

OFFICE OF  
APPELLATE COURTS

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

**BAILEY W. BLETHEN  
CHAIR  
P.O. Box 3049  
Mankato, MN 56002  
(507) 345-1166**

**MARTIN A. COLE  
ACTING DIRECTOR  
25 Constitution Avenue, Suite 105  
St. Paul, MN 55155-1500  
(612) 296-3952**

June 1997

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## I. OVERVIEW AND YEAR IN REVIEW

Rule 1.10, Minnesota Rules of the Client Security Board (MRCBSB), 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 tenth annual report of the Minnesota Client Security Board covers the Board's current fiscal year, which began July 1, 1996, and will end on June 30, 1997.

Following the record payouts of FY96, which were reported in last year's annual report, the Board has had a comparatively quiet year in terms of claims and amounts of payment this past year. After its fifth and final meeting of the fiscal year in June 1997, the Board had approved 12 claims this year for the relatively lesser total amount of \$103,072.28. For most of the year, the number of new claims received was down, so that the Board was able to efficiently deal with its work load to the point where there were only four pending claims in March 1997. An influx of new claims towards the end of the fiscal year still results in only 17 claims pending at years end, with none more than seven months old.

In the ten years of the Board's operation, the Board has now approved 205 claims and paid out \$2,567,027.54 against 66 different lawyers (*see* Appendix C). Seven claims were rejected this year as not qualifying for payment under the Board's rules. At the start of the fiscal year, ten claims were pending before the Board. Twenty-six new claims were received during the year with 19 claims being resolved. Thus, 17 claims remain pending for the next year.

With the luxury of so few claims pending for much of the year, the Board was able to spend time at several meetings reviewing policies and procedures and discussing several possible areas of client protection either in use in other jurisdictions or under consideration. These included Minnesota's involvement in the new National Client Protection Organization (NCPO), which has been established to facilitate better sharing of information between various jurisdictions, notices about the Fund in the

attorney section of the Yellow Pages, and having the Board listed as a *pro bono* opportunity with the Minnesota State Bar Association (MSBA). Some action on these points will result from this review, which also served to educate new Board members and keep the Board in the forefront of client protection nationally. Articles about the Client Security Board, by Martin Cole, the Acting Director, in *Bench & Bar*, and by Board member Kim Mesun, in the MSBA *Public Law News*, appeared at the end of the fiscal year as part of the Board's educational function. The Board also is planning to create a standardized presentation about the Fund which can be given by staff or Board members at bar meetings or to the public, so that more people would be aware of and understand the Board's role.

**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
Timothy J. Kuntz, South St. Paul	June 30, 1999
Beverly K. McKinnell, St. Paul	June 30, 1999
Kim Buechel Mesun, St. Paul	June 30, 1999
Daniel L. Rust, Crookston	June 30, 1998

Ms. McKinnell was appointed to the Board on December 9, 1996, and is one of the Board's two public members along with Sister Mary Madonna Ashton. Mr. Blethen's final term on the Board expires this year. He has been Chair of the Board for the past two years and has continued the Board's history of outstanding leadership. The Board often works by consensus more than divided votes, and it requires special skills to synthesize the diverse views of the members and find the common ground that

results in a decision. Once a replacement member is appointed by the Court, the Board will elect a new Chair in the coming year. Mr. Bowles' term also ends this year, but he is eligible for reappointment and has been recommended by the MSBA for a second term.

The Board also has a new liaison justice with the Supreme Court. Justice Kathleen Blatz was named as the Board's new liaison justice during this past year and replaced Justice Anderson in that capacity. The Board will miss Justice Anderson's personal involvement and interest in the Board's activities, but equally looks forward to dealing with Justice Blatz.

**Rules of the Minnesota Client Security Board.** The Board's rules were amended effective July 1, 1995, and underwent no changes in the past year. No paid claims reached the \$100,000 maximum payment level this past year, so that was not an issue as it was the previous year. The press release policy that went into effect with the last rule changes was followed, but did not result in much, if any, publicity.

The Board spent portions of several meetings discussing issues relating to client protection, which included some possible rule changes. No specific rule changes were recommended this year, although several suggestions for "minor" revisions were considered and likely will be reviewed again when there are enough such changes to warrant a full petition to the Court.

**Funding and Budget Procedures.** Since 1993, all practicing Minnesota licensed 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 FY98 budget was recently approved by the Court.

The Court's order establishing the current assessment requires the Board to notify the Court when the Fund reaches \$1.5 million. The Board's FY98 budget projects a year-end balance, as of June 30, 1998, of \$1.87 million. The projected total for two years hence (end of FY99) just exceeds \$2 million. Thus, the Board has notified the

Court of this information and informed the Court that it intends to specifically study the Board's future funding needs (including a review of the maximum payment limits) and report to the Court more fully next year. The Board members are very sensitive to the issue of the increasing attorney registration fee, yet want to be confident that the Fund remains healthy enough to handle any major defalcation matter (such as it was able to do two years ago with the Wyant and Morgeson claims) without having to seek additional funds. Certainly, the Board continues to have no plans for seeking additional amounts in the near future.

This past year the current assessment will generate approximately \$377,000. The Board also anticipates receiving approximately \$80,000 in investment income and \$23,500 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 FY98 budget was recently approved by the Supreme Court. Overall, the Board has budgeted \$446,600 in total expenditures, which will be substantially higher than this current year. Based upon the information presently available to the Board concerning pending claims or known potential claims, \$400,000 has been budgeted for claims payment next year. This again is one of the larger amounts ever anticipated for one year. This year's relatively low payout of claims may not be repeated. The Board has also budgeted \$16,500 for services to build a new computer data base for the Board to better maintain records and, hopefully, track trends in claims and the characteristics of attorneys who generate them. This is intended to be a one-time payment for a sophisticated computer base.

**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 resigned as Director of the Office of Lawyers Professional Responsibility and the Client Security Board this year. Assistant Director Martin Cole has been Acting Director since April 1, 1997. The Court established a search committee to recommend a new Director. Mr. Bowles of the Board was a member of the committee. The Court recently announced that St. Paul attorney Edward Cleary has been hired and will take office on August 1, 1997. Mr. Cole and legal assistant Patricia Jorgensen will continue to handle the daily operations for the Board. As a result of their experience, administrative costs continue to be kept to a minimum. The Board has budgeted approximately \$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 Assistant Attorney General Janette Brimmer and their staff provide outstanding representation for the Board. The Board pays no attorney's fees for this representation, but is responsible only for direct costs of collection efforts and litigation.

One of the issues discussed by the Board this year concerned the requirement that 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. Rule 18, Rules on Lawyers Professional Responsibility. Many attorneys enter into repayment plans with the Board. Others require more aggressive collection efforts to ensure repayment. This past year, payments from 12 former attorneys were received. The total amount anticipated this year will be \$23,500.

**Claims Procedure.** 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 discretionary meeting with the Board, so that claimants will have full opportunity to present the merits of their claims before any denial is final.

Information about the Client Security Board is also available to potential claimants via the Internet as part of the Minnesota State Court System's homepage which is located at:

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

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.state.mn.us/courts/csb/csb.html>.



III. GOALS AND OBJECTIVES

The Board will be electing a new Chair at its first meeting of the new fiscal year. There will be one new Board member appointed soon by the Court to replace outgoing Board Chair Bailey Blethen. A new Director has recently been hired. These leadership changes will result in some changes for the Board, yet it is fully anticipated that the basic philosophy of prompt resolution of claims and payment to the fullest possible amount for all valid claims will not be impaired at all. Only one claim filed before 1997 is pending; the Board remains very current with its workload. It is anticipated that this will be a year with many larger payouts and more claims.

The Board anticipates completion of its computer project this year, which hopefully will provide more information from which the Board can better review potential methods of reducing or detecting lawyer theft. The Board hopes to continue to review procedures to ensure that it will become better known to any potential claimants, provide fair resolution of claims, while also determining whether the current annual assessment to the bar should be altered in any way. This will make for a full year for the Client Security Board.

Respectfully submitted,

Dated: 6/24, 1997.

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

Dated: June 18, 1997.

Martin A. Cole  
MARTIN A. COLE, ACTING DIRECTOR  
MINNESOTA CLIENT SECURITY BOARD

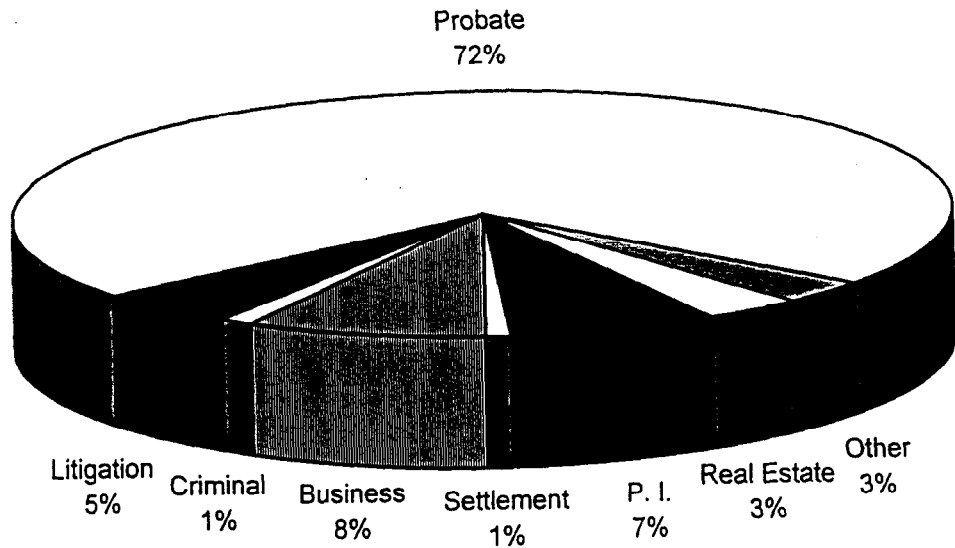
## CLIENT SECURITY FUND FINANCIAL HISTORY

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
1996	368,450	82,630	31,361	22	705,524	35,427	1,523,290

**Awards of Reimbursement - July 1, 1996  
through June 17, 1997.**

**This table summarizes, by area of law, all claims for reimbursement  
approved by the Board during fiscal year 1997.**

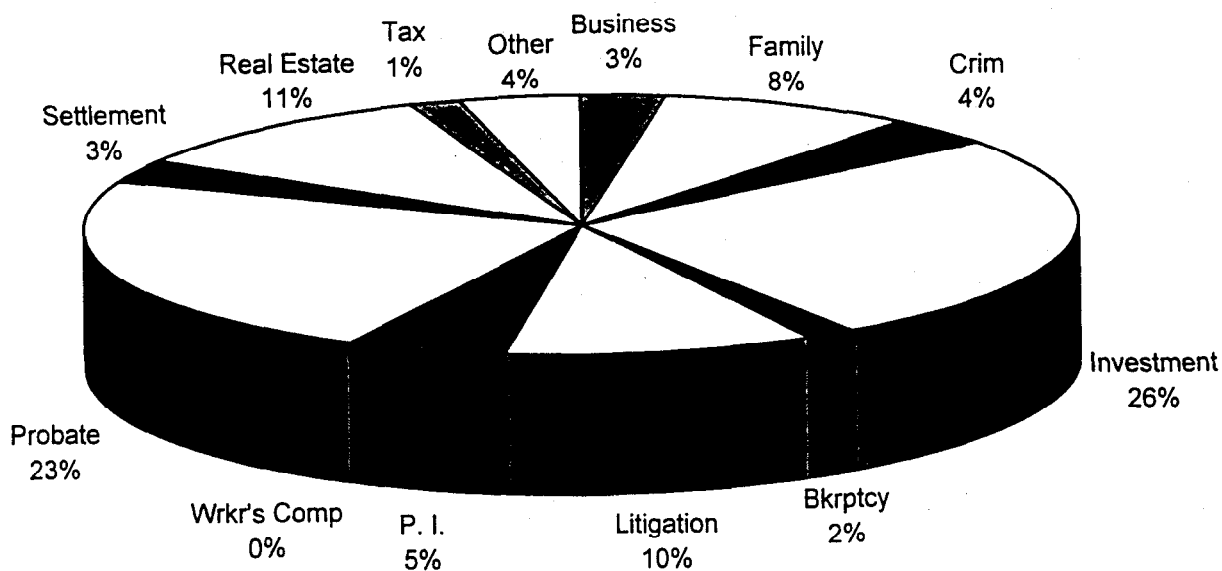
Area of Law	Number of Awards	Amount of Awards
Business	3	\$8,673.40
Criminal	1	\$1,200.00
Litigation	2	\$5,112.00
Personal Injury	1	\$7,196.71
Probate	1	\$73,188.17
Real Estate	1	\$3,500.00
Settlement	1	\$1,000.00
Other	2	\$3,202.00
<b>Total</b>	<b>12</b>	<b>\$103,072.28</b>



**Awards of Reimbursement - July 1, 1987  
through June 17, 1997.**

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

Area of Law	Number of Awards	Amount of All Awards
Bankruptcy	15	\$40,183.30
Business	9	\$70,107.40
Criminal	9	\$92,349.69
Family	33	\$217,782.53
Investment	11	\$670,522.67
Litigation	24	\$258,306.60
Personal Injury	9	\$132,770.01
Probate	33	\$600,233.46
Real Estate	21	\$275,190.43
Settlement	17	\$69,342.74
Tax	7	\$38,112.28
Workers Comp.	1	\$750.00
Other	16	\$101,376.43
<b>Total</b>	<b>205</b>	<b>\$2,567,027.54</b>



## 1997 CLAIMS PER ATTORNEY

<u>Respondent</u>	<u>Number Paid</u>	<u>Amount Paid</u>	<u>Discipline</u>
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	\$81,625.00	Disbarred
Davis, Daniel	2	\$33,315.00	Disbarred
Douglas, Bruce	11	\$225,309.60	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.	4	\$11,173.40	Pending
Graham, Timothy E.	3	\$6,257.98	Disbarred
Gryzbek, John E.	1	\$750.00	Pending
Harp, Reynaud L.	2	\$3,702.00	Disbarred
Heikens, Steven G.	2	\$12,800.00	3 Year Suspension
Heikkila, Neil D.	1	\$73,188.17	Disbarred
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
Johnson, Richard W.	1	\$4,362.00	Pending
Johnson, Ronald J.	1	\$7,196.70	Pending
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
Merlin, Carol	1	\$500.00	Pending
Morgeson, D. John	8	\$547,922.67	Disability
Mose, William	2	\$400.00	Disbarred
Murphy, Gerald	9	\$4,980.99	Disbarred
Olsen, Lawrence E.	1	\$50,000.00	Disbarred
Ostfield, Benjamin J.	3	\$15,297.72	Disbarred
Ostroot, Timothy V.	1	\$1,200.00	Pending
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
Randall, Michael H.	1	\$3,500.00	Disbarred

1997 CLAIMS PER ATTORNEY

Rothstein, Morry N.	3	\$7,500.00	Disbarred
Sampson, Mark A.	20	\$404,742.04	Disbarred
Scott, Jeffery	2	\$57,821.34	Deceased
Sheffey, Ralph E.	1	\$5,000.00	Indefinite Suspension
Simonet, William B.	5	\$50,411.56	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
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
	<u>205</u>	<u>\$2,567,027.54</u>	