the control of the Board.

RULE 3.15 DENIAL

If the Board determines that the criteria of Rule 3.02 have not been met, the Board may deny the claim. The Board may authorize payment of that portion of a claim proved, although the entire amount of a claim is undetermined. The Board may defer payment of a claim in order to await completion of investigations of related claims, or for payment in subsequent fiscal years. The claimant and the lawyer shall be notified in writing of the Board's determination.

RULE 3.16 RECONSIDERATION

If a claim has been reduced or denied by the Board, a claimant ~~or the lawyer~~ ~~subject to the claim~~ may request reconsideration of the determination within 30 days by submitting a written request to the Board. A claimant may not seek reconsideration if the full claim is allowed but a lesser amount has been authorized for payment under Rule 3.14(b) or (c), or on the basis that the Board did not award interest under Rule 3.14(d).

RULE 3.17 SUBROGATION

A claim paid pursuant to these Rules shall be repaid to the Fund by the lawyer. ~~If the lawyer is unable to pay or cannot be found, the Board shall obtain a subrogation agreement from the claimant for the right to restitution.~~ The Board may bring an action against the lawyer, the lawyer's assets, or the lawyer's estate, the lawyer's law firm or partner(s) or any other person(s) or entities against which subrogation rights may be enforced, or may file liens against the property of the lawyer in the name of the Fund, in an amount equal to the sum paid the claimant plus the Board's attorney fees and costs. The claimant shall be notified of any action and may join in the action to press a claim for the loss in excess of the amount paid by the Fund, but the Fund shall have first priority to any recovery in the suit.

RULE 3.18 NOTIFICATION OF CLAIM PAID

a. The Board shall advise the Office of Lawyers Professional Responsibility ~~and the National Conference of Bar Examiners~~ of any claim paid, the amount paid, and the name of the lawyer.

b. Upon request of the lawyer, the Board may advise a lawyer admission or discipline authority of another jurisdiction the status of any file on the lawyer.

~~RULE 3.19 INFORMATION RELEASED~~

~~Information on the number of claims presented to the Board, the number and amount of claims paid, the restitution collected, the suits filed, and the amount in the Fund shall be public information. The Board may disclose the fact that a claim is or is not being investigated or considered by the Board, and the Board's disposition of a claim.~~

IV. RULE GOVERNING EDUCATION

RULE 4.01 EDUCATION

The Board or the Director shall conduct research, analyze statistics, and categorize claims to determine ~~those educational~~ whether there are methods and programs that would minimize lawyer misconduct resulting in claims against the Fund. The Board shall make recommendations to the Court of any such programs.

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition to Amend the
Rules of the Minnesota Client
Security Board

STATEMENT IN SUPPORT OF
PETITION OF THE MINNESOTA
CLIENT SECURITY BOARD

INTRODUCTION

The Minnesota Client Security Board was created by this Court in April 1986. As its first task, the Board was ordered to prepare internal rules and rules of procedure and to petition the Supreme Court for their adoption. The Court appointed Marcia Proctor, former Director of the Board of Law Examiners, to assist the new Board in drafting rules. The rules were submitted to the Court and on April 10, 1987, the Rules of the Minnesota Client Security Board were adopted effective July 1, 1987.

The Board's rules were drafted without the benefit of actual operating experience or claim resolution experience. It was envisioned that some amendments may prove necessary once the rules began being applied. In 1992, based upon five years of actual experience, the Board began the process of reviewing the rules for possible amendment. The Board's primary function, however, remains prompt claim resolution, and as a result, the project soon was tabled, until recently. In addition, the Minnesota State Bar Association established a study committee to review the Board's funding mechanism. Former Board Chair Melvin Orenstein was a member of this committee and the Board provided considerable information and assistance to that committee. As a result, however, much of the Board's limited time for non-claim activities again was diverted.

As was set out in the Board's June 1994 annual report, the Board returned to the project of reviewing its own rules within the last year. At each of the Board's

last six meetings, through November 1994, the Board reviewed selected portions of the rules for possible amendment. This petition and the attached proposed rule changes are the result of that thorough review process.

Some of the changes are merely administrative "housekeeping" changes which do not warrant substantial written comment. For example, there are changes to make the language of the rules gender neutral and internally consistent as to use of terms or capitalization. Such changes will not be commented upon further.

Other proposals involve either some substantive change or are being proposed to reflect the Board's actual operating experience. For the sake of clarity and ease of review, these proposals will be briefly discussed below in numerical order, which may not necessarily be the order of their impact or significance.

The Board recommends that the Court seek public comment and hold public hearings concerning these proposed amendments to the Rules of the Minnesota Client Security Board. The scrutiny and comments of the bar and the public will be welcome and will ensure that the Court has a full record and basis on which to, hopefully, adopt the recommended changes.

PROPOSED RULE CHANGES

Rule 1.09 - Confidentiality

The Board proposes eliminating current Rules 1.09 and 3.19 (information released) and substituting an entirely new comprehensive rule concerning the Board's confidentiality and publicity obligations. The Board recommends that the Court substitute ABA Model Rule 17 (confidentiality) for the Board's former rules. Having two separate rules has created some overlap and confusion, which one comprehensive rule will eliminate.

The Board perceives a need to publicize its activities and awards to a degree which the current rules appear to prohibit. As the Comment to ABA Model Rule 17 notes, "Publication of awards by the Board demonstrates the legal profession's

responsiveness to clients and commitment to self-regulation. . . . The public, bar, and judicial leaders, and the news media should be kept informed of the activities of the Board and the status of its reimbursement efforts." If the new rule is adopted, the Board intends to regularly publicize its activities and awards. As the proposed rule states, information concerning the claimant still would not be publicized unless the claimant has specifically authorized such disclosures. This appears to adequately balance the privacy concerns of recipients of large awards from the Board.

Rule 2.01- Establishment of the Fund

This change will match the language of Rule 2.01 to that of Rule 3.02, which sets out the basic requirements for claim payment.

Rule 2.04- Failure to Pay Assessment

This amendment merely eliminates unnecessary language. Attorneys are automatically suspended for failure to pay the attorney registration fee (which includes the Client Security Fund assessment) and no further language is necessary.

Rule 2.05(c) - Disbursements from the Fund

This change will more accurately reflect how the fund is handled. All amounts collected through the attorney registration fee are placed into the state general treasury for investment as provided by law. No portion of the fund is separated for the administrative budget or to pay claims. Nor is there any "reserve" fund maintained separate and apart from the rest of the fund for investment.

Rule 3.02(b) - Filing Claims

Two changes are proposed to clarify this particular section. The term "client" will be changed to "claimant," since a claimant to the Client Security Board does not have to be a client of the lawyer. In addition, a new phrase will be added to clarify that not all fiduciary relationships which may possibly exist between a lawyer and a claimant are covered under the Board's rules. Only fiduciary relationships which arise out of a lawyer-client relationship (although not necessarily a lawyer-client

relationship with the claimant) are covered. For example, a lawyer has fiduciary obligations to her firm or outside business partners, but losses caused by the attorney's dishonest conduct in such relationships likely will not be payable by the Board.

Rule 3.02(c)

Payment by the Board currently requires a finding of intentional dishonesty by the lawyer. On certain types of claims, however, such as unearned retainer claims, the use of the word "intentional" has created analytical difficulties for the Board. For example, claims against a disabled lawyer who, perhaps without specific intent, misappropriates substantial amounts of money from his or her law office trust account may appear not to be payable under the Board's current rule.

Although the Board has paid some such claims under the current standard, a change to the more universal standard of dishonest conduct would give the Board more ability to pay clearly deserving claims. The ABA Model Rules and virtually all other states' client protection/security funds employ a "dishonest conduct" standard. The Board is not aware of any other client security fund which operates under an "intentional dishonesty" standard.

Rule 3.02(i)

This new section would further define the "dishonest conduct" standard established in Rule 3.02(c) above. This section is not intended as an exhaustive list of conduct which will qualify for payment, nor is it intended to limit the Board's discretion to pay valid claims under fact patterns not specifically identified here. The purpose of this section is to provide notice to claimants and attorneys about certain types of conduct covered or not covered by the Rules and thus help potential claimants identify whether they have a claim. The specific language employed was modeled after language contained in Rule 6 of the California Client Security Fund rules.

Rule 3.02(j)

This new section will notify claimants how the Board determines the amount of the payable loss in certain claims. For example, this section reflects how the Board determines the amount of the loss in situations where a lawyer claims to invest a client's funds, but instead misappropriates those funds, and then makes small payments to the client as "interest" in order to prevent the client from learning the truth of their loss. The Board has always treated such payments not as interest payments (which would not diminish the principal) but, instead, as return of principal, or restitution. This policy is consistent with that of virtually all client security funds.

Rule 3.04 - Screening Claims

This change will merely codify the actual practice of the Board as to how it notifies respondents of claims and requests their cooperation. The change further will make clear that the Board only need make a reasonable attempt to notify the respondent, and not ensure actual notice. Frequently, respondents who have been suspended or disbarred are not readily locatable. Thus, use of their last known address is reasonable.

Rule 3.06 - Rights of Lawyer Subject to Claim

This change is part of a series of minor changes to rules dealing with when the Board should conduct a formal hearing on a claim (*see also* proposed changes to Rules 3.11, 3.12 and 3.13 below). This change will be discussed more fully below.

Rule 3.07 - Lawyer Cooperation

This proposed change will reflect the fact that the Board may report a lawyer's non-cooperation to the Office of Lawyers Professional Responsibility for possible discipline, but that the Client Security Board has no authority itself to impose discipline. Because most respondents already have been suspended or disbarred, the Board infrequently would report failure to cooperate to the Lawyers Board.

Rules 3.11, 3.12 and 3.13 - Panels, Request for Hearing and Hearing

These three rule changes (along with the change to Rule 3.06) will clarify the Board's limited use of formal hearings to resolve contested claims. The Board to date has never conducted a formal contested evidentiary hearing. While the rules provide the authority to do so in some situations, the Board routinely defers to contested findings from other forums, including civil litigation and lawyer disciplinary proceedings.

The Board frequently meets with claimants and/or respondents as part of the investigation of a particular claim or when reconsidering the denial of a claim. Such meetings, however, are not formal evidentiary hearings subject to the requirements of counsel and a court reporter. There has been some confusion on this point when the Board has invited claimants or respondents to appear and meet with them. The rules are set up to cover only the rare situation in which a contested evidentiary hearing would need to be held before the Board. The Board believes these minor language changes will eliminate unnecessary confusion.

Rule 3.14(d) - Determination

When the Court recently amended the rules by adding this section, based upon the MSBA's proposal to allow the Board to award interest in its discretion, it appears that a typographical error was made concerning the applicable statute section used for determining the current judgment interest rate.

Rule 3.15 - Denial

The current rules do not specifically require that the Board notify the claimant or (attempt to notify) the respondent of the Board's determination of a claim. In fact, the Board's practice is to do so, of course. The proposed change will merely codify this practice.

Rule 3.16 - Reconsideration

The proposed changes again reflect actual Board policy. The current rule allows either a claimant or the respondent attorney to request reconsideration of a denied or reduced claim. In fact, as the Board has recognized, respondent attorneys need not be offered the opportunity to seek reconsideration of any Board determination; only the claimant should. Thus, the change is recommended to reflect that fact.

The reason a respondent attorney need not be provided an opportunity to request reconsideration of claims by the Board is that all client security payments are discretionary. When the Board seeks to enforce its subrogation rights against the respondent attorney, and if the claimant had not already obtained a judgment against the respondent attorney, the respondent still will have any rights and defenses he or she may have to oppose the Board's claim and defend a civil suit. Thus, there is no specific reason for the respondent to be allowed to request that the Board reconsider payment of an award. Further, the rules never authorized the respondent to challenge paid claims, yet seemed to create an exception for a partially paid claim. This should be corrected.

In certain situations, the claimant should not be able to request reconsideration either. This has always been recognized by the rule but the Board seeks to clarify the list of those situations, and add the denial of an award of interest under new Rule 3.14(d) to that list.

Rule 3.17 - Subrogation

The Attorney General's Office provides representation for the Client Security Board in seeking enforcement of its subrogation rights against respondent attorneys and others. In some particular situations, the Board has sought to enforce subrogation rights against third persons who may have some obligation to pay on behalf of the respondent attorney, such as partners or a bank. The current rule,

although likely broad enough to cover such situations, has been the subject of some uncertainty. Although they have done so successfully, the Attorney General's Office has had to argue that the current rule authorizes suit against third persons. The proposed changes to the language likely will simplify future matters.

Rule 3.18 - Notification of Claim Paid

This change simply eliminates the stated obligation of notifying the National Conference of Bar Examiners on paid claims. In fact, the Board does not do so nor is such information sought by the NCBE.

Rule 3.19 - Information Released

This rule will be deleted. See discussion of new Rule 1.09 above.

Rule 4.01 - Education

The Board wishes to match the language of the rules to what in fact has been the Board's evolved practice. Both the Board and the Director's Office participate in this process.

MINNESOTA CLIENT SECURITY BOARD
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(612) 296-3952

Dated: Jan 4, 1995.

By Nancy Brostrom Volleretsen
NANCY B. VOLLERTSEN, CHAIR
Attorney No. 12266X
P.O. Box 549
Rochester, MN 55903
(507) 288-9111

and

Dated: January 10, 1995.

By Marcia A. Johnson
MARCIA A. JOHNSON, DIRECTOR
Attorney No. 182333

STATE OF MINNESOTA
IN SUPREME COURT
CO-85-2205

RECEIVED
MAR 16 1995
LAWYER'S PROF. RESP. OFFICE

ORDER FOR HEARING TO CONSIDER PROPOSED
AMENDMENTS TO THE RULES OF THE
MINNESOTA CLIENT SECURITY BOARD

IT IS HEREBY ORDERED that a hearing be had before this Court in Courtroom 300 of the Minnesota Supreme Court, Minnesota Judicial Center, on May 12, 1995 at 9:00 a.m., to consider the petition of the Minnesota Client Security Board to amend the Rules of the Minnesota Client Security Board. A copy of the petition containing the proposed amendments is annexed to this order.

IT IS FURTHER ORDERED that:

1. All persons, including members of the Bench and Bar, desiring to present written statements concerning the subject matter of this hearing, but who do not wish to make an oral presentation at the hearing, shall file 12 copies of such statement with Frederick Grittner, Clerk of the Appellate Courts, 245 Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, on or before May 8, 1995 and
2. All persons desiring to make an oral presentation at the hearing shall file 12 copies of the material to be so presented with the aforesaid Clerk together with 12 copies of a request to make an oral presentation. Such statements and requests shall be filed on or before May 8, 1995.

Dated: March 14, 1995

BY THE COURT:

OFFICE OF
APPELLATE COURTS

MAR 14 1995

FILED



A.M. Keith
Chief Justice

CLIENT SECURITY FUND FINANCIAL HISTORY

Fiscal Year	Contribution by Bar	Investment Income	Restitution	Number of Claims Paid	Amt. Paid to Claimants	Other Expenses	Balance Year End
1988	\$1,433,397	\$58,040	N/A	35	\$489,656	\$37,273	\$964,508
1989	\$93,318	\$79,049	N/A	21	\$236,016	\$24,068	\$876,791
1990	\$79,350	\$70,952	\$768	25	\$260,561	\$22,884	\$744,416
1991	\$137,851	\$66,264	\$39,249	23	\$235,316	\$28,905	\$723,559
1992	\$328,954	\$52,748	\$14,302	28	\$150,180	\$30,490	\$938,893
1993	\$353,560	\$49,156	\$12,104	16	\$200,681	\$33,170	\$1,119,862
1994	\$369,320	\$47,296	\$9,830	24	\$123,600	\$24,538	\$1,398,170

Reported Client Losses

July 1, 1987 through May 30, 1995

Table 1. This table summarizes, by area of law, all claims for reimbursement filed since July 1, 1987 (including claims carried on from MSBA Client Security Fund.)

Area of Law	# of Claims	% of Claims	Amount of Loss Alleged	% of Alleged Losses
Bankruptcy	22	6	\$654,806.60	4
Business	17	5	\$2,312,180.55	14
Criminal	18	5	\$226,196.12	1
Family	59	17	\$1,359,374.56	8
Investment	37	10	\$2,660,939.58	16
Litigation	55	16	\$4,254,176.62	26
Personal Injury	14	4	\$585,166.38	4
Probate	42	12	\$2,939,456.49	18
Real Estate	33	9	\$325,131.19	2
Settlement	16	5	\$158,612.42	1
Tax	8	2	\$97,212.71	1
Worker's Comp	2	1	\$56,698.69	0
Other	28	8	\$873,070.06	5
	<u>351</u>	<u>100</u>	<u>\$16,503,021.97</u>	<u>100</u>

Reported Client Losses

July 1, 1994 through May 30, 1995

Table 2. This table summarizes, by area of law, all claims for reimbursement filed during fiscal year 1995.

Area of Law	# of Claims	% of Claims	Amount of Loss Alleged	% of Alleged Losses
Criminal	2	7	\$18,500.00	2
Family	7	26	\$73,802.00	9
Investment	3	11	\$317,500.00	39
Litigation	2	7	\$13,000.00	2
Personal Injury	3	11	\$103,989.18	13
Probate	2	7	\$47,362.00	6
Real Estate	5	19	\$173,012.33	22
Settlement	1	4	\$400.00	0
Worker's Comp	1	4	\$55,948.69	7
Other	1	4	\$903.00	0
	<u>27</u>	<u>100</u>	<u>\$804,417.20</u>	<u>100</u>

Awards of Reimbursement

July 1, 1987 through May 30, 1995

Table 3. This table summarizes, by area of law, all awards of reimbursement approved by the Board since 1987.

Area of Law	# Of Awards	% of all Awards	Amount of All Awards	Alleged Loss Involved	% of All Losses	% of Alleged Loss Reimbursed
Bankruptcy	15	9	\$40,183.30	\$48,859.30	1	82
Business	5	3	\$54,934.00	\$231,176.74	8	24
Criminal	8	5	\$91,149.96	\$110,109.47	4	82
Family	30	18	\$162,475.89	\$248,551.14	8	65
Investment	2	1	\$100,000.00	\$222,569.01	8	45
Litigation	21	12	\$249,004.83	\$311,288.06	11	79
Personal Injury	8	5	\$125,573.30	\$270,763.00	9	46
Probate	31	18	\$526,725.39	\$978,723.81	33	53
Real Estate	15	9	\$195,432.36	\$207,208.86	7	94
Settlement	15	9	\$65,592.74	\$116,160.40	4	57
Tax	7	4	\$38,112.28	\$96,452.71	3	40
Worker's Comp	1	0	\$750.00	\$750.00	0	100
Other	13	7	\$85,459.44	\$121,558.66	4	70
	171	100	\$1,737,394.94	\$2,964,671.16	100	59

Awards of Reimbursement

July 1, 1994, through May 30, 1995

Table 4. This table summarizes, by area of law, all claims for reimbursement approved by the Board during fiscal year 1995.

Area of Law	# Of Awards	% of all Awards	Amount of All Awards	Alleged Loss Involved	% of All Losses	% of Alleged Loss Reimbursed
Criminal	1	8	\$8,500.00	\$16,500.00	28	51
Family	1	8	\$6,250.00	\$7,500.00	13	83
Litigation	4	34	\$10,528.00	\$12,500.00	21	84
Probate	3	25	\$8,602.74	\$12,970.72	22	66
Real Estate	2	17	\$6,000.00	\$8,476.50	14	71
Other	1	8	\$1,000.00	\$1,000.00	2	100
	12	100	\$40,880.74	\$58,947.22	100	69

CLAIMS AND AMOUNTS PER ATTORNEY
as of June 7, 1995

ATTORNEY	PENDING/AMOUNT		PAID/AMOUNT		DENIED	W/DRAWN	Crim. Pros.
H.W.E.A.			2	\$39,258.97			NO
T.P.A.					2		
J.M.A.			2	100,000.00			NO
L.M.B.			2	3,947.93			YES
T.C.B.					1		YES
R.K.B.			1	50,000.00			YES
J.W.B.					1		
J.T.B.			1	50,000.00			YES
A.J.B.					2		YES
R.J.B.					1		
J.B.B.					1		
C.C.					1		
M.R.C.					10		YES
E.M.C.	1	89,500.00			1		NO
A.A.D.			3	81,375.00			YES
D.A.D.	4	119,385.69					NO
J.A.D.						1	
B.C.D.			11	226,119.60	1		DIED
J.J.D.						1	NO
B.E.					1		
R.E.					2		
B.E.E.			2	1,995.00	2		NO
J.H.F.			2	12,954.00	1		NO
J.J.F.			6	113,626.59	6		YES
P.F.F.					1		
S.A.F.					1		

CLAIMS AND AMOUNTS PER ATTORNEY
as of June 7, 1995

ATTORNEY	PENDING/AMOUNT		PAID/AMOUNT		DENIED	W/DRAWN	Crim. Pros.
R.M.F.			6	4,062.50	7	1	NO
S.D.F.					1		
N.F.					1		
B.G.					1		
T.G.					1		
P.D.G.			5	24,278.00	2		NO
C.C.G.					1		
T.E.G.			3	6,257.98			YES
S.G.H.					1		
T.R.H.					2		
M.H.					1		
S.G.H.			2	12,800.00	4		NO
H.F.H.			2	17,875.00			YES
D.E.H.			1	1,000.00			NO
R.H.	1	55,948.69					
V.S.H.					1		
G.S.H.					6		
F.H.			1	2,227.74			DIED
J.W.H.			5	21,900.00	3		YES
C.F.I.			1	535.78			NO
R.J.					1		
D.E.J.					1		
L.J.J.					1		
A.J.					1		
J.E.K.					1		
M.R.K.					1		
S.J.K.			1	500.00			NO

CLAIMS AND AMOUNTS PER ATTORNEY
as of June 7, 1995

ATTORNEY	PENDING/AMOUNT		PAID/AMOUNT		DENIED	W/DRAWN	Crim. Pros.
A.W.L.			2	18,400.00	1		NO
W.L.L.			13	49,542.60	5		NO
D.D.L.			1	40,000.00			YES
E.C.L.			1	368.00			NO
M.R.L.					1		
C.M.L.	1	10,000.00					
D.S.L.			3	560.00			NO
P.S.M.						1	
P.M.M.					1		
G.L.M.			7	24,170.00	3		NO
J.H.M.	2	57,049.50					YES
F.P.M.			1	1,128.00			NO
R.M.M.					5		
D.E.M.					1		
D.J.M.	11	1,615,847.47					NO
W.G.M.			3	425.00	6		NO
G.W.M.			9	4,980.99	2	1	NO
N.L.F.					1		
D.A.O.	1	20,000.00					
L.E.O.			1	50,000.00			NO
B.J.O.			3	15,297.72			YES
K.J.O.					1		NO
G.Y.P.			3	6,323.00			NO
K.R.P.			2	39,000.00	1		NO
W.G.P.						1	NO
W.A.P.					1		
D.R.P.					2		

CLAIMS AND AMOUNTS PER ATTORNEY
as of June 7, 1995

ATTORNEY	PENDING/AMOUNT		PAID/AMOUNT		DENIED	W/DRAWN	Crim. Pros.
R.P.					1		
R.C.P.					2		
G.E.P.			4	81,144.77			YES
W.A.P.					1		
T.M.P.			3	17,082.02	2		NO
T.P.					1		
J.P.					1		
D.G.P.			1	16,450.00			NO
D.L.R.					1		
D.R.					1		
M.N.R.			3	7,500.00	2		NO
P.J.R.					1		
M.A.S.			20	404,681.02	11		YES
D.E.S.					1		
W.S.					1		
W.D.S.					1		
J.S.			2	57,821.34			DIED
J.P.S.	1	6,825.00					
A.S.					1		
I.S.					1		
R.S.	1	5,000.00					NO
W.S.			5	50,391.66			YES
P.S.			1	2,360.23			NO
J.T.S.			5	2,349.26	1		NO
J.S.			1	557.87			NO
J.S.					R.J.		
P.M.S.					R.J.B.		

CLAIMS AND AMOUNTS PER ATTORNEY
as of June 7, 1995

ATTORNEY	PENDING/AMOUNT		PAID/AMOUNT		DENIED	W/DRAWN	Crim. Pros.
W.L.S.			1	25,000.00		1	NO
H.L.S.						1	
R.S.					1		
D.W.S.			1	1,197.00			NO
M.H.S.					1		NO
K.P.S.			1	200.00			DIED
B.A.S.			8	23,645.40	5		NO
M.H.T.					1		
J.R.T.			2	6,160.00			NO
D.W.T.					1		
N.W.T.					2		
R.S.V.					1		
S.W.			5	19,945.00	2		NO
M.T.W.	3	79,202.64					
D.W.					1		
J.M.W.					1		
M.S.W.					1		
B.P.W.		see D.J.M.					NO
TOTAL	26	\$2,058,758.99	171	\$1,737,394.97	151	8	