

CO-85-2205

OFFICE OF  
APPELLATE COURTS

JUL 2 1996

**FILED**

**ANNUAL REPORT  
OF THE  
MINNESOTA  
CLIENT SECURITY BOARD**

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Mankato, MN 56002  
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DIRECTOR**

**MARTIN A. COLE  
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June 1996

MINNESOTA CLIENT SECURITY BOARD

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ASSISTANT DIRECTOR

July 2, 1996

OFFICE OF  
APPELLATE COURTS

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

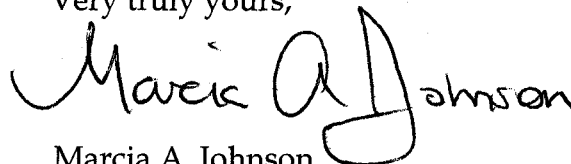
Re: Client Security Board Annual Report

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 24, 1996, 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 ninth annual report of the Minnesota Client Security Board covers the Board's fiscal year, which began July 1, 1995, and will end on June 30, 1996 (FY96).

The Client Security Board paid out a record amount in claims this past year, primarily because the Board paid \$100,000, which is the Board's maximum per claim, on three claims against former attorneys Bruce Wyant and Dennis Morgeson. The Board paid out almost \$550,000 on claims against Wyant and Morgeson, the most on behalf of any Minnesota attorney(s) to date. The Board also paid approximately \$70,000 in claims against Mark Weems and \$45,000 in claims against Daniel Davis, resulting in a record total payout of over \$650,000 for the year. Attorneys Wyant, Weems and Davis all were disbarred by the Supreme Court and Morgeson was transferred to disability inactive status while charges were pending. Because of the annual \$20 per lawyer assessment, which remains in effect, the Fund was able to handle this large payout and remain healthy. Also, since resolution of the Wyant and Morgeson claims had to wait for completion of lawyer disciplinary proceedings for several months, FY95's claim payout was quite low. The two-year total for FY 95-96, therefore, is only slightly above average.

The Board will meet six times this year. Following its June meeting, the Board will have resolved 43 claims this year, approving 22 claims in the amount

of \$716,695 against eight attorneys, and denying 19 claims. Two claims were withdrawn when the attorney paid voluntarily. Denied claims are almost always either malpractice claims or simple fee disputes not covered by the Board's rules.

Changes to the leadership and membership of the Board also highlight this past year. At the Board's first meeting of the new fiscal year, Bailey Blethen, an attorney member from Mankato, was elected as the Board's new Chair. Mr. Blethen has been on the Board for four years, and succeeded outgoing chair Nancy Vollertsen, whose final term had expired. Daniel Rust, an attorney from Crookston, was appointed by the Court to fill the vacancy on the Board created by Ms. Vollertsen's leaving. Two other Board members will be completing their terms on the Board on June 30. Sandra Brown has been one of the Board's two non-lawyer members for six years and has been a strong voice for the public in Board policy and payment determinations. Minneapolis attorney Earle Kyle IV has completed one three-year term on the Board but has chosen not to be reappointed, because of his many other commitments, including a recent appointment to the St. Paul Human Rights Commission. With two new members to be appointed by the Court, and with the recent addition of Mr. Rust, the Board will have a substantially new look in the coming year. With the leadership of Mr. Blethen and the Board's other experienced members, no major change in the Board's basic approach to claims is anticipated, however.

Two Board policies were spotlighted this past year. The Board initiated a new press release policy which authorizes the Board to issue a press release following each Board meeting, identifying the number and amount of claims paid, and the name of the attorney(s) against whom the claims were made. The

claimants are not identified. Only one of the press releases is known to have lead directly to coverage by the media, but the Board continues to believe that the effort is worthwhile. The change in policy also affects this annual report, in that for the first time a list of attorneys against whom claims have been paid can be published, rather than just using initials (Appendix D). Attorneys against whom claims were made but denied are not listed.

The other policy which was spotlighted this year deals with the payment of interest on paid claims. The Board has discretion to pay interest on paid claims, which the Board has determined will occur principally if the Board has been slow to resolve a particular claim. If the Board is awaiting pending disciplinary, civil or criminal proceedings to be completed in order to rely on findings made in those actions, then the Board gives itself only 90 days after such completion to resolve any claims against that attorney or else interest will be awarded. The Minnesota State Bar Association (MSBA) committee which originally recommended the rule allowing interest is reviewing the Board's policy, but to date that committee has not made a report. Mr. Blethen met with the committee at its request and the Board will continue to cooperate with MSBA.

The Client Security Board also has joined the world of the Internet as part of the Minnesota State Court System's homepage which is located at:

<http://www.courts.state.mn.us>

The Court's page is still under construction, but the Client Security Board's portion is complete. A directory of Board members and staff is available, as are copies of the Board's rules, most recent annual report, brochure and claim form. The Board's direct Internet address is:

<http://www.courts.state.mn.us/courts/csb/csb.html>.

For FY97, the Board has budgeted a more "usual" figure of \$160,000 for claim payment. The Board will have only four claims pending at the start of the new year, which is the lowest annualized number in the Board's history. The Board continues to resolve claims promptly unless related proceedings are pending.

## 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>
Bailey W. Blethen, Mankato, Chair	June 30, 1997
Sister Mary Madonna Ashton, St. Paul	June 30, 1998
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
Daniel L. Rust, Crookston	June 30, 1998

As noted, Mr. Blethen was elected as Chair at the Board's first meeting of the current fiscal year. Sister Mary Madonna Ashton and Ms. Brown are the Board's two public members. Sister Mary Madonna was appointed to a second three-year term during this past year. Ms. Brown's second and final term expires on June 30, and a new public member will have to be appointed. Ms. Brown has been an extremely conscientious member and an active participant in Board discussions, bringing a vital non-lawyer, common sense voice to the Board. A replacement for Mr. Kyle will also have to be appointed. Mr. Kyle too has brought a serious and well-reasoned approach to Board activities, always seeking consistency in Board decisions. A third member's term, that of Ms. Mesun, also expires this year; she is eligible for reappointment and has been nominated by the MSBA for another term.

Justice Paul Anderson has completed his first year as the Board's liaison on the Supreme Court. He has attended portions of several Board meetings this



year and has taken a keen interest in the Board's activities. His energy and interest are greatly appreciated by the Board members and staff, who look forward to a continued close relationship.

**Rules of the Minnesota Client Security Board.** Last year in its annual report, because of the need to file these reports slightly before the actual end of the fiscal year, the Board reported that a petition for changes to the Board's rules was pending before the Court. In fact, the Court issued its Order amending the Rules of the Client Security Board on June 27, 1995 (Appendix A). The new rules took effect July 1, 1995, with the new fiscal year.

Several significant changes occurred, including the press release authorization described in the Overview. The Board's basic definition of dishonest conduct was amended to reflect actual Board policy and interpretation. This codification allows claimants, in particular, to have a better understanding of the workings of the Board before determining whether to file a claim. In addition, the Board's maximum payment per claim (cap) had been raised the previous year to \$100,000, which was paid on three claims this year. This played a major part in the record payout on claims this year.

**Funding and Budget Procedures.** Since 1993, all licensed practicing Minnesota attorneys have paid \$20 per year to the Fund as part of their annual attorney registration fees. The Board prepares an annual budget which is presented for approval to the Supreme Court. The Board's FY97 budget was recently approved.

The Court's Order establishing the current assessment required the Board to notify the Court when the Fund reached \$1.5-million. The Board's

FY97 budget projects a year-end balance, as of June 30, 1997, of \$1.65-million. Thus, the Board did notify the Court of this information. Due to the large payout this past year and the unpredictability of future lawyer theft, the Board believes that continuation of the current assessment is appropriate. The Board has no plans for seeking additional amounts in the near future, however.

This year the assessment will generate approximately \$332,000. The Board also anticipates receiving approximately \$87,000 in investment income and \$31,000 in restitution payments from lawyers on whose behalf claims have been paid. 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 of each year. As noted, the FY97 budget was recently approved by the Supreme Court. Overall, the Board has budgeted \$190,000 in total expenditures. Based upon the information presently available to the Board, \$160,000 of that amount has been budgeted for claims payment next year.

**Administrative Staff.** Since the Board's inception in 1986, the Office of Lawyers Professional Responsibility has provided staff services to the Client Security Board. Marcia Johnson is the Client Security Board's Director. Assistant Director Martin Cole and legal assistant Patricia Jorgensen handle the daily operations for the Board. There has been no turnover in the staff personnel for several years, and as a result of this experienced operation, administrative costs continue to be kept to a minimum. The Board has budgeted less than \$20,000 next year for staff services.

The Minnesota Attorney General provides legal services to the Client Security Board in enforcing its subrogation rights against attorneys on whose behalf the Board has paid claims, or against any third persons from whom payments may be legally obtained. Martha Casserly is the manager of the Attorney General's collections litigation division. She and two assistant attorneys general, Janette Brimmer and Tammy Pust, provide outstanding representation for the Board. The Board pays no attorney's fees for this representation, and is responsible only for direct costs of collection and litigation.

Attorneys seeking reinstatement to the practice of law from disciplinary suspension or disbarment are required to make restitution to the Fund of any claims paid on their behalf, pursuant to Rule 18, Rules on Lawyers Professional Responsibility. Many attorneys have entered into repayment plans with the Board. Others require more aggressive collection efforts to ensure repayment. This past year, payments from 13 former attorneys were received. The total amount anticipated this year is \$31,000.

**Claims Procedures.** Over the course of its history, the Board had developed certain guidelines or policies for applying its rules to particular types of cases. The amendments to the Board's rules (discussed above) included amendments to Rule 3.02 which codified two of those policies, one concerning payment of unearned retainer claims and one concerning investment claims. Hopefully, this codification will give better notice to claimants and potential respondent attorneys about the Board's approach to these claims.

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. Claim forms and copies of the Board's rules are also available via the Internet on the Client Security Board's homepage. 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 occasionally exercises its discretion by waiving this requirement where it is known that 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 claimants will have full opportunity to present the merits of their claims before any denial is final.

### III. GOALS AND OBJECTIVES

Mr. Blethen has continued the basic philosophy of previous Client Security Board Chairs Mel Orenstein and Nancy Vollertsen of making prompt payment of claims the Board's principal focus. As a result, only four claims are pending as the new year begins. The Board's primary goal will remain fair and prompt resolution of claims and full restitution up to the Board's maximum.

Respectfully submitted,

Dated: June 28, 1996.

Bailey W. Blethen  
BAILEY W. BLETHEN, CHAIR  
MINNESOTA CLIENT SECURITY BOARD

Dated: July 1, 1996.

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

Dated: July 1, 1996.

Martin A. Cole  
MARTIN A. COLE  
ASSISTANT DIRECTOR

STATE OF MINNESOTA

IN SUPREME COURT

CO-85-2205

RECEIVED

JUN 30 1995

LAWYERS PROF. RESP. OFFICE

PROMULGATION OF AMENDMENTS TO  
THE RULES OF THE MINNESOTA CLIENT  
SECURITY BOARD

ORDER

WHEREAS, the Minnesota Client Security Board filed a petition with this Court that recommended amendments to the Rules of the Minnesota Client Security Board, and

WHEREAS, the Supreme Court held a hearing on the proposed amendments on May 12, 1995, and

WHEREAS, the Supreme Court has reviewed the recommendations and is fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The attached amendments to the Rules of the Minnesota Client Security Board are hereby adopted.
2. The amendments shall take effect on July 1, 1995.

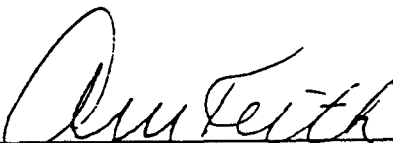
DATED: June 27, 1995

BY THE COURT:

OFFICE OF  
APPELLATE COURTS

JUN 28 1995

**FILED**

  
A.M. Keith  
Chief Justice

## AMENDED RULES OF THE MINNESOTA CLIENT SECURITY BOARD

### 1. 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 ~~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 Director, who shall serve at the pleasure of the 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 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 Lawyers Professional Responsibility Board, the Chair 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 and amount of claims paid, the restitution selected, 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 ~~these 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.

## CLIENT SECURITY FUND FINANCIAL HISTORY

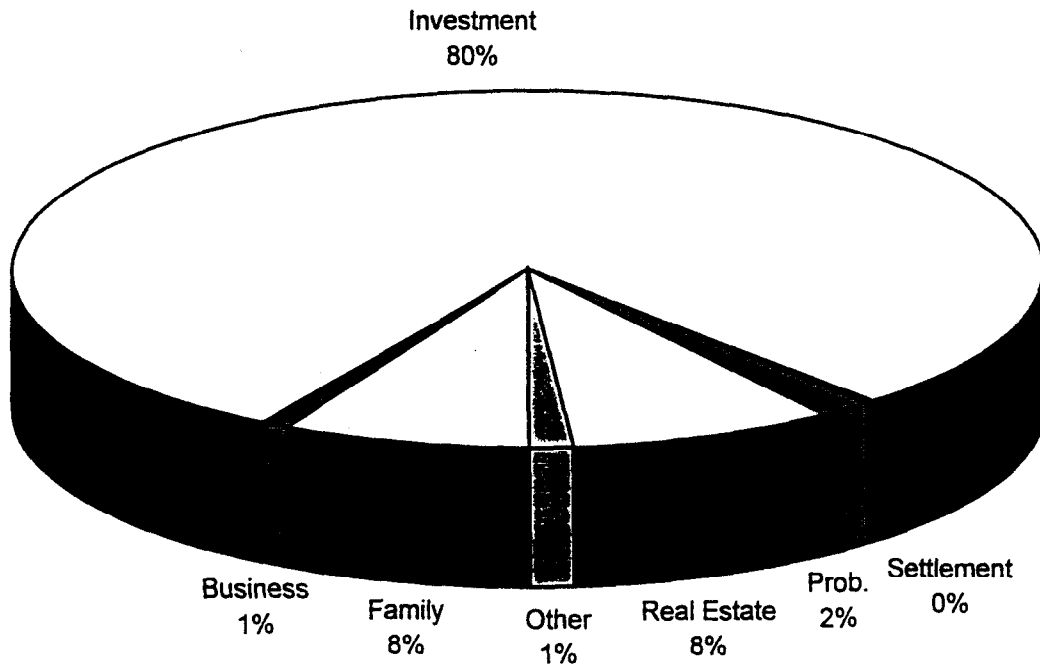
Fiscal Year	Contribution by Bar	Investment Income	Restitution	Number of Claims Paid	Amt. Paid to Claimants	Other Expenses	Balance Year End
1988	\$1,433,397	\$ 58,040	N/A	35	\$ 489,656	\$ 37,273	\$ 964,508
1989	93,318	79,049	N/A	21	236,016	24,068	876,791
1990	79,350	70,952	\$ 768	25	260,561	22,884	744,416
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	47,244	9,830	24	123,600	24,538	1,398,118
1995	349,424	85,075	37,075	14	62,421	25,471	1,781,800



**Awards of Reimbursement - July 1, 1995  
through June 3, 1996**

**This table summarizes, by area of law, all claims for reimbursement  
approved by the Board during fiscal year 1996.**

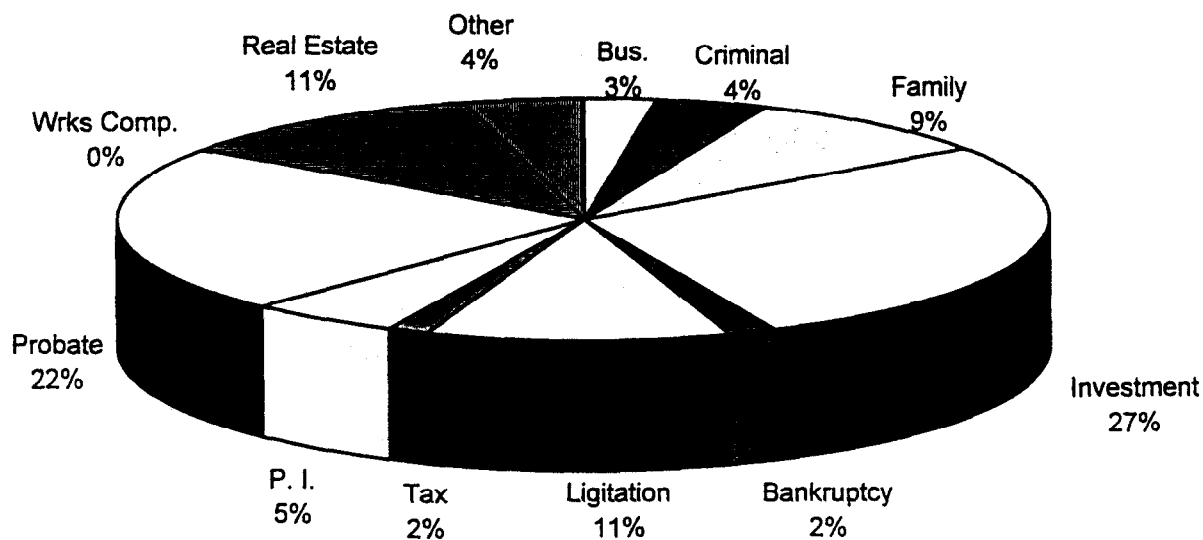
<b>Area of Law</b>	<b>Number of Awards</b>	<b>Amount of Awards</b>
<b>Business</b>	1	\$6,500.00
<b>Family</b>	4	\$55,331.64
<b>Investment</b>	9	\$570,522.67
<b>Probate</b>	2	\$11,471.66
<b>Real Estate</b>	4	\$59,654.47
<b>Settlement</b>	1	\$2,500.00
<b>Other</b>	1	\$10,715.00
<b>Total</b>	22	\$716,695.44



**Awards of Reimbursement - July 1, 1987  
through June 3, 1996**

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

<b>Area of Law</b>	<b>Number of Awards</b>	<b>Amount of All Awards</b>
<b>Bankruptcy</b>	15	\$40,183.30
<b>Business</b>	6	\$61,434.00
<b>Criminal</b>	8	\$91,149.69
<b>Family</b>	34	\$217,807.53
<b>Investment</b>	11	\$670,522.67
<b>Litigation</b>	22	\$254,004.60
<b>Personal Injury</b>	8	\$125,573.30
<b>Probate</b>	33	\$538,197.05
<b>Real Estate</b>	20	\$271,627.43
<b>Settlement</b>	16	\$68,092.74
<b>Tax</b>	7	\$38,112.28
<b>Workers Comp.</b>	1	\$750.00
<b>Other</b>	14	\$98,174.44
<b>Total</b>	195	\$2,475,629.03



Claims Paid Per Attorney

Respondent	Number Paid	Amount Paid	Discipline
Anderson, Harold W E.	2	\$39,258.97	Disbarred
Andrew, John	2	\$100,000.00	Disbarred
Barta, Loren	2	\$3,947.93	Indefinite Suspension
Batdorf, Richard K.	1	\$50,000.00	Disbarred
Benson, John T.	1	\$50,000.00	Disbarred
Cohen, Edward M. Sr.	1	\$2,245.83	Disbarred
Danna, Anthony A.	3	\$81,375.00	Disbarred
Davis, Daniel	3	\$44,486.66	Disbarred
Douglas, Bruce	11	\$226,119.60	Deceased
Erickson, Bruce E.	2	\$1,995.00	Indefinite Suspension
Feldman, John H.	2	\$12,954.00	Disbarred
Flanagan, John, J.	6	\$113,626.59	Disbarred
French, Rodney M.	6	\$4,062.50	Indefinite Suspension
Getty, Paris D.	5	\$24,278.00	Disbarred
Goldstein, Robert M.	1	\$2,500.00	Pending
Graham, Timothy E.	3	\$6,257.98	Disbarred
Heikens, Steven G.	2	\$12,800.00	3 Year Suspension
Hendricksen, Harold F.	2	\$17,875.00	Indefinite Suspension
Henke, David E.	1	\$1,000.00	Indefinite Suspension
Hollender, R. Fred	1	\$2,227.74	Deceased
Hunter, James W.	5	\$21,900.00	Disbarred
Isaacs, Clark F.	1	\$535.78	Disbarred
Kinnunen, Steven J.	1	\$500.00	Indefinite Suspension
LaChapelle, Arthur W.	2	\$18,400.00	Disbarred
Ladd, William L.	13	\$49,542.60	Disbarred
Larsen, Dean D.	1	\$40,000.00	Disbarred
Levenstein, Eli C.	1	\$368.00	Indefinite Suspension
Logan, Diana Smith	3	\$560.00	Indefinite Suspension
Maresh, Thomas F.	1	\$6,500.00	Disbarred
Marshall, Gary L.	7	\$24,170.00	Disbarred
McCarthy, Justin H.	2	\$58,679.24	Disbarred
McGrath, F. Patrick	1	\$1,128.00	90 Day Suspension
Morgeson, D. John	8	\$547,922.67	Disability
Mose, William	3	\$425.00	Disbarred
Murphy, Gerald	9	\$4,980.99	Disbarred
Olsen, Lawrence E.	1	\$50,000.00	Disbarred
Ostfield, Benjamin J.	3	\$15,297.72	Disbarred
Pang, Gary Y.	3	\$6,323.00	Disbarred
Pearson, Kenneth R.	2	\$39,000.00	Indefinite Suspension
Plowman, George E.	4	\$81,144.77	Disbarred
Polt, Thomas M.	3	\$17,082.02	Disbarred
Pyles, David A.	1	\$16,450.00	Disbarred
Rothstein, Morry N.	3	\$7,500.00	Disbarred
Sampson, Mark A.	20	\$404,679.04	Disbarred
Scott, Jeffery	2	\$57,821.34	Deceased
Sheffey, Ralph E.	1	\$5,000.00	Indefinite Suspension
Simonet, William B.	5	\$50,391.66	Disbarred
Simonson, Paul L.	1	\$2,360.23	Disbarred
Skonnord, James T.	5	\$2,349.26	Indefinite Suspension
Soderberg, John	1	\$557.87	Indefinite Suspension

Claims Paid Per Attorney

Stockman, William L.	1	\$25,000.00	Disbarred
Strid, Dennis W.	1	\$1,197.00	1 Year Suspension
Sullivan, Kevin P.	1	\$200.00	4 Month Suspension
Swerine, Brian A.	8	\$23,645.40	Disbarred
Thompson, Joel R.	2	\$6,160.00	Indefinite Suspension
Walker, Samuel Jr.	5	\$19,945.00	Disbarred
Weems, Mark T.	7	\$70,901.64	Disbarred
Wyant, Bruce P.		See Morgeson	Disbarred
	195	\$2,475,629.03	