

OPEN SESSION AGENDA ITEM

704 MARCH 2018

DATE: March 9, 2018
TO: Members, Board of Trustees
FROM: Donna Hershkowitz, Chief of Programs
SUBJECT: Client Security Fund Mandated Report to Legislature

EXECUTIVE SUMMARY

Business and Professions Code section 6140.56, added by Stats. 2017, Ch. 422 (SB 36), directs the State Bar to conduct a thorough analysis of the Client Security Fund (CSF) and that a report on the findings be submitted to the Legislature no later than March 15, 2018. This agenda item presents a draft of that report for the Board's review and discussion. The draft report does not contain recommendations. Instead, the report provides a detailed list of options for addressing the current funding shortfall in the CSF. It is anticipated that the Board of Trustees' discussion of this item will provide direction regarding whether recommendations should be provided and, if so, which funding options should be recommended.

BACKGROUND

Business and Professions Code section 6140.56 (added by Stats. 2017, Ch. 422, (SB 36)) directs the State Bar to conduct a thorough analysis of the Client Security Fund (CSF) and report the findings to the Legislature no later than March 15, 2018. Specifically, the statute directs the Bar to evaluate:

- the State Bar's oversight of the Client Security Fund, to ensure that the structure provides for the most effective and efficient operation of the fund;
- the ongoing needs of the fund to satisfy claims within 12 months;
- additional efforts to increase the collection of payment from attorneys;
- other State Bar expenditures that do not directly impact the State Bar's public protection functions – including but not limited to executive salaries and benefits – that can be reduced or redirected in order to better fund the Client Security Fund, and;
- whether an increase in licensing fees is needed for the Client Security Fund to pay claims in 12 months.

State Bar staff propose to submit the attached draft report, once finalized, in accordance with the requirements of that statutory mandate.

DISCUSSION

The report begins by describing the purpose of the CSF and the statutory framework that governs its operation. It goes on to discuss the challenges currently facing the CSF and describes the methodology used to evaluate funding needs. This discussion looks at two distinct measures of funding need: the funding needed to pay current CSF inventory, and the amount needed to keep pace with the estimated volume of new applications.

- The current funding shortfall is equal to \$14.2 million which represents applications that are currently eligible for payment;
- The on-going funding shortfall is equal to \$1.8 million above the current annual amount of approximately \$6 million available to make payments.

The report also provides a detailed description of the functioning of the CSF Commission and the rules that govern it, as well as the procedures and processes used for resolving CSF applications.

A substantial part of the report is devoted to evaluating options for addressing the one-time and on-going funding shortfall. These options fall into three broad categories:

- Options to limit the amounts or types of claims that are paid by the CSF;
- Options to transfer funds to the CSF; and
- Options for generating additional revenue.

The options discussed include measures that could yield about \$64,000 per year – by charging a CSF fee to foreign legal consultants and multi-jurisdictional practitioners who are licensed to practice in California – to \$14 million in one-time funding by increasing the CSF fee.

Generally, the options also involve trade-offs with other values that the CSF seeks to uphold. For example, paying pro-rated amounts on applications to the fund would free up additional resources that could be used to pay claims of other applicants more quickly – albeit, at a discounted rate that may be inconsistent with the goal of reasonable reimbursement to victims of attorneys misconduct.

It is anticipated that the Board of Trustees' discussion of this item will include direction regarding which options should be recommended. Any recommendations should be informed by the fact that the CSF operated in surplus for the vast majority of the time that it has been in existence. The current crisis that confronts the CSF was generated by the Great Recession, and the resulting outgrowth of attorney misconduct relating to loan modifications. Already the number of applications submitted to, and amount of money being requested of, the fund have fallen back to pre-crisis levels. CSF staff have reduced the backlog significantly in recent years, resolving almost twice as many cases last year as the number of new applications received.

Thus, rather than propose a radical restructure of the CSF program or other State Bar operations to address what may be a limited-term problem, the Board might consider proposing a one-time infusion of funding to eliminate the current backlog more quickly than will be possible otherwise. While significant one-time funding will address the pending inventory, given the stated goal of reimbursing all eligible claims within 12 months of final discipline, it does appear that a modest ongoing increase in CSF revenue is needed.

FISCAL/PERSONNEL IMPACT

Unknown. Should the Board of Trustees approve the budget amendment on the Board's March 9, 2018, agenda, there will be an additional \$800,000 available for CSF reimbursements in 2018, reducing the outstanding claim balance.

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Objective: f. Support adequate funding of the Client Security Fund.

RECOMMENDATION

None

ATTACHMENT(S) LIST

- A. Draft of Legislatively Mandated Report on the Client Security Fund pursuant to Business and Professions Code Section 6140.56

History of the Client Security Fund

The Client Security Fund was established by Bar-sponsored legislation which became effective on March 4, 1972 (Stats 1971, ch. 1338). Section 6140.5 established the Fund to reimburse individuals for pecuniary losses caused by dishonest lawyers arising from or connected with the practice of law.¹

At the time of the Fund's inception, the maximum allowable payment to an applicant was \$25,000. The statute allowed the Board to include in annual licensing fees an additional amount per active member "not to exceed \$25" to provide the necessary resources to the Fund; the Board initially set the fee at \$10. A decade later, in 1982, the Board increased the maximum allowable applicant payment from \$25,000 to \$50,000.

In 1985, the Supreme Court of California issued a decision with significant implications for the operation of the Fund. In *Saleeby v. State Bar* (1985) 39 C3d 547,² the Court established that applicants are entitled to *independent* review of requests for reimbursement and specified certain minimum due process requirements affecting decisions regarding payments from the Fund, including the need for findings of fact and conclusions of law. The Court held that CSF decisions are reviewable in the superior courts through administrative mandamus.

In response to *Saleeby*, in the same year, the Board of Trustees created a Client Security Fund Commission (CSFC) and adopted new rules for the operation of the CSF. The new rules were patterned after the ABA Model Rules for Client Protection, but also provided both applicants and respondent attorneys the opportunity to object to Commission tentative decisions. Under the then-entitled Rules of Procedure for Client Security Fund Matters, the appointed Commission is delegated all decisions regarding application payments. Under these rules, both applicants and respondent attorneys have the right to object to Commission tentative decisions.

In 1988, the Legislature amended section 6140.5 to require the State Bar to add the amount of payouts, plus interest and processing costs, to licensee fee bills if the lawyer is publicly reprimanded or suspended. For any lawyer who resigns with disciplinary charges pending, or for a lawyer who is suspended or disbarred, restitution of any reimbursed amount, along with applicable interest and costs, must be paid as a condition of reinstatement. The amended statute also changed the maximum assessment level from \$25 to \$40.

In 1992, the Commission undertook a major revision of the rules governing the CSF. In part the rules revisions addressed technical changes related to proceedings that used to involve the State Bar Court. More significantly, the rules revisions clarified that *both* applicants and respondent attorneys could challenge Fund decisions through a petition for writ of mandamus

¹ The full text of section 6140.5 is provided as Attachment B.

² The *Saleeby* decision is provided as Attachment C.

in the superior court. Previously the rule had stated that only applicants could file such petitions.

In 1996, a comprehensive actuarial evaluation of the fund was conducted by William M. Mercer, Inc. This study was commissioned for the purpose of assisting in determining what assessments should be charged to the members of the State Bar, as well as to determine if the fund could increase the maximum reimbursable amount higher than \$50,000.

The study determined that raising the cap would necessitate an increase in the assessment above \$40. Based on the key findings and conclusions of the actuarial study, the Commission decided not to recommend an increase in either the maximum payment or assessment level.

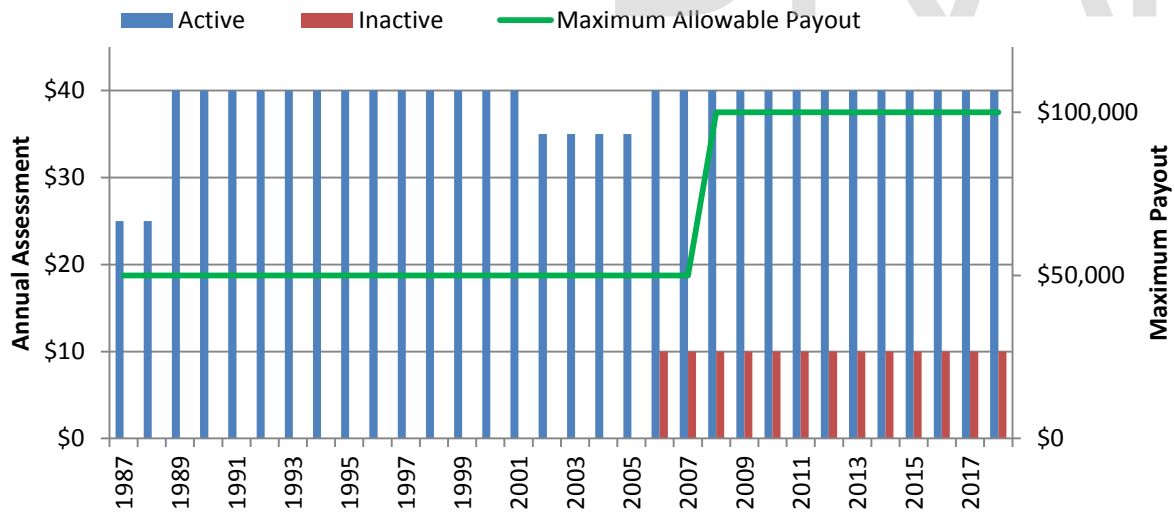
In 2006, section 6140.5(a) was amended to expand the purpose of the Client Security Fund to include relieving or mitigating pecuniary losses caused by the dishonest conduct of Foreign Legal Consultants (FLC) registered with the State Bar and attorneys registered with the State Bar under the Multi-Jurisdictional Practice Program (MJP).

At the same time, section 6140.55 was amended to authorize, along with assessments of up to \$40 per year for active members of the State Bar, an assessment of up to \$10 per year for inactive members.³ This change increased the size of the CSF surplus and, after a 2008 actuarial analysis, led the Board to increase the maximum allowable payment from \$50,000 to \$100,000. In addition to satisfying a long-standing desire to reimburse clients for a greater share of their losses.

Figure 1 summarizes the changes in the annual assessment paid by attorneys to support the CSF and the maximum payout allowable under CSF rules.

³ For the years from 2002 through 2005, the CSF assessment was reduced from \$40 per active licensee to \$35 per active licensee.

Figure 1 – Annual CSF Assessment and Maximum Payout



SECTION I: OVERVIEW OF CURRENT ISSUES FACING THE FUND

The increase in the maximum allowable payment coincided with the onset of the loan modification crisis which manifested in a staggering increase in CSF applications: in 2009, the number of applications to the CSF more than tripled, growing from less than 1,000 in 2008 to over 3,000 in 2009. In 2010, the number of applications grew again, this time by almost 30 percent. Applications to the CSF remained well above the historic average through 2013.

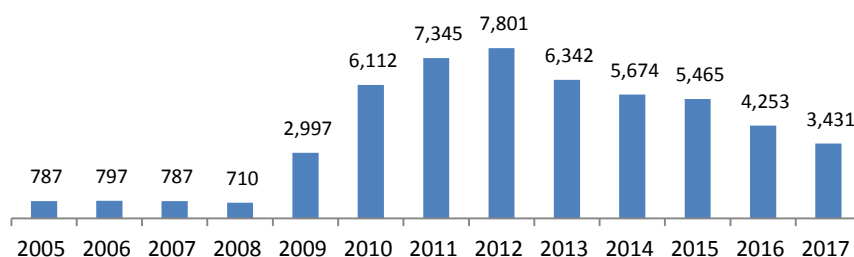
Because the CSF operated in surplus for its entire history prior to 2009, for a number of years the Fund was able to pay more than the annual assessment from the licensing fees generated. By 2014, however, the Fund's surplus was exhausted and, absent one-time infusions from other sources as described in footnotes 4 and 5, the CSF has been able to pay only the amount generated by the annual fee – approximately \$6 million after taking into account administrative costs.

Table1, below provides information regarding CSF fund balance, revenue and expenses since 2009.

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Beginning Fund Balance	4,304,519	2,678,965	2,322,315	11,921,822	11,105,023	5,575,541	2,208,554	2,200,438	1,426,267
Revenue	7,024,573	7,080,589	7,202,601	7,353,107	7,489,244	7,614,250	7,737,572	8,256,058 ⁴	9,530,603 ⁵
Total Revenue	7,024,573	7,080,589	7,202,601	7,353,107	7,489,244	7,614,250	7,737,572	8,256,058	9,530,603
Expenses									
Applications Paid/Accruals	7,345,373	6,239,103	15,336,212	6,870,643	11,016,657	9,007,803	6,005,388	8,007,676	6,339,398
Administration Expenses	1,304,753	1,198,137	1,403,985	1,299,263	2,002,069	1,973,434	1,740,299	1,022,553	1,544,146
Total Expenses	8,650,127	7,437,239	16,740,197	8,169,906	13,018,726	10,981,237	7,745,688	9,030,229	7,883,544
Ending Fund Balance	2,678,965	2,322,315	11,921,822⁶	11,105,023	5,575,541	2,208,554	2,200,438	1,426,267	3,073,326

The combination of several years with a substantial increases in the number of applications and a significantly eroded fund balance has also resulted in a backlog of CSF applications. As of March 2018, this backlog is estimated at 3,400 applications totaling \$52.3 million in outstanding claims. While the number of new applications to the Fund has returned to historically normal levels and the CSF is now processing more claims annually than the number of new applications filed thus reducing the backlog inventory, the CSF does not have sufficient funding to both timely eliminate the backlog and expeditiously process new applications.

Figure 2 – CSF Applications Pending at Year End

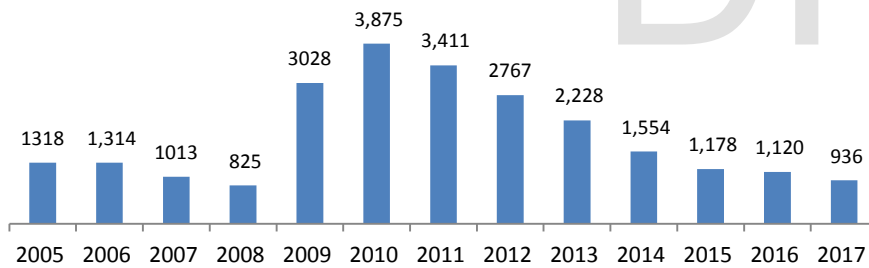


⁴ In 2016 CSF received a transfer of \$400,000 from the Legislative Activities Fund.

⁵ In 2017 CSF received a transfer of \$1,600,000 from the General Fund

⁶ In prior years, the State Bar reported an estimated liability of expected CSF payments based on historical payout ratios and the number of outstanding applications at year-end. This liability was reported as other current liabilities and noncurrent claims payable in the State Bar's consolidated financial statements even though payouts from this fund are completely discretionary. In 2012, the State Bar updated its legal analysis of CSF and the governing rules of the program and determined that no liability should be recorded in the financial statements because the State Bar did not have any outstanding obligations, as determined by final approved applications at year-end. Accordingly, net position was restated and increased as of January 1, 2011.

Figure 3 – CSF Applications per Year



SECTION II: THE MECHANICS OF THE FUND AND HOW IT COMPARES TO OTHER SIMILAR REIMBURSEMENT PROGRAMS

Administration of the Client Security Fund

Rule 3.421 of the Rules of the State Bar of California, “the Client Security Fund Rules” provides that:

(A) To administer the Client Security Fund, the Board of Trustees of the State Bar of California has established a Client Security Fund Commission (“Commission”) to which it appoints seven members who serve at its pleasure or until the expiration of a term set by the Board. Four members at most may be present or former members of the State Bar or admitted to practice before any court in the United States. The Commission has sole and final authority to determine whether to grant an application for reimbursement from the Client Security Fund and the extent and manner of any payment.

The Commission meets six times per year and makes decisions on applications for reimbursement according to the Client Security Fund rules.

The Fund is governed by substantive and procedural rules and the operation of the Fund is strongly influenced by the *Saleeby* decision provided as Attachment C.⁷ The actions of the Fund and the Commission constitute legal proceedings in which applicants and respondents have due process rights⁸ that result in legal adjudications (Commission Tentative and Final Decisions, Notices of Intention to Pay).⁹ As the California Supreme Court held, applicants to the Fund are

⁷ Rules of the State Bar of California, Title 3. Programs and Services, Division 4. Consumers, Chapter 1. Client Security Fund (adopted effective January 1, 2010. These rules were formerly called Rules of Procedure, Client Security Fund Matters.

⁸ *Saleeby v. State Bar* (1985) 39 Cal.3d 547; *Johnson v. State Bar* (1993) 12 Cal. App. 4th 1561.

⁹ Client Security Fund Rules, rules 3.442, 3.443, and 3.444.

entitled to independent review of a reimbursement request,¹⁰ and Fund decisions must include findings of fact and conclusions of law upon which review can be made.¹¹

A case may be closed administratively by staff because it clearly falls outside the rules of the Fund, or absent objection by an applicant or respondent, a matter may be resolved pursuant to a staff issued Notice of Intention to Pay (discussed in greater detail below). All other cases have formal written decisions (Tentative and Final Decisions). The decisions are reviewable in superior court mandamus proceedings.¹² Fund decisions have collateral estoppel effect,¹³ form the basis of collections actions,¹⁴ and are used in reinstatement proceedings.¹⁵

Resolving CSF Applications

The resolution of a CSF application involves two principal components: 1) determining that the applicant has realized a qualified loss as the result of the respondent attorney's misconduct; and 2) determining that the attorney satisfies the status requirements of the Rules, i.e., the attorney has been disbarred, disciplined, or voluntarily resigned from the State Bar, or met other defined statuses.

With respect to qualified loss, the Fund does not reimburse for alleged negligence or malpractice. The Fund can only reimburse amounts received by and wrongfully retained by the respondent attorney through dishonest conduct; documentary evidence to establish that the attorney actually received the money is required. In addition, the burden is on the applicant to establish loss of money or property that was received by an active California attorney who was acting as an attorney or in a fiduciary capacity customary to the practice of law.

With these qualifications in mind, the types of dishonest conduct covered include theft or embezzlement of money, the wrongful taking or conversion of money or property, or a comparable act; failure to refund unearned fees when the attorney performed no work or an insignificant portion of work; borrowing money from a client without the intention or reasonable ability to repay it; obtaining money or property from a client for an investment that was not in fact made; or other acts of intentional dishonesty or deceit that proximately leads to the loss of money or property.

¹⁰ Saleeby, *supra*, 39 Cal.3d at 562-568.

¹¹ *Id.* at 562-568, 575.

¹² *Id.* at 557-562.

¹³ *State Bar v. Statile* (2008) 68 Cal. App. 4th 650, 670-671.

¹⁴ Subdivisions (b) – (d) of Business and Professions Code Section 6140.5; Rules of the State Bar, rules 3.451 and 3.452; and *Statile, supra*, 39 Cal.3d 547.

¹⁵ Rules of the State Bar of California, rule 5.441(B)(2).

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With regard to the status of the attorney, Client Security Fund Rule 3.432(A)¹⁶ states that in order to qualify for reimbursement, an application must establish that an attorney whose dishonest conduct is alleged has:

- (1) been disbarred, disciplined, or voluntarily resigned from the State Bar;
- (2) died or been adjudicated mentally incompetent; or
- (3) because of the dishonest conduct become a judgment debtor of the applicant in a contested proceeding or been convicted of a crime.

This is often referred to as the “discipline requirement.” In practice it means that CSF must wait until the discipline process is complete against a respondent attorney, or until one of the other elements of the Rule has been met.

Application of Rule 3.432(A)

Disbarred Attorneys or Attorneys Who Voluntarily Resign (Resigned with Charges Pending): Rule 3.432(A)(1)

Once a respondent attorney has been disbarred by the California Supreme Court, and that disbarment decision has become effective, the CSF has jurisdiction triggering the ability to begin application processing.

Although discipline is one of the requirements for reimbursement under the CSF rules, the applications do not have to be related to the conduct for which the attorney was disbarred, and need not have been part of the disbarment decision.¹⁷ Nor is it necessary for restitution to have been ordered on the applications. The applications may have been filed prior to the disbarment and had corresponding discipline complaints, or the applications may have been filed with CSF after the disbarment was ordered. While some CSF applications are directly related to disbarment proceedings, *the majority of CSF applications are against disbarred attorneys where the applicants’ matters were not part of the disbarment proceedings*. Consequently, a majority of CSF applications do not include Supreme Court ordered restitution.

The above is also true for attorneys who resign with charges pending, though there have been very few cases involving resignations in the last several years.

¹⁶ Although Rule 3.432(B) gives the Commission the ability to waive the requirements of 3.432(A), in practice, the rules are waived only in limited instances. In the majority of cases, the Fund does not resolve an application until the requirements of Rule 3.432(A) have been met, or it is clear that the requirement will not be met (i.e. in cases where the discipline complaint is closed and there will not be any discipline against the attorney).

¹⁷ One key reason for this is that, in exercising its discretion in how to process cases, the Office of the Chief Trial Counsel (OCTC) may elect to proceed on only one or two complaints against an attorney, even though it has received numerous complaints against that same attorney, because in its judgment, those are all that is necessary to secure the disbarment. Once the respondent is disbarred, OCTC will close all other pending complaints.

Disciplined Attorneys (Discipline Less Than Disbarment): Rule 3.432(A)(1)

The Fund can also pay against respondent attorneys who have been “disciplined” (less than disbarment or resignation with charges pending). For purposes of this rule discipline means *disciplined on the matter for which applicant has filed a CSF application* (not just discipline on any matter).¹⁸ CSF, again, does not proceed until the discipline is final and effective. For example, if a respondent were suspended for his conduct with regard to CSF applicant X, then CSF can proceed on CSF applicant X’s application. If CSF also has an application filed by CSF applicant Y, then CSF could not reimburse on that matter until there is final discipline on that matter, unless the respondent is disbarred.

Deceased Attorneys or Attorneys Adjudicated Mentally Incompetent: Rule 3.432(A)(2)

The Fund can reimburse against attorneys who are deceased. Often these attorneys were involved in the discipline system and were facing charges and then died. A pending disciplinary investigation is not required though, and sometimes cases involve attorneys against whom complaints were not pending. In these situations it is often the case that the dishonesty was not discovered until after the attorney passed away and the clients learn that work was not performed on their matters and their funds were misappropriated. There is, obviously, no restitution ordered in these types of cases.

Rarely if ever has an attorney with applications before the Fund been adjudicated mentally incompetent. The Fund does have cases where attorneys have been placed on inactive status under section 6007(b) [mental infirmity or illness], but those do not technically fall under this category as discussed below.

Judgment Debtor or Convicted of a Crime: Rule 3.432(A)(3)

This section applies where an attorney has been convicted of a crime involving dishonest conduct (fraud, grand theft) that is related to the application before the Fund. This section also applies if the applicant has obtained a contested judgment against the attorney for fraud or other similar conduct on the same matter that the application is requesting reimbursement. Usually there is a corresponding discipline matter to the criminal conviction or judgment case.

Note that the fact that an applicant successfully obtained a judgment against his or her attorney is not sufficient for the Fund to reimburse. All of the other elements for reimbursement must still be met. Applicants will sometimes file with the Fund to enforce a malpractice judgment that they have obtained, or a default judgment they have been awarded against the attorney. While such judgments might be relevant evidence in determining the outcome of an application, their existence alone does not satisfy the requirement of Rule 3.432(A) defining the required status of the attorney, and thus do not automatically qualify someone for reimbursement.

¹⁸ This is different than with regard to disbarred attorneys because, as noted above, if an attorney is disbarred, OCTC will not proceed on other complaints. The same is not true for other types of discipline. OCTC is required to investigate and pursue as appropriate, all complaints. CSF rules require the discipline process to conclude because, with limited exceptions, if the OCTC complaint closes with no discipline, CSF does not pay out on an application.

Waiving Rule 3.432(A): Rule 3.432(B)

The CSF Commission has the power to waive the requirements of Rule 3.432(A), but does so sparingly. The Commission has adopted a policy regarding when it will waive this requirement as follows:

There is a clear case of misappropriation of monies or properties; and all other requirements of the Client Security Fund have been met; and either the lawyer is the subject of a proceeding under Business and Professions Code Sections 6007(b) or (c); or the Office of [Chief] Trial Counsel has filed a Notice to Show Cause or a stipulation as to Facts and Discipline against the lawyer.

The most common use of the waiver is when respondent attorneys are put on inactive status under section 6007(b)(1) or (b)(3) due to mental infirmity or illness.

If a lawyer is inactive on one of these statuses the lawyer is not disciplined and does not meet any of the other categories of Rule 3.432(A). The lawyer could remain in this status indefinitely which would effectively preclude the victims from being eligible for reimbursement. Therefore, if all of the other requirements for reimbursement are met, the Commission could waive the requirements of Rule 3.432(A) and proceed with the reimbursement.

The Commission might also, although rarely does, waive the requirements of Rule 3.432(A) if all of the other requirements have been met, and the Notice to Show Cause or Stipulation has been filed but discipline is not yet final. This waiver might occur if an applicant were very elderly or terminally ill, and waiting for the discipline to be final might be too late to make meaningful reimbursement.

Adjudication of CSF Applications

After appropriate legal review and investigation, CSF applications can be resolved in three ways: Administrative Closing, Notice of Intention to Pay, or Commission Tentative then Final Decision.

In making resolution determinations, the Commission considers the level of discipline received by the attorney and whether restitution was considered and/or ordered by the Supreme Court; such factors are not however dispositive. Pursuant to *Saleeby*, the Commission evaluates the application under the Fund's own rules and standard of proof which are lower than the standards of proof required for attorney discipline: where the standard of proof for attorney discipline requires clear and convincing evidence, the standard of proof for the CSF is a preponderance of the evidence.

Administrative Closing

If a CSF application is clearly outside the scope of the Fund's coverage, or key requirements have not been met, CSF staff will write to the applicant and explain that the matter is not

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reimbursable and the file is being closed. Such closures are without prejudice.¹⁹ This analysis is done on newly received applications as part of the initial file review, but is also done throughout the CSF process as the case is investigated and/or the corresponding discipline complaint is resolved. For example, legal staff reviews the application when it is received to determine if the request falls within the Fund's rules. If the matter clearly does not qualify, CSF notifies the applicant as soon as possible. CSF staff also continually review the open pending inventory of applications to monitor the status of the corresponding discipline complaint. If the corresponding discipline is closed without discipline, or without disbarment in another matter, then the applicant is notified that the CSF application is being closed for lack of jurisdiction under Rule 3.432(A).

Notice of Intention to Pay

Under Rule 3.442, the Commission delegates authority to the Client Security Fund Director to issue Notices of Intention to Pay. A Notice of Intention to Pay advises an attorney of the allegations made by an applicant and an intention to reimburse the applicant in a stated amount. The Notice of Intention to Pay contains a summary of the factual allegations, a proposed amount of reimbursement, and also a notice to the respondent attorney that if reimbursement is made from the Fund, the attorney is required to repay the Fund under section 6140.5.

Notices of Intention to Pay are served by mail. If no objection is received from a respondent attorney within the 30-day time period allowed, reimbursement is made to the applicant in the amount stated in the Notice. The applicant then has 30 days to submit an objection if he or she does not agree with the amount reimbursed.

The Notice of Intention to Pay procedure is used for cases where all of the requirements for reimbursement are clearly met, and where it is anticipated that there will not be objections from either the applicant or respondent attorney. If either objects, the matter is brought to the Commission through the Tentative/Final decision process.

Tentative Decision/Final Decision

If CSF staff determines that a matter should be presented to the Commission, and/or if either party objects to a Notice of Intention to Pay, staff prepares a Tentative Decision including findings of fact and conclusions of law. The Commission requires detailed summaries of the events and proof of the case, and thorough conclusions of law. The Client Security Fund Commission considers a large calendar of cases at each meeting.²⁰ The Commission, with the assistance of its CSF staff, makes a legal determination as to whether or not the request for reimbursement falls within the rules of the Fund.

¹⁹ If the applicant objects, then the case will proceed through the Tentative/Final decision process, discussed below.

²⁰ Typical Commission meetings include 75 to 100 separate matters, including Tentative Decisions and objections. However, there have been meetings that included more than 200 matters for review and determination.

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The Tentative Decision, after approval by the Commission, is served on the applicant and the respondent. Both the applicant and the respondent have the right under the Rules to object to the Tentative Decision of the Commission. The parties have 30 days, plus time for mailing from the date of service to object. If written objections are submitted then the entire administrative record, including the written objections and all supporting materials, are prepared for the Commission to review at a subsequent meeting.

After the Commission issues its Tentative Decision and no objection is received, or after the Commission reviews and decides on any objections received,²¹ a Final Decision is written and served either approving or denying reimbursement. The Final Decision, which is prepared by staff, contains a statement summarizing the objections received and reviewed, if any, and then specifies the Commission's decision either incorporating or amending the Tentative Decision. The Final Decision constitutes a final legal adjudication by the Commission and constitutes the State Bar's final action on the application for reimbursement.

Once the Final Decision has been issued, if the parties still do not agree with the decision, their recourse is to file a petition for writ of mandamus in superior court.

As the chart below shows, over the course of the last nine years, there have been roughly equal numbers of cases resolved by each of the three methods discussed above. The flowchart on the following page provides a detailed description of the steps through which an application to the CSF passes and the different routes that it may follow.

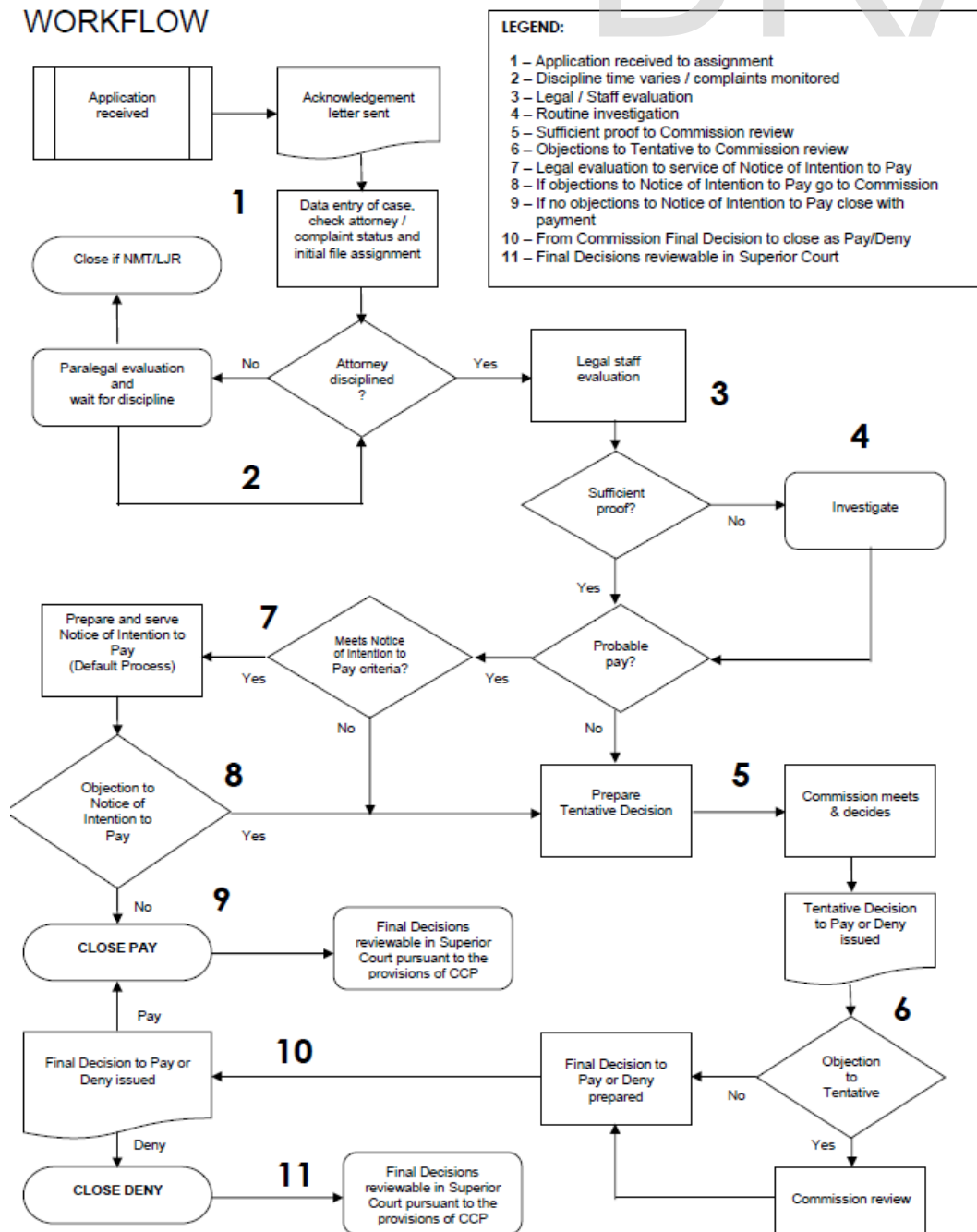
Figure 4 – CSF Case Dispositions, 2009-2017



²¹ Rule 3.443 of the Rules of the State Bar, provides that the parties can request an oral hearing as part of the objection; the Commission has the discretion to grant or deny such a request. Generally, the CSF Commission conducts its hearings on documentary evidence submitted; oral hearing are granted in rare circumstances only.

Figure 5

CLIENT SECURITY FUND WORKFLOW



Current Staffing and Administrative Costs

The CSF is supported by eight State Bar staff at a total cost of approximately \$2 million. This amount covers the salaries and benefits of the eight employees as well as the CSF share of State Bar indirect costs. The Fund's legal team consists of a Manager/Senior Counsel who carries a full caseload while also overseeing and performing the tasks related to administration of the Fund, two Senior Counsel, and one Staff Counsel. The administrative team consists of one Investigator, and three administrative professionals. The Staff Counsel and Investigator are new positions, established to support expedited application review.

Among other duties, CSF legal and administrative staff open new files, correspond with applicants and respondents, monitor applications pending discipline, investigate and conduct legal analysis of files, write legal decisions, present cases to the Commission, serve decisions, organize and present objections to decisions to the Commission, order reimbursement checks, close and store the files, monitor repayments from respondents to CSF, and provide the information necessary to pursue collection to the other Offices of the State Bar.

The volunteer Commission reviews and approves written legal decisions, gives guidance to the legal staff on individual case handling as well as overall policy decisions, makes the ultimate decision on which applications qualify for reimbursement, and provides information to and makes recommendations regarding the Fund to the Board of Trustees, among other duties. Commission expenses total approximately \$10,000 annually.

Comparison to other States' Client Protection Funds

Each state has established a fund for client protection, the purpose of which is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers licensed or otherwise authorized to practice law.²² A review of the rules that govern administration of funds in the twenty states with the highest number of licensed attorneys,²³ as well as a review of the recently-completed American Bar Association survey of client protection funds²⁴ found that, as in California, funds are governed by a board or commission, which is empowered to review and decide on applications for reimbursement.

All reviewed client protection funds have staff that conduct an initial review of applications and follow up with applicants to obtain additional information that may be required to evaluate the application. Some states allow staff to deny applications that do not, prima facie, meet the

²² ABA Model Rules for Lawyers' Funds for Client Protection

(https://www.americanbar.org/groups/professional_responsibility/resources/client_protection/preamble.html).

²³ Client protection fund rules from the following states were included in this review: California, Colorado, District of Columbia, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Virginia, Washington and Wisconsin.

²⁴ Standing Committee on Client Protection of the ABA Center for Professional Responsibility, 2014-2016 Survey of Lawyers' Funds for Client Protection (2017).

eligibility requirements for reimbursement, but many require a ruling on all applications, whether approved or denied, by the Fund's board. With the exception of California, which permits the issuance of Notices of Intention to Pay by staff, approval of the governing board is required for reimbursement to be paid on an application.

A comparison between California and other selected states on several key indicators is provided in Table 2 below. In 2016, California processed eight times as many CSF applications as the nine other states with the greatest number of admitted attorneys, and awarded more compensation than any state other than New York. Of note is the fact that CSF operating costs per claim are the second lowest of the ten largest states in the country.

Table 2 - Key CSF Indicators for Select States²⁵

	Annual Assessment per Attorney	Cap per Claim	Award Payouts	Claims Processed	Operating Cost per Claim
California	\$40	\$100,000	\$8 million	2,332	\$986
District of Columbia	N/A	\$100,000	\$232,273	28	\$0
Florida	N/A	N/A	\$1,890,349	236	\$1,221
Georgia	\$100 total (\$25 per year) ²⁶	\$25,000	\$495,338	58	\$1,259
Illinois	\$25	\$100,000	\$3,094,000	278	\$899
Massachusetts	\$35	N/A	\$846,842	50	\$0
New Jersey	\$25 - \$50 ²⁷	\$400,000	\$1,980,770	912	\$3,883
New York	\$30	\$400,000	\$9,241,394	579	\$1,351
Pennsylvania	\$75	\$100,000	\$4,394,008	200	\$3,717
Texas	N/A	\$40,000	\$0	171	\$0

Detailed information regarding other state attorney client protection program practices is provided as Attachment D.

Comparison to CA Victim Compensation Fund

The California Victim Compensation Board (VCB) is a state program that provides reimbursement to victims of violent crime. This fund is similar to the CSF, in that it provides compensation to those who are victims of wrongdoing. To qualify for compensation, victims must show proof of injury and losses incurred as a result of a violent crime. Additionally, the crime must have occurred in California, or the victim must be a California resident; the application must be filed within three years of the crime or the discovery of the crime;

²⁵ Includes data for the ten states with the highest number of admitted attorneys, as reported in the Standing Committee on Client Protection of the ABA Center for Professional Responsibility's 2014-2016 Survey of Lawyers' Funds for Client Protection (2017). Attachment E provides additional data from this report.

²⁶ Attorneys in Georgia pay four annual assessments up to \$100; this represents their lifetime contribution to the program.

²⁷ Annual assessment varies by years in practice.

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applicants must cooperate with law enforcement during prosecution of the crime; and, victims must cooperate with the VCB by providing information needed to review the application and expenses.

Unlike the CSF, which generally requires attorney discipline before compensation is awarded, a criminal conviction is not required for the victim to be eligible for compensation from the VCB. Compensation may be paid to direct victims of crime, as well as to derivative victims, which may include relatives, minor witnesses, roommates, and those who assume legal or financial liability for a deceased victim's expenses. Compensation is capped at \$70,000.

The VCB compensates victims by helping to pay for crime-related expenses; examples of compensated expense include medical treatment, mental health services, income loss, residential security systems, home or vehicle modifications for victims who become disabled as a result of the crime, and loss of support for dependents of a killed or disabled victim. The VCB does not pay expenses that are covered by insurance, and does not reimburse victims for lost, stolen or damaged property.

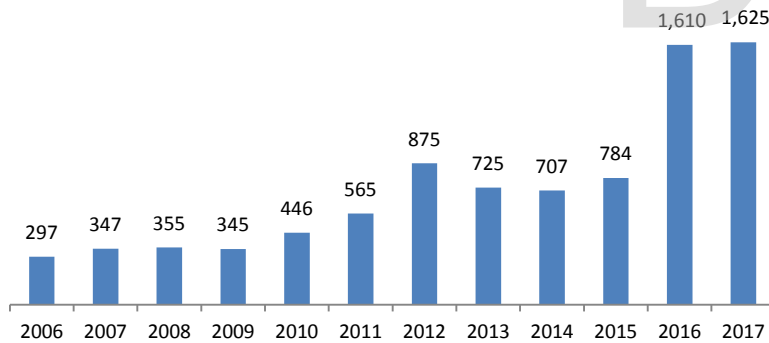
Funding for the VCB comes from four sources:

1. Restitution fines are ordered in every criminal conviction, absent a compelling and extraordinary reason; a percentage of these fines go to the VCB;
2. Restitution orders are made on behalf of victims, and require the offender to compensate their losses; if a victim receives financial assistance from the VCB, the VCB seeks reimbursement from the offender;
3. State and local penalty assessments are part of every fine; a portion of these assessments go to the VCB; and
4. Federal grant funds from penalties paid by offenders convicted of federal crimes.

SECTION III: FUNDING NEEDS AND OPTIONS FOR ADDRESSING TIME TO PAYOUT AND FUNDING NEEDS

For over 30 years the CSF functioned within its budget and frequently accumulated surpluses from unspent annual fees. During this time the CSF generally paid claims in less than a year. As described in Section I above, with the onset of the loan modification crisis, applications to the Fund, which totaled just under \$12 million in 2007, began growing steadily in 2009, eventually reaching a total outstanding value of over \$50 million by 2012. Similarly, the length of time that it took for applicants to be compensated for their losses increased; while the average number of days that it took for the CSF to process a case from the date it was opened until the date it was less than 300 in 2007, by 2017 the average exceeded 1,600 days.

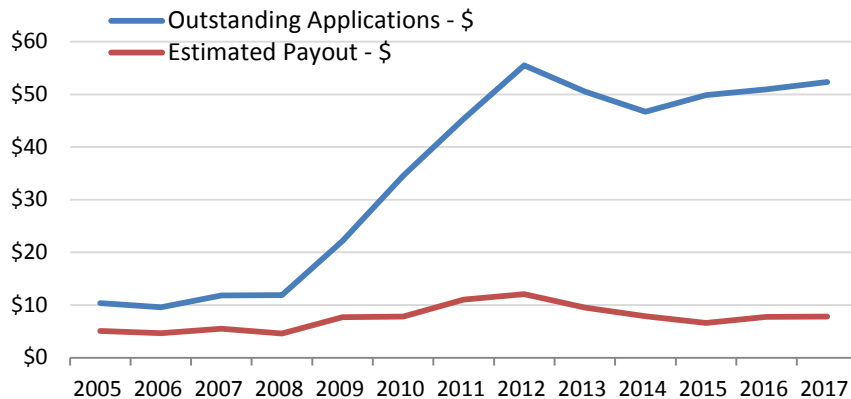
Figure 6 – Average Number of Days to CSF Case Closing



As outlined in Section I, the current face value of the 3,400 outstanding CSF applications is \$52.3 million.

Because the CSF denies claims that are not eligible for reimbursement, or determines that the amount requested is not the amount that qualifies for payment under the rules, the Fund estimates a running average liability by looking at a rolling average of the previous 24 months of payments. The average percentage of claims paid in each of the previous 24 months is used to discount the total amount that has been requested to determine the pending amounts that will likely be paid out. Using this formula, the CSF currently pays approximately 45 percent of the claimed amounts.

Figure 7 – Outstanding Applications and Estimated Payout
(millions of \$)



In order to determine the amount of the CSF claim balance of \$52.3 million that is actually likely to be paid out and is eligible for current payment, the average percentage of claims paid (45 percent) needs to be applied to the outstanding total claim balance.

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Additional adjustments are needed to take into account the status of the imposition of final discipline in any given case²⁸. Applicants to the Fund frequently submit their applications well in advance of the date when the CSF would be able to pay. Often this happens because the Bar encourages victims of attorney misconduct to file a claim with the CSF when they file a complaint against an attorney. Because the CSF typically does not make payments until final discipline is imposed, these applications are essentially on hold pending the adjudication of the discipline matter.

Of the current outstanding claim balance of \$52.3 million, only \$31.6 million is eligible for payment pursuant to the final discipline requirement. Applying the current 24 month rolling percentage of 45 percent to this amount, it is estimated that \$14.2 million represents the portion of the \$52.3 million outstanding claim balance that is eligible for payment at the present time. With just over 185,000 active and almost 42,000 inactive attorneys, that amount could be generated with a one-time *additional* fee of \$35 per active attorney (for an annual total of \$75) and a one-time *additional* fee of \$10 per inactive attorneys (for an annual total of \$20).

In addition to the one-time needs associated with reducing the backlog of claims currently eligible for payment, there is a smaller ongoing funding need associated with the goal of claim payout within 12 months of final discipline.

A review of recent annual claim filings indicates that, absent another event akin to the loan modification crisis, the CSF can expect approximately \$17.5 million in annual claims. Application of the 24 month average payout rate of 45 percent results in an estimated actual annual need of \$7.8 million. This figure is as opposed to the standard annual claims budget of \$6 million, and suggests the need for an additional \$1.8 million in annual CSF funding on an ongoing basis. This amount could be generated with an additional \$10 added to the annual fee of active attorneys and an additional \$1 added to the annual fee of inactive attorneys.

Options for Addressing CSF Funding Needs

1. Reduce Maximum Payment or Only Pay Pro Rata Amount

Since its inception, the Fund has reimbursed 100 percent of qualifying losses (up to the maximum reimbursable amount). However, the Commission has the power under its rules to use its discretion to decrease the amount reimbursed, and/or to pay a pro rata share of the amounts that qualify for reimbursement. Rule 3.435 of the Rules of the State Bar broadly authorizes the Commission to deny reimbursement in whole or in part where the nature of the applicant's loss, its amount, *or the financial or administrative circumstances of the Fund* require that reimbursement be limited or denied.

²⁸ Typically applications to the Fund are not paid until CSF assumes jurisdiction over a claim. The jurisdiction date usually falls after final discipline has been reached for the respondent attorney associated with the CSF application.

One scenario might involve capping the maximum reimbursement below its current level. Based on a review of 2016 and 2017 claims and payouts, a reduction of the maximum payout from \$100,000 to \$50,000 for example would result in approximately \$500,000 in annual savings.

Another option could see the CSF reimbursing only 50 percent of qualifying losses. Given the current wait time for reimbursement of approximately 36 months, such an approach would reduce the time to payout to 18 months. Such an approach could however also result in increased numbers of applicant objections.

2. Only Pay California Residents

The Fund has always protected the public by reimbursing for the harm caused by a licensed California attorney, even if the attorney is illegally practicing in another state. Client Protection Funds in other states have varying rules on residency. Some states like California will pay no matter where the victim is located. Others only pay residents of their own state, and some require a nexus between the lawyer's representation of the client and the state. Similarly, as outlined above, the State Victim Compensation's Board requires a clear nexus with California.

Over the past 3 years, approximately 20 percent of reimbursed applications were filed by non-California residents.

Assuming that the applications from non-California residents are for amounts similar to those of California residents, denying payment to these applications could result in savings of \$1.2 million annually.

3. Implement a Means Test

CSF rules do exclude some applicants from reimbursement including among others, relatives of respondent attorneys, law and business partners of respondent attorneys, creditors, lienholders and government agencies. The Commission also has the discretion to deny applications for various reasons including if reimbursement would not satisfy the purposes of the Fund.

One factor not currently considered in determining eligibility is the income and assets of the applicant. CSF could request data on those who apply for reimbursement and only reimburse applicants whose income and/or assets fall below a certain threshold.

It is unclear how much money a means test would free up to pay other applications to the CSF.

4. Eliminate Or Limit Types of Reimbursable Losses

CSF rules allow reimbursement on applications involving loans and/or investments with the respondent attorney. The applications involving loans and investments often involve large losses and can be difficult to investigate. The Fund requires that the loss arise out of and in the scope of the attorney-client relationship and that but for that relationship the loss could not have occurred. These cases often involve conduct that is not necessarily customary to the practice of law, such as speculative high yield investments.

Over the past 3 years the Fund has paid out over \$250,000 on these types of applications. Eliminating coverage for these types of losses could result in small savings to the Fund.

5. Cap Amount Eligible on Unearned Fee Cases

By far, the largest portion of the CSF applications reimbursed in the last few years involve reimbursements for failure to refund unearned advance fees. In 2016, \$7 million of the \$8 million reimbursed was paid out on unearned fee cases. In these cases the respondent attorney takes fees from the applicant and performs little or no work.

The majority of these applications request reimbursement for amounts less than \$10,000. However, there are cases where the applicants have entered into agreements with the respondent attorneys to pay tens of thousands of dollars in advance fees. The CSF could impose a cap for fee cases of \$10,000 or \$25,000, leaving more funds available for misappropriation claims and other matters.

It is not clear how much additional funding could be generated from placing a cap on the amount eligible for compensation on unearned fee cases.

6. Exclude More Categories of Applicants

Fund rules currently require that, in most instances, applicants file discipline complaints against respondent attorneys. However, for applications involving deceased attorneys, or already disbarred or resigned attorneys, applicants do not need to file discipline complaints as the complaints would be immediately closed by the Office of the Chief Trial Counsel. The Fund could require that applicants have filed a complaint against an attorney prior to his death or disbarment/resignation to be eligible for reimbursement.²⁹

²⁹ One concern with this approach is that in some instances a victim does not learn about an attorney's misconduct for a delayed period of time. An example illustrating this situation would include a case in which an immigration attorney told the client the case was progressing, and only years later, after the attorney's disbarment on other matters, does the client learn that the attorney had taken no action on the matter since the initial consultation. In such cases a requirement that a complaint have been filed in advance would harm the victim through no fault of his or her own.

CSF could also revise and/or more strictly enforce the rule of limitation that requires an application for reimbursement to be filed no more than four years after the loss was discovered or through reasonable diligence should have been discovered.³⁰

7. Transfer surplus LAP funding to the CSF

As part of its efforts to identify additional funds available to support CSF, the Legislature amended section 6140.9 to allow excess funds in the Lawyer Assistance Program (LAP) budget to be transferred to support the needs of the Client Security Fund. Specifically, the statute was amended to provide: “Any excess funds not needed to support the [LAP] program, including reserve funds, may be transferred to fund the Client Security Fund established pursuant to Section 6140.5, provided there are sufficient funds available to fully support the program.”

The Bar’s 2018 budget, submitted to the Legislature on February 15, 2018, projected the LAP 2017 ending fund balance at \$3.6 million. After taking into account current budgeted expenditures, as well as estimated expenditures necessary to support the implementation of the LAP Strategic Plan, Workforce Planning recommendations, and other recommendations for program growth and improvement, and leaving the LAP Fund with an appropriate level of reserves, there could be as much as \$2.7 million eligible for transfer to the Client Security Fund.

The Board will review this potential transfer in May of 2018. As the LAP reserves were built over many years and the program is running a current year deficit, any such transfer – at least in an amount this large - would likely be a one-time occurrence and not a reliable source of substantial ongoing funding.

Complicating the possibility of a transfer of funds, however, is the pending question currently under review of whether the LAP, and its potential clients, would be better served if the voluntary portion of LAP were either contracted out to independent entities or spun off on its own. This question will be addressed by the review of Board committees and commissions being conducted pursuant to the recommendations of the 2017 Governance in the Public Interest Taskforce. Those recommendations will be presented to the Board in September 2018. Should the decision be made that the best interests of the program would be served by contracting out or otherwise separating the voluntary portion of the LAP from the State Bar, the calculus of how much of the excess reserves should be made available for transfer to CSF might be quite different. If the LAP were to operate on its own for example, it would likely need much of its reserves as startup capital.

8. Deny Fee Waivers of CSF Assessment Amount

Some attorneys do not pay the full CSF assessment amount as a result of fee waivers or scaling applied to their licensing fees. It is possible that some additional revenue could be generated by eliminating the option for attorneys to waive any portion of the \$40 CSF assessment. However,

³⁰ Rules of the State Bar, rule 3.440(D).

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because the CSF assessment is set by statute as part of the licensing fee, excluding the assessment from the scaling provision in section 6141.1(b) would require a statutory amendment. For those waivers, however, under Section 6141.1(a), the Board could explore ways to deny waiver of the CSF portion of the assessment by rule.³¹

If implemented, this change would yield approximately \$100,000 in additional CSF revenue annually.

9. Include CSF Assessment in Foreign Legal Consultant and Multi-Jurisdictional Practice Registration Fees

Non-California attorneys licensed in other jurisdictions can practice in California if they meet certain requirements under the Foreign Legal Consultant or Multi-Jurisdictional Practice programs. Section 6140.5 was amended in 2006 to make clients of these types of attorneys eligible for reimbursement from CSF. Unlike California licensed attorneys who pay \$40 to CSF annually, the CSF assessment has not been added to FLC or MJP registration costs. The number of attorneys who participate in these programs is small, with a little more than 1,500 in 2017.

Charging the CSF fee to FLC and MJP participants would in approximately \$61,000 in new CSF revenue annually.

10. Increase Collections by Adopting Rules Implementing B&P section 6086.13

Business and Professions Code section 6086.13(a) permits certain disciplinary orders to include monetary sanctions not to exceed five thousand dollars (\$5,000) for each violation, subject to a total limit of fifty thousand dollars (\$50,000). Any monetary sanctions collected must be deposited into the Client Security Fund. Pursuant to section 6086.3(c), the State Bar should have already adopted rules, approved by the Supreme Court, setting forth guidelines for the imposition and collection of these monetary sanctions.

The State Bar does not have rules that set forth such guidelines. Moreover, disciplinary orders have never included these monetary sanctions. To be in full compliance with section 6086.13, staff is working to draft these required rules. To do so, staff is analyzing the State Bar's current disciplinary rules and procedures, the official Standards for Attorney Sanctions for Professional Misconduct, and evaluating the political and practical impact of imposing discipline sanctions. After conducting an extensive analysis, staff will draft proposed rules for the Board of Trustees to approve, which also must be approved by the California Supreme Court pursuant to section 6086.13(c).

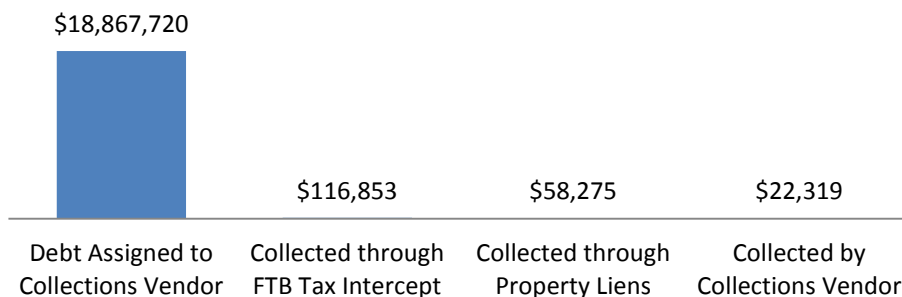
³¹ This distinction is because 6141(a), which applies generally to waivers, allows the Board to provide by rule for waivers of the licensing fee *or any portion thereof*, whereas the scaling provision in 6141(b) refers only to a "waiver of 25 percent of the annual membership fee."

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It should be noted, however, that in recent years the Bar has undertaken a number of initiatives designed to reinvigorate its collections efforts. These initiatives include engaging an outside collections vendor to pursue outstanding debt, obtaining superior court judgments for eligible debt, placing liens on property by recording abstracts of judgment with county recorders' offices, and referring debt to the Franchise Tax Board's (FTB) Tax Intercept Program. Despite these efforts, success has been limited.

A third-party collections vendor is limited in its ability to collect the Bar's debt for two principal reasons: (1) the Bar is statutorily prohibited from sharing social security numbers (SSN), creating a challenge in identifying and tracking down debtors or using the full panoply of collection tools that would be available with an SSN (e.g., wage garnishments); and (2) as a third-party collector, the agency cannot enforce judgments on behalf of the Bar absent a writ of execution from a court. Collections vendors have determined that it is not cost-effective to pursue this course of action, especially absent social security numbers required to verify identity. As illustrated in the figure below, the Bar's collections vendor collected 0.1 percent of debt assigned to it in 2017, while FTB's Tax Intercept Program and debt collected through property liens yielded slightly better results.

Figure 8 – Revenue Generated through Debt Collection in 2017



The Bar has identified several statutory amendments that could remedy these limitations and improve the outcome of collection efforts, including: (1) allow the Bar to share attorneys' and former attorneys' social security numbers with collections vendors;³² and (2) allow the FTB to collect Supreme Court and superior court ordered debt arising from State Bar disciplinary proceedings through the FTB's court-ordered debt program.³³ While the Bar currently participates in the FTB's Tax Intercept program, recovered funds are only available when the debtor is due a state tax refund. Further, all funds recovered through this program are statutorily dedicated to the support of qualified legal services programs and support centers, and cannot be used to reimburse the CSF or to support the discipline system.³⁴ The FTB's Court-Ordered Debt Program has broad collections authority and has had some success with the

³² Section 30.

³³ Revenue and Tax Code section 19280.

³⁴ Section 6034.

collection of court-ordered fines and fees and child support obligations. Staff has had preliminary discussions with FTB, which is supportive of a statutory amendment.

Much of the debt owed to the Bar is enforceable as a money judgment; superior court judgments can automatically be obtained for discipline costs and restitution payments included in Supreme Court disciplinary orders. If CSF reimburses a victim for whom there is a restitution order, the Supreme Court order expressly provides that payment is due directly to the CSF, through subrogation rights established in the CSF rules. However, as discussed in Section II above, the majority of debt arising from reimbursement to the CSF by disciplined attorneys is not included in Supreme Court disciplinary orders. The Bar would be required to file an action to establish subrogation rights, subject to opposition by the respondent. Because of the low yield of the Bar's collection efforts, pursuing such civil actions has generally not been deemed cost effective. If the Bar is able to participate in the FTB's Court-Ordered Debt program, and these efforts prove successful, the Bar would consider filing such actions.

11. Voluntary Contributions to CSF

CSF could explore the possibility of obtaining voluntary contributions to supplement its funding. The voluntary contribution program could take the form of an "opt-in" or "opt-out" option on the annual licensing statement, similar to the option available for contributions to legal services. Implementation of this type of approach may require legislative approval; additional obstacles include concerns by legal services providers that the addition of donation options on the fee statement will dilute and redirect, rather than increase, overall voluntary contributions.

Alternatively, CSF could seek voluntary contributions from law firms and individual attorneys through a campaign not tied to the licensing fee statement.

12. Reduce Time to Payout Through Changes to CSF Process

As part of CSF's efforts to handle applications more expeditiously, CSF has hired an investigator and a new staff attorney to review and conduct certain investigative tasks early in the process so that applications will be ready to move forward to legal decision more quickly upon the date CSF has jurisdiction to order payment.

In addition to process changes already implemented, others could be on the horizon. The 2017 Governance in the Public Interest Task Force committee review process will include an assessment of the role and functions of the Client Security Fund Commission. Topics under study include the number of Commission meetings and the possibility of using the Commission only for review of objections/appeals. If the CSF rules were changed to provide that only matters in which objections are filed on Notices of Intention to Pay and Tentative Decisions were presented to the Commission, it is estimated that processing time for cases could be reduced by up to 2 months.

13. Reduce Minimum Reserve Amount

In 2016 the Board of Trustees adopted a reserve policy setting a minimum reserve target level of 17 percent and a maximum reserve target level of 30 percent of operating costs. At its March 2016 meeting the policy was amended to exclude certain funds³⁵. Under the current policy, the CSF is required to maintain a \$2 million reserve because reimbursements are included as CSF operating costs for reserve calculation purposes. If the reserve policy were amended to *exclude* budgeted reimbursements, and thus capture administrative costs only – arguably a more accurate approach – the CSF maximum reserve would total only \$630,000, making an additional \$1.4 million for reimbursement.

Other Approaches to Increasing CSF Funding

1. Modifications to State Bar Staff Compensation

In 2017, the Bar completed a legislatively mandated report on employee classification and compensation. CPS-HR Consulting, an independent entity with 30 years of expertise in public sector classification and compensation, conducted the study, which involved all State Bar employees and used 16 public sector agencies as labor market wage comparators to the State Bar. The public sector agencies, which were recommended by CPS-HR Consulting as being the most appropriate agencies to compare to the State Bar, and which were agreed to by the State Bar's labor union, included city, county, judicial branch, and state agencies. The results of the 2017 study indicated that, in general, State Bar attorney staff are compensated under-market, while non-attorney staff are compensated over-market. The study also highlighted the fact that the State Bar's non-attorney staff did not work a 40-hour work week.

In January of this year the Bar reached an agreement for new Memoranda of Understanding (MOUs) with the Bar's labor union codifying the implementation of the classification and compensation structure recommended by the 2017 study, and reflecting a transition to a 40-hour work week for all staff. Generally speaking, with respect to compensation, new salary ranges were put into effect for all employees; those staff with current salaries in excess of the maximum of newly adopted ranges were "red-circled", meaning that their salaries were not reduced, but effectively capped at their current levels. Consequently, no State Bar employee realized a pay reduction related to implementation of the new compensation structure. Future salary savings will however be realized due to a sizeable number of staff being red-circled and ineligible for annual increases as well as new non-attorney hires being limited to lower salary ranges.

As indicated, the 2017 compensation analysis, which is reflected in the Bar's recently executed MOUs, relied on 16 public sector agencies that included city, county, and judicial branch

³⁵ The funds excluded from the minimum reserve target are the Grants, Legal Services Trust, Equal Access, Justice Gap, and Bank Settlement.

entities. For purposes of this report, however, the State Bar has been asked to compare executive salaries only to State Executive Branch agencies.³⁶

Legislative concerns have also been raised regarding the number of State Bar executives with salaries in excess of that of the Governor of California (\$195,803).

To better understand how the Bar's executive compensation structure compares to other state agencies and to be responsive to the specific requirements of section 6140.56, analyses were undertaken in 2018 to: (1) identify State Bar executive staff making more than the Governor; (2) identify all State Branch executive personnel with salaries in excess of the Governor's; and (3) compare State Bar executive compensation to selected State Executive Branch agencies.

Together then, over the course of the last year, the State Bar has completed a legislatively mandated classification and compensation analysis (2017 Classification and Compensation Study), a 2018 State Executive Branch Agency Study, and a Governor's Salary Comparison analysis.

The table below identifies the amount of salary savings that would be realized if the State Bar reduced salaries: (1) to align with 2017 Classification and Compensation Study results; (2) to align with 2018 State Executive Branch Agency Study results; and (3) such that no State Bar employee earned in excess of the Governor.

Table 3 – Potential Salary Savings Resulting from Salary Reductions

Employee Classification	2017 Study Reduction	2018 Study Reduction	Governor Salary Reduction
Represented Employees	(370,420)	(5,383,733)	
Confidential Employees	(109,303)	(874,042)	
Executive Employees	(71,295)	(1,847,927)	(269,000)
Total:	(551,018)	(8,105,702)	(269,000)

With respect to the Governor's Salary Comparison analysis, the State Bar has 8 executive staff with salaries in excess of that of the Governor. If the Bar were to reduce these 8 staff members' pay to match the Governor's salary, the Bar would realize a savings of \$269,000. This amount equates to \$1.18 per licensee. Moreover, the value of a salary cap set at the Governor's compensation level is however questionable, particularly given the fact that CPS-HR Consulting identified over 1,500 State Executive Branch personnel with salaries in excess of the Governor's.

³⁶ CPS-HR Consulting did not recommend such an approach, indicating that there are few if any executive branch agencies that operate as a holistic independent organization such as the Bar, with responsibility for Finance, Human Resources, Information Technology and General Services, as well as conducting core externally-facing operations. Further, the State Bar's offices are in San Francisco and Los Angeles, not Sacramento, unlike most State executive branch agencies.

With respect to other possible bases for salary reductions at the State Bar, the Table 3 clearly illustrates the challenge of an attempt to isolate executive compensation: any class structure, regardless of salary levels, must be coherently organized such that as an employee's classification level increases, so does their salary. When appropriate equity is not applied such that salary is reflective of required skills, knowledge, and abilities, a viable compensation system cannot exist. In addition to adverse impacts in recruitment and retention efforts, if executive salaries alone were adjusted salary compaction among classifications would exist. Industry standards suggest that classification range increases of between 5 and 15 percent are appropriate in a typical governmental organization class structure. A reduction in executive compensation, without any changes to non-executive pay, would result in unsupportable compaction, with executive staff making less than those they supervise.³⁷ The alternate approach, across the board salary reductions, is equally untenable, particularly given the Bar's commitment to its employees and its recently executed MOUs.

There are other approaches to evaluating the reasonableness of State Bar Executive compensation. One of these would be to assess executive compensation as a percentage of overall salary costs. Currently, executive pay comprises 15.8 percent of the Bar's total personnel costs. As reflected in the table below, this percentage is the second lowest of any of the State Executive Branch agencies used in the 2018 State Executive Branch Study.

Table 4 – Executive Compensation as Percentage of Total Compensation

Agency	Executive Salaries	Percentage of Total	Non-Executive Salaries	Percentage of Total
DCA (administration)	6,159,699	16.8%	30,611,070	83.2%
Medical Board	2,540,484	20.6%	9,799,140	79.4%
Department of Business Oversight	9,659,247	18.2%	43,311,996	81.8%
Attorney General's Office	52,991,346	15.1%	297,986,269	84.9%
State Bar	7,791,080	15.8%	41,520,770	84.2%

Another approach would be to similarly determine the ratio of executive to non-executive staff. As reflected in the table below, the Bar's current ratio of 1 executive for every 10.53 employees is the lowest of any of the agencies reviewed in the 2018 State Executive Branch Study.

Table 5 – Ratios of Non-Executive Staff to Executive Staff

Department	Number of Executives	Number of Non-executives	Non-Executive per Executive
DCA (administration)	58	520	8.97
Medical Board	25	159	6.36
Department of Business Oversight	81	556	6.86
Attorney General's Office	385	3,963	10.29
State Bar	45	474	10.53

³⁷ While such scenarios present on a limited basis when comparing *elected* "supervisors" to those they supervise, they are wholly atypical in organizations without any elected personnel.

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Together, these ratio performance indicators suggest that both the number of executive staff at the State Bar and their salaries as a percentage of all employee salaries are reasonable. In fact, the Bar is outperforming virtually all other comparator Executive Branch agencies with respect to both factors.

2. Transfer Funds from Other General Fund Sources to the CSF

Given that the attorney licensing fee, which accounts for over 70 percent of the Bar's General Fund revenue, has not been increased in nearly 20 years, and that the Bar is now routinely required to deficit spend in the General Fund to maintain the service level needed to protect the public, such a transfer cannot be reasonably considered at the present time.

3. Request Additional Amounts from the Legislature

The current significant challenges facing the CSF appear to be primarily one-time in nature. A one-time infusion of approximately \$14 million would allow for the elimination of the backlog. That amount could be generated with a one-time *additional* fee of \$35 per active attorney (for an annual total of \$75) and a one-time *additional* fee of \$10 per inactive attorneys (for an annual total of \$20).

In addition to the one-time cost of eliminating the backlog and paying out those cases that are currently eligible for payment however, annual applications to the CSF currently exceed the fund's balance by \$1.8 million on an ongoing basis. If the goal is to pay out all eligible claims within 12 months of final discipline, a fee increase of \$10 for active attorneys and \$1 for inactive attorneys is needed.

State of California
BUSINESS AND PROFESSIONS CODE
Section 6140.56

(a) To ensure that the Client Security Fund can adequately protect the public and relieve or mitigate financial losses caused by the dishonest conduct of members of the State Bar by paying claims in a timely manner, the State Bar shall conduct a thorough analysis of the Client Security Fund, including a review of the State Bar's oversight of the Client Security Fund, to ensure that the structure provides for the most effective and efficient operation of the fund, a determination of the ongoing needs of the fund to satisfy claims in a timely manner, a review of additional efforts that can be taken to increase the collection of payments from the responsible attorneys, and a review of other State Bar expenditures to determine whether other expenditures that do not directly impact the State Bar's public protection functions, including, but not limited to, executive salaries and benefits, can be reduced or redirected in order to better fund the Client Security Fund through existing revenue, and, whether, after all other options have been fully and thoroughly exhausted, an increase in membership dues is necessary to ensure that the Client Security Fund can timely pay claims.

(b) The State Bar shall submit a report on its analysis of the Client Security Fund to the Legislature by March 15, 2018, so that the plans can be reviewed in conjunction with the bill that would authorize the imposition of the State Bar's membership fee. The report shall be submitted in compliance with Section 9795 of the Government Code.

(c) For purposes of this section, "timely manner" means within 12 months from either the time the claim is received by the State Bar or the resolution of the underlying discipline case involving an attorney member that is a prerequisite to paying the claim, whichever is later.

(Added by Stats. 2017, Ch. 422, Sec. 31. (SB 36) Effective January 1, 2018.)

State of California

BUSINESS AND PROFESSIONS CODE

Section 6140.5


(a) The board shall establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of active members of the State Bar, Foreign Legal Consultants registered with the State Bar, and attorneys registered with the State Bar under the Multijurisdictional Practice Program, arising from or connected with the practice of law. Any payments from the fund shall be discretionary and shall be subject to regulation and conditions as the board shall prescribe. The board may delegate the administration of the fund to the State Bar Court, or to any board or committee created by the board of trustees.

(b) Upon making a payment to a person who has applied to the fund for payment to relieve or mitigate pecuniary losses caused by the dishonest conduct of an active member of the State Bar, the State Bar is subrogated, to the extent of that payment, to the rights of the applicant against any person or persons who, or entity that, caused the pecuniary loss. The State Bar may bring an action to enforce those rights within three years from the date of payment to the applicant.

(c) Any attorney whose actions have caused the payment of funds to a claimant from the Client Security Fund shall reimburse the fund for all moneys paid out as a result of his or her conduct with interest, in addition to payment of the assessment for the procedural costs of processing the claim, as a condition of continued practice. The reimbursed amount, plus applicable interest and costs, shall be added to and become a part of the membership fee of a publicly reprovved or suspended member for the next calendar year. For a member who resigns with disciplinary charges pending or a member who is suspended or disbarred, the reimbursed amount, plus applicable interest and costs, shall be paid as a condition of reinstatement of membership.

(d) Any assessment against an attorney pursuant to subdivision (c) that is part of an order imposing a public reproof on a member or is part of an order imposing discipline or accepting a resignation with a disciplinary matter pending, may also be enforced as a money judgment. This subdivision does not limit the power of the Supreme Court to alter the amount owed or to authorize the State Bar Court, in the enforcement of a judgment under this subdivision, to approve an agreement for the compromise of that judgment.

(Amended by Stats. 2011, Ch. 417, Sec. 48. (SB 163) Effective January 1, 2012.)

 Caution
As of: December 11, 2017 5:37 PM Z

Saleeby v. State Bar

Supreme Court of California

July 25, 1985

S.F. No. 24695

Reporter

39 Cal. 3d 547 *; 702 P.2d 525 **; 216 Cal. Rptr. 367 ***; 1985 Cal. LEXIS 321 ****

CHARLES SALEEBY, Petitioner, v. THE STATE BAR OF CALIFORNIA, Respondent

Subsequent History: [****1] As Modified August 15, 1985.

Disposition: Let a peremptory writ of mandate issue commanding the bar to (1) reformulate the existing rules to conform generally to such procedural requirements as are described herein, (2) afford petitioner a reasonable opportunity to be heard thereunder, and (3) provide sufficient findings upon which review may be based. Jurisdiction is reserved for the purpose of awarding attorney fees as may be hereinafter determined.

Core Terms

reimbursement, mandamus, attorneys, applicants, due process, review department, decisions, recommendations, Professions, regulations, attorney's fees, determinations, claimants, requirements, proceedings, procedures, conclusions, asserts, matters, administrative mandamus, disciplinary proceeding, disciplinary, discipline, benefits, courts, Com, limitations, losses, judicial review, superior court

Case Summary

Procedural Posture

In this original proceeding petitioner sought an order requiring the State Bar, (California) to adopt rules governing its exercise of discretion in administering the Client Security Fund (CSF) and to set aside its order granting petitioner less than the full amount of reimbursement which he requested.

Overview

Petitioner was represented by an attorney who retained virtually all of an award obtained for petitioner. That attorney was later disbarred. Petitioner then sought compensation from the Client Security Fund (CSF) administered by the State Bar. Petitioner received a portion of the funds he lost to his attorney, but not all that he requested. Petitioner sought an order requiring the State Bar to adopt rules governing its exercise of discretion in administering the CSF and to set aside its order pertaining to petitioner's request. The court concluded that the procedures followed by the bar were insufficient because they failed to provide a record for judicial review and denied due process. Therefore, the court directed that the bar formulate new rules. The court also concluded that decisions relating to reimbursement from the CSF were reviewable by a writ of mandamus heard in the first instance in the superior court. Finally, as to attorney fees, the court held that the wholesale prohibition against payment of such fees in CSF matters was impermissible, and that petitioner's attorney was entitled under private attorney general principles to fees in an amount to be fixed later.

Outcome

The court ordered the State Bar to revise its rules pertaining to how it hears and issues decisions pertaining to reimbursements from the Client Security Fund and the allowance of attorneys fees, and then afford petitioner a reasonable opportunity to be heard under the new rules.

LexisNexis® Headnotes

Administrative Law > Judicial Review > Remedies > Mandamus

Civil Procedure > ... > Writs > Common Law Writs > Mandamus

Governments > Courts > Rule Application & Interpretation

Administrative Law > Judicial Review > Reviewability > General Overview

Legal Ethics > Client Relations > Billing & Collection

[HN1](#) Remedies, Mandamus

Rule 952 of the Rules of Court, which describes the means by which decisions of the State Bar in matters of discipline and admission are directly reviewable in the California Supreme Court, does not apply to decisions pertaining to reimbursements from the Client Security Fund (CSF) because the bar's determination of CSF matters does not involve its administrative role in aiding the court in matters of discipline and admissions. Claimants should instead seek review should proceed by writ of mandamus filed in the superior court.

Administrative Law > Judicial Review > Reviewability > General Overview

Civil Procedure > ... > Declaratory Judgments > State Declaratory Judgments > Appellate Review

Administrative Law > Judicial Review > Remedies > Mandamus

Civil Procedure > ... > Declaratory Judgments > State Declaratory Judgments > General Overview

Civil Procedure > Remedies > Writs > General Overview

[HN2](#) Judicial Review, Reviewability

[Cal. Civ. Proc. Code § 1094.5](#), the provision for administrative mandamus, is used to review adjudicatory determinations. This form of mandamus is not available to review quasi-legislative actions of administrative agencies. Quasi-legislative acts are reviewable only by an action for declaratory relief ([Cal. Civ. Proc. Code § 1060](#)) or for traditional mandamus.

Administrative Law > Judicial Review > Remedies > Mandamus

Civil Procedure > ... > Writs > Common Law Writs > Mandamus

Civil Procedure > Remedies > Writs > General Overview

[HN3](#) Remedies, Mandamus

Traditional mandamus is the appropriate method of review in situations where there is no clear statutory requirement for hearing or of a record sufficient for [Cal. Civ. Proc. Code § 1094.5](#) review. It is appropriate where the

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claim fundamentally is a challenge to the bar's adoption of the existing rules and thus is a challenge to the bar's quasi-legislative actions. Traditional mandamus will, of course, not lie to compel a particular method of exercising discretion and the selection of a method to process claims and determine which claims will be granted are matters clearly within the bar's proper exercise of authority under the statutory mandate. However, mandamus will lie to correct an abuse of discretion or the actions of an administrative agency which exceed the agency's legal powers.

Administrative Law > Judicial Review > Reviewability > General Overview

[HN4](#) **Judicial Review, Reviewability**

Cal. Bus. & Prof. Code § 6140.5 specifically authorizes the establishment of a fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of those active members of the bar. Payment is to be discretionary and the bar is free to prescribe applicable regulations and conditions for payments. With this grant, the Legislature did not intend the bar's powers to be limitless. The bar's exercise of discretion is reviewable to assure conformance to the purposes of the fund and to avoid the potential for arbitrary or discriminatory decisions.

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

[HN5](#) **Fundamental Rights, Procedural Due Process**

No firm rule can be established to ascertain what due process protections are necessary in a particular situation. Rather the relief to be afforded depends upon balancing the various interests involved. Generally, the dictates of due process necessitate considering (1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, (3) the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official, and (4) the governmental interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

[HN6](#) **Fundamental Rights, Procedural Due Process**

In order to comport with due process requirements, applicants for reimbursement from the Client Security Fund must be afforded an opportunity to be heard and respond to the bar's determinations and the bar must issue sufficient findings to afford review.

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

[HN7](#) **Fundamental Rights, Procedural Due Process**

The opportunity to be heard is a fundamental requirement of due process. However, there is no precise manner of hearing which must be afforded; rather the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination is not necessarily required. What must be afforded is a reasonable opportunity to be heard.

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Constitutional Law > ... > Fundamental Rights > Procedural Due Process > General Overview

Legal Ethics > Client Relations > Billing & Collection

[HN8](#) [down arrow] **Fundamental Rights, Procedural Due Process**

With respect to applications for reimbursement from the Client Security Fund, the bar is not required to hold a formal hearing, but is required to give applicants an opportunity to respond to the bar's proposed disposition of the request for reimbursement.

Administrative Law > Judicial Review > General Overview

[HN9](#) [down arrow] **Administrative Law, Judicial Review**

While the bar is not required to make findings as formal as those required of a court, it must provide information sufficient to apprise interested parties and the courts of the bases for the administrative action.

Administrative Law > Judicial Review > General Overview

Legal Ethics > Client Relations > General Overview

[HN10](#) [down arrow] **Administrative Law, Judicial Review**

In order to comply with procedural due process, the state bar cannot flatly prohibit the compensation of attorneys assisting applicants for the Client Security Fund, but must reformulate its rules to permit attorneys assisting applicants to the fund to be compensated.

Civil Procedure > Remedies > Costs & Attorney Fees > General Overview

[HN11](#) [down arrow] **Remedies, Costs & Attorney Fees**

See [Cal. Civ. Proc. Code § 1021.5](#).

Headnotes/Syllabus

Summary

CALIFORNIA OFFICIAL REPORTS SUMMARY

An aggrieved client who reported his attorney's conduct to the State Bar, following which disciplinary proceedings were commenced, petitioned the Supreme Court for an order requiring the State Bar to adopt rules governing its exercise of discretion in administering the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct) and to set aside its order granting petitioner less than the full amount of reimbursement which he requested. Petitioner was represented by his former attorney in an age discrimination action. Following trial, petitioner was awarded damages and reinstatement to his former position. The fee agreement contemplated payment of 40 percent of sums recovered after trial. However, the attorney was also awarded a substantial sum by the court as attorney fees for his services. After the attorney refused to pay petitioner any of the award, except for a small portion, petitioner reported this conduct to the State Bar. Petitioner also applied for reimbursement from the fund in a sum equal to the full amount of the award, less the small portion which he

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received from his attorney. Although petitioner appeared as a witness during the disciplinary proceedings, he was not given an opportunity independently to present evidence in support of his reimbursement application or to make arguments in favor thereof. The hearing panel recommended that the attorney be disbarred. As to the application to the fund, the panel recommended, without making separate findings, that petitioner be granted reimbursement in an amount equal to only 60 percent of the damages award and subtracting the sum received by petitioner from the attorney.

The Supreme Court issued a peremptory writ of mandate commanding the State Bar to reformulate the existing rules to conform generally to such procedural requirements as stated in the opinion, afford petitioner a reasonable opportunity to be heard under such procedures, and provide sufficient findings upon which review may be based. The court held that the procedures followed by the State Bar were insufficient because they failed to provide a record upon which judicial review may be had and denied due process. Thus, the Bar must formulate new rules. Also, decisions relating to applications for reimbursement from the fund are reviewable by a writ of mandamus heard in the first instance in the superior court, because such decisions are not an integral part of the high court's regulatory jurisdiction over the State Bar. Finally, the court held that the wholesale provision against payment of attorney fees in fund matters is impermissible, and that the attorney representing petitioner in the reimbursement matter was entitled, under private attorney general principles, to fees in a sum yet to be fixed. (Opinion by Lucas, J., expressing the unanimous view of the court.)

Headnotes

CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports, 3d Series

[CA\(1\)](#) [📄] (1)

Attorneys at Law § 3—State Bar Act, State Bar Association, and Bar Fees—Client Security Fund—Applications for Reimbursement—Judicial Review.

--Decisions of the State Bar relating to applications for reimbursement from the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct) are reviewable by a writ of mandamus heard in the first instance in the superior court. This is in contrast to determinations and recommendations of the State Bar in matters of discipline and admission, which are directly reviewable in the state Supreme Court (Cal. Rules of Court, rule 952). Unlike the State Bar's determinations regarding such matters, the State Bar's power to grant or deny reimbursement is vested pursuant to powers directly granted by the Legislature. Also, there is nothing in the allocation of fund monies that necessarily invokes state Supreme Court inherent powers. Thus, rule 952 does not apply in the context of reimbursement, because the State Bar's determination of such matters does not involve its administrative role in aiding the high court in matters of discipline and admissions.

[CA\(2a\)](#) [📄] (2a) [CA\(2b\)](#) [📄] (2b) [CA\(2c\)](#) [📄] (2c)

Attorneys at Law § 3—State Bar Act, State Bar Association, and Bar Fees—Client Security Fund—Applications for Reimbursement—Judicial Review—Mandamus.

--Due to the absence of a clear statutory requirement for hearing or of a record sufficient for review under [Code Civ. Proc., § 1094.5](#) (administrative mandamus), traditional mandamus ([Code Civ. Proc., § 1085](#)) was the appropriate method of review, as to a decision of the State Bar granting petitioner, an aggrieved client, less than the full amount of reimbursement which he requested from the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct). Petitioner's claim was fundamentally a challenge to the State Bar's adoption of the existing rules and thus to the State Bar's quasilegislatory actions. However, traditional mandamus will not lie to compel a particular method of exercising discretion. Also, the

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selection of a method to process claims and determine which claims will be granted are matters clearly within the State Bar's proper exercise of authority under the statutory mandate. Nevertheless, mandamus will lie to correct an abuse of discretion or the actions of an administrative agency which exceed the agency's legal powers. If some review is indeed appropriate, then at the minimum there must be a reasonable record upon which review may be based. In the future, individual fund decisions may be reviewed by administrative mandamus ([Code Civ. Proc., § 1094.5](#)).

[CA\(3\)](#) [↓] (3)

Administrative Law § 100—Judicial Review and Relief—Methods—Administrative Mandamus—Availability of Remedy.

--The statutory provision for administrative mandamus, [Code Civ. Proc., § 1094.5](#), is used to review adjudicatory determinations. This form of mandamus is not available to review quasi-legislative actions of administrative agencies. Quasi-legislative acts are reviewable only by an action for declaratory relief ([Code Civ. Proc., § 1060](#)) or for traditional mandamus ([Code Civ. Proc., § 1085](#).)

[CA\(4\)](#) [↓] (4)

Administrative Law § 95—Judicial Review and Relief—Methods—Mandamus—Applicable Rules.

--Mandamus pursuant to [Code Civ. Proc., § 1094.5](#), commonly denominated administrative mandamus, is nevertheless mandamus. It is not possessed of a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the established principles, requirements and limitations of mandamus. The full panoply of rules applicable to ordinary mandamus applies to administrative mandamus proceedings, except when modified by statute.

[CA\(5\)](#) [↓] (5)

Administrative Law § 103—Judicial Review and Relief—Methods—Administrative Mandamus—Administrative Record.

--Ordinarily, review by administrative mandate is based only on the administrative record.

[CA\(6\)](#) [↓] (6)

Administrative Law § 100—Judicial Review and Relief—Methods—Administrative Mandamus—Availability of Remedy—Nongovernmental Agencies.

--Administrative mandamus is not limited, on its face at least, to governmental as opposed to nongovernmental agencies. As to the scope of both versions of mandamus, traditional mandamus ([Code Civ. Proc., § 1085](#)) is available not only to compel official acts on the part of governmental agencies, but also to compel nongovernmental bodies or officers to perform their legal duties. Administrative mandamus ([Code Civ. Proc., § 1094.5](#)), by using substantially identical language, was intended to apply to the same spectrum of agencies.

[CA\(7a\)](#) [↓] (7a) [CA\(7b\)](#) [↓] (7b) [CA\(7c\)](#) [↓] (7c)

Attorneys at Law § 3—State Bar Act, State Bar Association, and Bar Fees—Client Security Fund—Applications for Reimbursement—Due Process.

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--The procedures followed by the State Bar, as to decisions on applications for reimbursement from the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct), denied due process and thus the State Bar must formulate new rules. Although the Legislature granted to the State Bar discretion to administer the fund, it did not insulate the State Bar's decisions from review. In order to comport with due process requirements, applicants to the fund must be afforded an opportunity to be heard and respond to the State Bar's determinations, and the State Bar must issue sufficient findings to afford review. Although a formal hearing is not required, the State Bar is required to give applicants an opportunity to respond to the proposed disposition of the request for reimbursement. The goal the State Bar must achieve is to afford applicants a reasonable opportunity to raise objections to the particular action the State Bar desires to take.

[CA\(8\)](#) (8)

Constitutional Law § 107—Procedural Due Process—Procedures Required.

--The dictates of due process necessitate considering the private interest that will be affected by the official action, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official, and the governmental interest, including the function involved in the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

[CA\(9\)](#) (9)

Constitutional Law § 109—Procedural Due Process—Manner of Hearing.

--The opportunity to be heard is a fundamental requirement of due process. However, there is no precise manner of hearing which must be afforded; rather, the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination, is not necessarily required. What must be afforded is a reasonable opportunity to be heard.

[CA\(10a\)](#) (10a) [CA\(10b\)](#) (10b)

Attorneys at Law § 3—State Bar Act, State Bar Association, and Bar Fees—Client Security Fund—Applications for Reimbursement—Judicial Review—Grounds for Decision.

--An aggrieved client does not have a right to a reimbursement award from the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct). There is no entitlement to any sum until the State Bar has decided that reimbursement should be made and has set the amount. Thus, the State Bar is free to exercise its discretion and to set any guidelines it sees fit which advance the legislative policy behind the fund. Nonetheless, an applicant may be entitled to relief if the announced grounds for the State Bar's decision have been patently arbitrary or discriminatory. However, the existing procedures do not require the State Bar to announce grounds in a manner which would permit judicial review. Thus, the procedures followed by the State Bar are insufficient and the State Bar must formulate new rules pursuant to its authority under § 6140.5. While the State Bar is not required to make findings as formal as those required by a court, it must provide information sufficient to apprise interested parties and the courts of the bases for the administrative action.

[CA\(11\)](#) (11)

Administrative Law § 70—Administrative Actions—Adjudication—Findings, Decisions, and Orders—Purpose and Necessity.

39 Cal. 3d 547, *547; 702 P.2d 525, **525; 216 Cal. Rptr. 367, ***367; 1985 Cal. LEXIS 321, ****1

--A findings requirement, with regard to administrative decisions, serves to conduce the administrative body to draw legally relevant subconclusions supportive of its ultimate decision. The intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions. Requiring findings also assists a reviewing court in following the agency's mode of analysis and the parties in deciding whether and on what basis review should be sought. They additionally serve to persuade the parties that administrative decisionmaking is careful, reasoned and equitable.

[CA\(12a\)](#) [↓] (12a) [CA\(12b\)](#) [↓] (12b)

Attorneys at Law § 27—Attorney-client Relationship—Compensation of Attorneys—Client Security Fund—Applications for Reimbursement—Attorney Fee Provision—Due Process.

--The prohibition set forth in Rules Proc. of State Bar, rule 686, which states that no attorney shall be compensated from any source for prosecuting an application against the Client Security Fund (established, by *Bus. & Prof. Code*, § 6140.5, to compensate clients injured by an attorney's misconduct), must be revised by the State Bar to conform to minimal due process standards. The State Bar is not necessarily restrained from choosing either reasonable regulation of compensation or the establishment of an alternate method of assuming adequate assistance to applicants for compensation from the fund. The Bar may determine in non-discriminatory fashion to whom and to what degree payments shall be made. However, it may not prevent those seeking relief from assuring that the State Bar has adhered to the requirements that it provide proper and fair distribution. Thus, the State Bar must reconsider its prohibition on the compensation of attorneys and reformulate its rules to permit attorneys assisting applicants to the fund to be compensated.

[CA\(13\)](#) [↓] (13)

Attorneys at Law § 27—Attorney-client Relationship—Compensation of Attorneys—Limitations on Fees.

--Limitations may be placed on the amount of fees to which an attorney is entitled when he represents clients, particularly those seeking benefits. The purpose of such limitations is to protect claimants before commissions from the exaction of excessive fees.

[CA\(14\)](#) [↓] (14)

Attorneys at Law § 27—Attorney-client Relationship—Compensation of Attorneys—Client Security Fund—Applications for Reimbursement—Private Attorney General Doctrine.

--In proceedings to require the State Bar to adopt rules governing its exercise of discretion in administering the Client Security Fund (*Bus. & Prof. Code*, § 6140.5) (established to compensate clients injured by attorney misconduct), and to set aside the State Bar's order granting petitioner less than the full amount of reimbursement which he requested, petitioner's attorney was entitled under private attorney general principles (*Code Civ. Proc.*, § 1021.5), to attorney fees in an amount yet to be fixed. Petitioner vindicated an important right of significant benefit to all future fund applicants. However, as to the necessity and financial burden of private enforcement, petitioner sought to vindicate personal rights and his claim to a particular sum in addition to challenging the general regulatory scheme utilized by the State Bar. Thus, it was necessary to reserve further jurisdiction for the purpose of setting those fees pending consideration of factual issues relevant to the fixing of that reimbursement award.

Counsel: Philip Martin for Petitioner.

Herbert M. Rosenthal, Truitt A. Richey, Jr., and Ellen A. Pansky for Respondent.

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Judges: Opinion by Lucas, J., expressing the unanimous view of the court. Bird, C. J., Mosk, J., Kaus, J., Broussard, J., Reynoso, J., and Grodin, J., concurred.

Opinion by: LUCAS

Opinion

[*553] [**527] [***369] In this original proceeding petitioner Charles Saleeby seeks an order requiring the State Bar (bar) to adopt rules governing its exercise of discretion in administering the Client Security Fund (*Bus. & Prof. Code*, § 6140.5, hereinafter CSF) and to set aside its order granting petitioner less than the full amount of reimbursement which he requested. We will conclude that the procedures followed by the bar are insufficient [****2] because they fail to provide a record upon which judicial review may be had and deny due process and that the bar therefore must formulate new rules. We will also conclude that decisions relating to applications for reimbursement from the CSF are reviewable by a writ of mandamus heard in the first instance in the superior court. Finally, as to attorney fees, we will hold that the wholesale prohibition against payment of such fees in CSF matters is impermissible, and that petitioner's attorney is entitled under private attorney general principles to fees in an amount to be hereafter fixed.

The Claim

Petitioner was represented by Robert A. Tarver in an age discrimination action. (Tarver's misconduct in this case formed part of the basis for disciplinary proceedings leading to his disbarment [*Tarver v. State Bar* (1984) 37 Cal.3d 122 (207 Cal. Rptr. 302, 688 P.2d 911)].) Their fee agreement contemplated payment of 40 percent of "sums recovered" after trial. Following trial in 1976, petitioner was awarded \$ 31,243.24 in damages and reinstatement to his former position. On November 19, 1976, Tarver was also awarded \$ 20,600 by the court as attorney fees for his services. [****3] On December 3, after holding the \$ 31,243.24 check for petitioner's damages for almost one month, Tarver met with petitioner and asked him to endorse the check, claiming that the entire amount was owed to him as fees. Tarver did not inform petitioner of the court's attorney fee award. Petitioner first refused to endorse the check and Tarver then threatened to take it all, asserting he could cash the check without petitioner's endorsement. Finally, petitioner agreed to sign the check when Tarver agreed to give him a check for \$ 8,500. Tarver then took the endorsed draft and used a substantial part of the money to cure a default and prevent the foreclosure sale of his office building which was calendared for that same afternoon.

Petitioner consulted other attorneys about the legality of the division of the award. Tarver thereafter billed petitioner for additional fees of [*554] \$ 24,240.24 based on the value of the future income he projected petitioner would receive following reinstatement to his job. Petitioner reported this conduct to the bar which commenced disciplinary proceedings. Petitioner also applied for reimbursement from the CSF in the sum of \$ 22,743.24, the [****4] difference between the total damages awarded in the trial, and the \$ 8,500 which he received. The CSF application originally was consolidated with the disciplinary proceedings. Although petitioner appeared as a witness during those proceedings, he was not given an opportunity independently to present evidence in support of his reimbursement application or to make arguments in favor thereof. The bar's hearing panel filed its findings and conclusions on February 22, 1983, recommending that Tarver be disbarred. As to the CSF application, the panel recommended, without making separate [***370] findings, that petitioner be granted reimbursement in the sum of \$ 10,246.¹

[****5] Both the disciplinary proceeding and CSF application were heard before the bar's review department (Rules Proc. of State Bar, rules 450-452, 680) before which the bar examiner unsuccessfully requested separate

¹ Because of the absence of findings, no indication of the basis for this award can be discerned with certainty. However, the amount recommended appears to have been reached by taking 60 percent of the damages award and subtracting the \$ 8,500 received by petitioner from Tarver. As petitioner argues, it does not appear to take into account the award of attorney fees made by the trial court and paid by the defendant directly to Tarver.

39 Cal. 3d 547, *554; 702 P.2d 525, **527; 216 Cal. Rptr. 367, ***370; 1985 Cal. LEXIS 321, ****5

findings of fact and conclusions of law regarding the CSF claim. The examiner also recommended full reimbursement in the sum requested by petitioner. The review department rendered its decision in the disciplinary matter recommending disbarment, but severed consideration of the CSF application. It adopted the hearing panel's conclusions in the disciplinary matter with certain additions, and concluded that Tarver was "guilty of overreaching in his negotiations with his client in persuading him to take substantially less than the client believed he was entitled to receive by making statements that he was not entitled to receive anything." Observing that "A [**528] substantial question has been raised as to the legality of any attorney's fees in addition to the amount awarded by the court," the review department found the bar examiner's authorities supported a conclusion of illegality but "this conclusion is not clearly established by case law, and there is no evidence that [****6] [Tarver] was aware that such additional fee might be illegal." Finally, the review department concluded that "The fee collected by [Tarver] was unconscionable."

Petitioner thereafter was separately informed by letter of the bar's "final" decision that his CSF application had been denied on the ground that he had "not suffered a reimbursable loss as defined by the Rules of Procedure of the State Bar." The letter specifically noted that while the "reviewing body" had found the fee taken to be unconscionable, petitioner's loss did [*555] not arise from "dishonest conduct by the lawyer as defined by Rule 671C" After commenting that the review department was divided on the appropriate action, the letter invited petitioner to consider requesting reconsideration.

On September 1, 1983, petitioner accepted the invitation and submitted a written request for reconsideration. He ultimately was notified by letter dated December 27, 1983, that his request had been approved in part and that reimbursement in the sum of \$ 10,246 was being ordered to cover the portion of his loss deemed reimbursable.

Because this represented only a portion of the reimbursement he requested, petitioner [****7] through counsel filed a petition for writ of review or mandamus directly in this court. We issued an alternative writ of mandate.

The Client Security Fund

The concept of a fund established by attorneys to compensate clients injured by the misconduct of members of the legal profession was first translated into practice in New Zealand in 1929. (Sterling, *The Argument for A Clients' Security Fund* (1961) 36 State Bar J. 957, 961.) In 1958, the Vermont and Oregon bars became the first associations in the United States to vote to establish such funds. California, where the propriety of a CSF was the subject of debate, did not join the growing number of states providing such protection until 1971. (See Sterling, *supra*, [arguing that the bar should establish a CSF as a matter of moral principle, as well as to improve public relations]; McKnight, *The Argument Against Clients' Security Fund* (1961) 36 State Bar J. 963 [adoption of a CSF will demean the profession in the public eye and encourage claims].) By the time the bar successfully sought legislation empowering it to create a CSF, it was "a relative latecomer" following in the footsteps of over 30 state and 20 local [****8] bar associations. (Outcault & Peterson, *Lawyer Discipline & Professional Standards in California: Progress and Problems* (1973) 24 Hastings L.J. 675, 686.)

[**371] In 1971, the Legislature enacted *Business and Professions Code* section 6140.5 authorizing the creation of the CSF. That provision states that the bar "may establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of those active members of the bar. Any payments from the fund shall be discretionary and shall be subject to such regulation and conditions as the board shall prescribe." The Board of Governors of the bar is also authorized to delegate the fund's administration to the existing disciplinary board or any other board or committee which it might create. (*Id.*, subd. (a).) Subdivision (b) [*556] of the section allows the collection of up to \$ 10 from each member of the bar for the purpose of funding the CSF.

The next year, the bar established and promulgated rules for the administration of the CSF. (Resolution by the Bd. of Governors of the State Bar of Cal. Establishing a Client Security Fund (June 17, 1971); see Rules Proc. of State [****9] Bar, rules 670-688.) Under the procedures set forth, an applicant must file an application for reimbursement on a form which includes in bold face type a statement that the bar "has no legal responsibility for the acts of individual lawyers. Payments from the [CSF] shall be made in the sole discretion" of the bar. (Rule 672 C.) After an application has been filed, it may be rejected by the review department of the bar disciplinary arm if the

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responsible staff attorney so recommends and forwards a report to the review department briefly stating the reason for the opinion. (Rule 673 A, B.) The report *may* rely on information outside that supplied in the application. (*Id.*, subd. B.) If a majority of the review department concurs, no further hearing or other proceeding is required and the decision is final. (*Ibid.*; rule 685.)

[**529] "In all other cases" the matter is referred (apparently by the staff attorney) to a hearing panel or referee or to the review department. (Rule 673 C.) The reviewer *may* take and hear evidence, administer oaths, and compel the presence of witnesses through the use of a subpoena. (Rule 674.) A hearing panel or referee is entitled [****10] to conduct investigations and hold hearings as deemed necessary. (Rule 678 A.) After affording the application such consideration as it finds fit, the panel or referee must transmit "to the appropriate office of the State Bar" its report describing the proceedings, which includes findings of fact, conclusions and recommendations. (*Id.*, subd. B.) Before any payments from the fund are ordered, the lawyer involved must be notified and afforded an opportunity to be heard and present evidence and to file a written statement regarding the report submitted by the hearing panel or referee. (Rules 679, 680.) In contrast, the applicant for reimbursement *may* be advised of the progress of his application but is not entitled to any notice of a particular hearing or to see or respond to recommendations or other reports which may be internally submitted. (See rule 684.) The applicant is only entitled to be advised of the bar's final decision. (*Ibid.*)

In carrying out its duties, the review department is required to "find that a reimbursable loss as defined in these rules has been established and the extent of said loss." (Rule 681 B.) "Reimbursable losses" are defined as those caused [****11] by the dishonest conduct of an attorney. (Rule 671 D.) "Dishonest conduct" is defined in the same provision as including "wrongful acts committed by a lawyer in the manner of defalcation or embezzlement [*557] of money; or the wrongful taking or conversion of money, property or other things of value . . ." (*Id.*, subd. C.)

As to the right to payment, the rules specify repeatedly that "All payments from the fund shall be a matter of grace and not of right and shall be in the sole discretion of the State Bar of California. No client or member of the public shall have any right in the fund as a third party beneficiary or otherwise." (Rule 682; see rule 672 C.) Consistent with the statement on the application form, the rules further recite that the review department is vested with "the sole and final authority to determine whether and to what extent any application [***372] for reimbursement shall be granted . . ." (Rule 681 A.) Finally, for further emphasis, the rules declare that once an application is rejected by the review department at any point, such rejection "is final and no further consideration shall be given by the State Bar to said application or another based [****12] upon the same alleged facts." (Rule 685.) We turn first to the issue of the proper forum for review of CSF determinations.

Where May Review of CSF Decisions Be Had?

In 1927, the Legislature adopted the State Bar Act ([Bus. & Prof. Code, § 6000 et seq.](#)) establishing "what is known as an 'integrated' bar, i.e., an organization of members of the legal profession of the state with a large measure of self-government, performing such functions as examining applicants for admission, formulating rules of professional conduct, disciplining members for misconduct, preventing unlawful practice of the law, and engaging in study and recommendation of changes in procedural law and improvement of the administration of justice." (1 Witkin, Cal. Procedure (2d ed. 1970) Attorneys, § 157, p. 168.) We have described the bar as "a public corporation created . . . as an administrative arm of this court for the purpose of assisting in matters of admission and discipline of attorneys." (*Emslie v. State Bar* (1974) 11 Cal.3d 210, 224 [113 Cal. Rptr. 175, 520 P.2d 991].) In those two areas, the bar's role has consistently been articulated as that of an administrative assistant to or adjunct [****13] of this court, which nonetheless retains its inherent judicial authority to disbar or suspend attorneys. ([Bus. & Prof. Code, § 6100](#); *Jacobs v. State Bar* (1977) 20 Cal.3d 191, 196 [141 Cal. Rptr. 812, 570 P.2d 1230]; *Brotsky v. State Bar* (1962) 57 Cal.2d 287, 301 [19 Cal. Rptr. 153, 368 P.2d 697, 94 A.L.R.2d 1310].) In the area of admission to practice, an applicant is admitted only by order of the Supreme Court which, upon certification by the bar's examining committee that the applicant fulfills the admission requirements, "may admit such applicant as an attorney at law in all the courts of this State . . ." ([Bus. & Prof. Code, § 6064.](#))

[CA\(1\)](#)^[↑] (1) Determinations and recommendations of the bar in matters of discipline and admission are directly reviewable in this court. Rule 952 of the [*558] Rules of Court describes the means by which such review may be

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sought. After designating the methods of [***530] seeking review of decisions recommending disbarment, suspension, or setting aside a stay of suspension (subds. (a), (b)), the rule next provides: "A petition to the Supreme Court to review any other action of the Board of Governors of the State Bar, or of any [****14] board or committee appointed by it and authorized to make a determination pursuant to the provisions of the State Bar Act, shall be filed within 60 days after written notice of the action" (Subd. (c).) The "Draftsman's Explanatory Notes" to the rule explain that this language "applies to admissions, readmissions, and reinstatements, and takes care of situations not covered by the old rule, where no certified copy of a decision is filed with the Sup. Ct."

Both parties contend that this provision governs review of CSF determinations. As a matter of policy, the bar also urges that permitting review of CSF decisions in the lower courts would cause confusion and inconsistencies because such determinations are frequently made in connection with a disciplinary decision which would be reviewable only in this court. Moreover, the bar stresses, the standard of review utilized by us in disciplinary matters differs from that which might be utilized in a lower court should review be obtained through use of the writ of mandamus.

Consideration of the method by which the CSF was created, its purpose, and historical principles regarding the appropriateness of direct review in this court [****15] lead us to conclude that the provisions for direct review provided in the rules of court do not necessarily extend to CSF determinations. The CSF was enacted at the request of the bar which, "[recognizing] that occasionally a lawyer might engage in dishonest conduct in violation of his oath which could result in pecuniary loss to his client or others, and that disciplining the guilty attorney [***373] does not alleviate the injury to the person sustaining such a loss, . . . resolved to join thirty-four other states" already maintaining funds to compensate such losses. (Plant, *Annual Report of the Board of Governors* (1971) 46 State Bar J. 578, 581-582; see Smith, *The Client's Security Fund: A Debt of Honor Owed by the Profession* (1958) 44 A.B.A. J. 125.) Thus the bar sought legislative authorization for the CSF in order to create a remedy *in addition to* disciplinary measures and civil actions to reimburse clients for losses caused by the wrongful conduct of attorneys. In so acting, the bar sought to advance the legal profession's role as a "public profession devoted to serving the public" for whom the "spirit of public service" acts as a motivating force. (Resolution [****16] by the Bd. of Governors of the State Bar of Cal. Establishing a Client Security Fund (June 17, 1971).)

Because the grant or denial of reimbursement from the CSF does not involve discipline or admission of attorneys and there is no legislative requirement [*559] for direct review of such determinations here, we decline to hold that our direct review of such decisions is appropriate as a matter of course. (Compare *Jacobs v. State Bar*, *supra*, 20 Cal.3d 193, 198 [[Bus. & Prof. Code, §§ 6049- 6051](#) entitle only the bar to initiate action in superior court to enforce subpoena it has issued].) There is nothing in the allocation of CSF monies that necessarily would invoke our "inherent" powers. Unlike the bar's determinations regarding disciplinary matters and decisions involving admission, the bar's power to grant or deny reimbursement is vested pursuant to powers directly granted by the Legislature. In fact, the difference between the bar's traditional role in assisting this court and its role here is emphasized by the bar's own arguments in this action where it contends that it has virtually limitless discretion not subject to our usual standards of review of its recommendations. [****17] ²

²We recognize that the American Bar Association (ABA) in its Model Rules for Clients' Security Funds (Standing Com. on Client's Security Funds, approved by the ABA's House of Delegates on Aug. 12, 1981) takes a somewhat different view of the role of the courts in establishing CSFs. In its comment to rule 1, the ABA observes that "it is the Court which bears the responsibility for establishing qualifications for practice and for seeing that lawyers subject to its jurisdiction adhere to the standards of conduct the Court mandates." It then notes that courts have been found to have "inherent power to establish a client's security fund and require lawyers admitted to practice in the state to contribute to it." The ABA comment finally suggests that "Where the Court has declined to exercise its inherent power to establish a client reimbursement system, it is necessary for a professional organization of lawyers to provide such a system." (*Id.*, com., rule 1.)

In *Hersh v. State Bar* (1972) 7 Cal.3d 241 [101 Cal. Rptr. 833, 496 P.2d 1201], we held that the fee increase imposed by the State Bar to fund the CSF was prematurely imposed but otherwise permissible. In the course of that discussion, we relied upon the legislative authority granted to the bar to impose fees in determining the propriety of the bar's actions. (See 7 Cal.3d at pp. 243, 245-246.) The ABA approach, in contrast, treats creation of the CSF as within the "inherent power" of the court, and has

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[****18] [**531] We therefore conclude that [HN1](#) rule 952 does not apply in this context because the [***374] bar's determination of CSF matters does not involve its "administrative" role in aiding this court in matters of discipline and admissions. In the future, claimants seeking review should proceed by writ of mandamus filed in the superior court.

[*560] Mandamus

[CA\(2a\)](#) (2a) Having already issued an alternative writ of mandamus, we turn now to the bar's claims that neither administrative nor traditional mandamus ([Code Civ. Proc.](#), §§ 1094.5 and 1085, respectively) will presently lie. The bar asserts that [section 1094.5](#) is inapplicable because that section applies only "Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as a result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal . . ." (Italics added.) Because no hearing is mandated by either *Business and Professions Code* section 6140.5 or the rules formulated by the bar, the bar contends that administrative mandamus is prima facie [****19] inappropriate.³

[****20] California has consistently differentiated "legislative" and "adjudicatory" actions and the manner in which they may be reviewed. In *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 613 [156 Cal. Rptr. 718, 596 P.2d 1134], we "distinguished 'adjudicatory' matters in which 'the government's action affecting an individual [is] determined by facts peculiar to the individual case' from 'legislative' decisions which involve the adoption of a 'broad, generally applicable rule of conduct on the basis of [**532] general public policy.'" (Quoting *San Diego Bldg. Contractors Assn. v. City Council* (1974) 13 Cal.3d 205, 212-213 [118 Cal. Rptr. 146, 529 P.2d 570, 72 A.L.R.3d 973]; see also *Wilson v. Hidden Valley Mun. Water Dist.* (1967) 256 Cal. App. 2d 271 [63 Cal. Rptr. 889] [extended discussion of distinction between adjudicatory and legislative actions]; Cal. Administrative Mandamus (Cont. Ed. Bar 1966) § 2.8, p. 17 and (Supp. 1984) pp. 17-18 [defining quasi-legislative acts].)

[CA\(3\)](#) (3) [HN2](#) [Section 1094.5 of the Code of Civil Procedure](#), the provision for "administrative mandamus," is used to review adjudicatory determinations. This form of mandamus "is not available [****21] to review quasi-legislative actions [*561] of administrative agencies. [Citation.] [para.] . . . Quasi-legislative acts are reviewable only by an action for declaratory relief ([Code Civ. Proc.](#), § 1060) or for traditional mandamus (*id.*, § 1085)." (*Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 168-169 [188 Cal. Rptr. 104, 655 P.2d 306];

been echoed by courts in other states. For example, in *In re Member of Bar* (Del. 1969) 257 A.2d 382, the Delaware high court addressed a constitutional challenge to establishment of that state's CSF made on the grounds the court's powers over bar members extended only to discipline for misconduct and requiring payment for the fund was an improper levy of a tax on bar members. It concluded that the stated purpose of the CSF "to establish as far as practicable the collective responsibility of the Profession in respect to losses caused to the public . . ." fell within the court's "inherent power" because it was meant "to insure the Bar's reputation" and maintain its standards. (257 A.2d at pp. 383-384.) Similarly in *Folly Farms I, Inc. v. Trustees of Clients' Sec., Etc.* (1976) 278 Md. 297 [363 A.2d 479, 481], the Maryland court described its state's CSF as "peculiarly subject to the supervision of the Court" but in that instance the Legislature had granted to the court directly the authorization to create the CSF.

Each state's bar system is different. Here, as noted, the CSF authorization was solicited from the Legislature by the bar itself and the powers related to establishing the fund were vested by statute in the bar rather than in this court and by the Legislature rather than by this court. We, therefore, decline to follow the alternative approach described herein.

³ The bar also asserts *Business and Professions Code* section 6001 is a bar to use of administrative mandamus. In relevant part, that section states "[no] law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, including, but not by way of limitation [various Gov. Code provisions] shall be applicable to the State Bar, unless the Legislature expressly so declares." What is at issue here is not a requirement that the bar follow a specified mode or procedure but rather the method by which the procedures adopted by the bar and the decisions it renders pursuant thereto may be reviewed. The bar's argument, if taken to its ultimate conclusion, would mean that there could be no review of its CSF decisions because any review would constitute a prohibited restriction on the bar's exercise of power pursuant to this section. (Compare *Chronicle Pub. Co. v. Superior Court* (1960) 54 Cal.2d 548 [7 Cal. Rptr. 109, 354 P.2d 637] [holding "open meetings" and "public records" laws did not apply to bar proceedings because of § 6001].)

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Clean Air Constituency v. California State Air Resources Bd. (1974) 11 Cal.3d 801, 809 [114 Cal. Rptr. 577, 523 P.2d 617].)

The two avenues to mandamus in fact bear many similarities. [CA\(4\)\(f\)](#) (4) As described in *Woods v. Superior Court* (1981) 28 Cal.3d 668, 673-674 [170 Cal. Rptr. 484, 620 P.2d 1032]: "Of course, mandamus pursuant to [section 1094.5](#), commonly denominated 'administrative' mandamus, is mandamus still. It is not possessed of a 'separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations.' [Citations.] The full panoply of rules applicable to 'ordinary' mandamus applies [***375] to 'administrative' mandamus proceedings, except when modified by [****22] statute. [Citations.]" In the present action, petitioner's request for relief is not clear regarding the "form" of mandamus relief sought.

[CA\(2b\)\(f\)](#) (2b) No hearing is presently required by the statute or the rules. The former grants discretion to the bar to make payments and formulate regulations; the latter reiterate that hearing *may* be granted and evidence *may* be taken at the discretion of the decisionmaker. (See Rules Proc. of State Bar, rules 674, 680.) Petitioner argues that this absence of hearing and lack of notice and statement of reasons renders the rules unconstitutional in general. Such a challenge is one to the "quasi-legislative" actions of the bar in formulating and adopting the particular rules in effect. However, petitioner also challenges the particular application of the rules to him and one could consider this an appropriate subject of administrative mandamus because it constitutes a challenge to the decision in an individual's case.

We conclude that [HN3\(f\)](#) traditional mandamus is the appropriate method of review at this time because of the absence of a clear statutory requirement for hearing or of a record sufficient for [section 1094.5](#) review. Petitioner's claim fundamentally [****23] is a challenge to the bar's adoption of the existing rules and thus is a challenge to the bar's quasi-legislative actions. (See *Pacific Legal Foundation v. California Coastal Com.*, *supra*, 33 Cal.3d at p. 168.) Traditional mandamus will, of course, not lie to compel a particular method of exercising discretion (see *Women Organized for Employment v. Stein* (1980) 114 Cal. App. 3d 133, 140 [170 Cal. Rptr. 176]; *State of California v. Superior Court* (1974) 12 Cal.3d 237, 247 [115 Cal. Rptr. 497, 524 P.2d 1281]; Cal. Civil Writs (Cont. Ed. Bar 1970) § 5.25, p. 79 and (Supp. 1983) p. 40) and the selection of a method to process claims and determine which [*562] claims will be granted are matters clearly within the bar's proper exercise of authority under the statutory mandate. However, mandamus will lie to correct an *abuse* of discretion or the actions of an administrative agency which exceed the agency's legal powers. (See *Clean Air Constituency v. Cal. State Air Resources Bd.*, *supra*, 11 Cal.3d at p. 809; 5 Witkin, Cal. Procedure (2d ed. 1971) Extraordinary Writs, § 77, pp. 3853-3854; Cal. Civil Writs, *supra*, § 5.35, pp. 87-88.) Here, the bar [****24] asserts that it has complete and limitless discretion, [**533] but nevertheless concedes that judicial review is also appropriate.⁴

As we will discuss, if some review is indeed appropriate, then at the minimum there must be a reasonable record upon which review may be based. [CA\(5\)\(f\)](#) (5) (See fn. 5.) Since much of the difficulty here flows from the lack of a record which reveals the basis for the bar's determination,⁵ the challenge properly lies in the first instance with the method of decision making and reporting [****25] promulgated by the bar. [CA\(6\)\(f\)](#) (6) (See fn. 6.) We therefore conclude that a writ of mandamus pursuant to [Code of Civil Procedure section 1085](#) should issue.⁶

⁴ The confusion under which the bar appears to labor is demonstrated by its concession that some review is appropriate and its simultaneous assertion that its payments are a matter of grace. In other words, the bar can do whatever it wishes, but that decision is in some manner "reviewable." If the bar has complete discretion and that discretion is limitless, what is there for this or any court to review? Moreover, what, if anything, can be reviewed if there is no record upon which to base review?

⁵ Note, too, that ordinarily review by administrative mandate is based only on the administrative record. (*Vernon Fire Fighters v. City of Vernon* (1980) 107 Cal. App. 3d 802, 808 [165 Cal. Rptr. 908]; Cal. Administrative Mandamus, *supra*, § 13.5, p. 218, and (Supp. 1984) at p. 161.) Here, there is no "administrative record" from which meaningful review could be made.

⁶ We do not give much weight to the bar's claim that it is not an administrative agency subject to administrative mandamus. In *Anton v. San Antonio Community Hosp.* (1977) 19 Cal.3d 802, 816 [140 Cal. Rptr. 442, 567 P.2d 1162], we observed that administrative mandamus "is not limited, on its face at least, to governmental as opposed to nongovernmental agencies." As to

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[****26] [***376] Procedural Due Process and the CSF

[CA\(7a\)](#)^[↑] (7a) Petitioner asserts that the bar has erroneously arrogated to itself unbridled and unreviewable discretion in distributing awards from the CSF and, in its regulations and practice, has failed to comport with minimum [*563] applicable standards of due process. The bar responds that CSF payments are a "matter of grace" and it has sole discretion to make such payments, but that some judicial review is appropriate. Moreover, it asserts that no vested rights were created by the Legislature when it authorized the bar to create a fund to compensate injured clients, further demonstrating the inapplicability of due process requirements.

[HN4](#)^[↑] *Business and Professions Code* section 6140.5 specifically authorizes the establishment of a fund "to relieve or mitigate pecuniary losses caused by the dishonest conduct of those active members of the bar." Payment is to be "discretionary" and the bar is free to prescribe applicable regulations and conditions for payments. We conclude that the Legislature did not intend the bar's powers to be limitless and that the bar's exercise of discretion is reviewable to assure conformance to the purposes of [****27] the fund and to avoid the potential for arbitrary or discriminatory decisions.

Essentially, petitioner is insisting that once he has demonstrated "eligibility," he is entitled to an award from the CSF in the amount that he has requested. However, the bar is statutorily entrusted with full power to prescribe and determine under what circumstances reimbursement will be made from CSF money. The present regulations define "reimbursable losses" (Rules Proc. of State Bar, rule 671), but they reserve to the bar "the sole and final authority to determine whether and to what extent any application for reimbursement shall be granted" (*id.*, rule 681 A). It therefore appears that there is nothing approaching an "entitlement" to any sum, at least until the bar has decided that reimbursement should be made and has set the amount.

[**534] The fact that petitioner is not entitled to a specific sum is not, however, dispositive. Although the Legislature granted to the bar discretion to administer the fund, it did not insulate the bar's decisions from review. In *Manjares v. Newton* (1966) 64 Cal.2d 365 [49 Cal. Rptr. 805, 411 P.2d 901], a school board argued that because it was [****28] granted discretion by the Education Code to decide whether transportation should be supplied to students, its decisions on the subject were "conclusive." Speaking for the court, Justice Mosk succinctly responded: "The board is, in effect, claiming that whenever an administrative body has been granted discretionary powers, the manner in which it exercises that discretion is beyond judicial review. This argument is clearly untenable. That mandate will lie whenever an administrative board has abused its discretion is a rule so well established as to be beyond question." (64 Cal.2d at p. 370.)

The requirements of due process, as has long been reiterated, are not inflexible. (*Civil Service Assn. v. City and County of San Francisco* (1978) [*564] 22 Cal.3d 552, 560-561 [150 Cal. Rptr. 129, 586 P.2d 162]; see also *Mathews v. Eldridge* (1976) 424 U.S. 319, 334-335 [47 L. Ed. 2d 18, 32-33, 96 S. Ct. 893].) While courts have dispensed with the distinction between "rights" and "privileges" (see *Goldberg v. Kelly* (1970) 397 U.S. 254, 262-263 [25 L. Ed. 2d 287, 295-296, 90 S. Ct. 1011]), the federal courts have continued to focus on the differences between "expectancies" [****29] and "entitlements." Thus, in *Board of Regents v. Roth* (1972) 408 U.S. 564, 577 [33 L. Ed. [***377] 2d 548, 561, 92 S. Ct. 2701], the high court explained that "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it." In analyzing whether protectable interests exist, the Constitution is not the source of such interests. "Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law -- rules or understandings that secure certain benefits and that support claims of entitlement to those benefits." (*Ibid.*; see also *Perry v. Sindermann* (1972) 408 U.S. 593, 602-603 [33 L. Ed. 2d 570, 580-581, 92 S. Ct. 2694].)

the scope of both versions of mandamus, we explained that "It has long been clear, of course, that [*Code of Civil Procedure*] [section 1085](#) mandate is available not only to compel official acts on the part of governmental agencies, but also to compel nongovernmental bodies or officers to perform their legal duties [*Section*] 1094.5, by using substantially identical language . . . , was intended to apply to the same spectrum of agencies" (Pp. 816-817, fns. omitted.) The particular words used to characterize the bar thus are irrelevant to the applicability of mandamus which instead depends on the nature of the underlying activity of the organization against which mandate is sought and the effects of that organization's acts upon the petitioner. (*Ibid.*)

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California has expanded upon the federal analytical base by focusing on the administrative process itself. Thus, in *Civil Service Assn. v. City and County of San Francisco*, supra, 22 Cal.3d 552, we held that civil service employees upon whom short suspensions had been imposed for disciplinary [****30] reasons were not entitled to full procedural presuspension protection of the kind provided before termination of employment. (See *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194 [124 Cal. Rptr. 14, 539 P.2d 774].) In reaching this result, we observed that "While appellants may not in fact have been deprived of a salary earned but only of the opportunity to earn it, they had the expectancy of earning it free from arbitrary administrative action. [Citation.] This expectancy is entitled to some modicum of due process protection. (*Perry v. Sindermann*, supra, 408 U.S. 593, 599-603 [33 L. Ed. 2d 570, 578-581].)" (22 Cal.3d at p. 564.) We concluded that those interests would be sufficiently protected by procedures followed during the suspension or reasonably thereafter which "apprise the employee of the proposed action, the reasons therefor, provide for a copy of the charges including materials upon which the action is based, and the right to respond either orally or in writing, to the authority imposing the discipline" (*Ibid.*)

The next year, we specifically instructed that "courts must evaluate the extent to which procedural protections can be tailored [****31] to promote more accurate and reliable administrative decisions in light of the governmental and private interests at stake" rather than relying "on whether or not the state limits administrative control over a statutory benefit or deprivation by [*565] the occurrence of specified conditions; . . ." [**535] (*People v. Ramirez* (1979) 25 Cal.3d 260, 267 [158 Cal. Rptr. 316, 599 P.2d 622].) After reviewing federal precedent, we held that "the due process safeguards required for protection of an individual's statutory interests must be analyzed in the context of the principle that freedom from arbitrary adjudicative procedures is a substantive element of one's liberty. [Citation.]" (*Id.*, at p. 268.)

HN5 [↑] No firm rule can be established to ascertain what protections are necessary in a particular situation. Rather the relief to be afforded depends upon balancing the various interests involved. **CA(8)** [↑] (8) Generally, "the dictates of due process" necessitate considering "(1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute [****32] procedural safeguards, (3) the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official, and (4) the governmental interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. [Citation.]" (*People v. Ramirez*, supra, 25 Cal.3d at p. 269.) Thus we must look to and weigh the various interests at stake before deciding what procedures are constitutionally required.

[***378] **CA(7b)** [↑] (7b) Following the approach of *Ramirez*, we inquire whether the present procedures adequately assure that the bar, having elected to exercise the discretion conferred upon it by the Legislature, will exercise that discretion in a nonarbitrary, nondiscriminatory fashion. We conclude that **HN6** [↑] in order to comport with due process requirements applicants must be afforded an opportunity to be heard and respond to the bar's determinations and the bar must issue sufficient findings to afford review.

CA(9) [↑] (9) **HN7** [↑] The opportunity to be heard is "a fundamental requirement of due process." (*Stanson* [****33] v. *San Diego Coast Regional Com.* (1980) 101 Cal. App. 3d 38, 45 [161 Cal. Rptr. 392]; see *Perry v. Sindermann*, supra, 408 U.S. at p. 603 [33 L. Ed. 2d at p. 580].) However, there is no precise manner of hearing which must be afforded; rather the particular interests at issue must be considered in determining what kind of hearing is appropriate. A formal hearing, with full rights of confrontation and cross-examination is not necessarily required. (See *People v. Ramirez*, supra, 25 Cal.3d at p. 275.) What must be afforded is a "'reasonable' opportunity to be heard. (*Anderson Nat. Bank v. Lueckett*, 321 U.S. 233, 246 [88 L. Ed. 692, 704, 64 S. Ct. 599, 151 A.L.R. 824]; *Drumme v. State Bd. of Funeral Directors*, 13 Cal.2d 75, 80 [87 P.2d 848]; *CEEED v. California Coastal Zone Conservation Com.* [(1974) 43 Cal. App. 3d 306, 329 (118 Cal. Rptr. [*566] 315)].)" (*Stanson v. San Diego Coast Regional Com.*, supra, 101 Cal. App. 3d at p. 45.)

CA(7c) [↑] (7c) Viewing the nature of the governmental and private interests at stake here, we conclude that **HN8** [↑] the bar is not required to hold a formal hearing, but is required to give petitioner and other applicants [****34] an opportunity to respond to the bar's proposed disposition of the request for reimbursement. As noted in the description of the present rules, an applicant is entitled to present information in support of his claim at the time he

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makes his request, but he is not entitled to any further information until the bar makes its final decision. While in this case the bar afforded petitioner a "rehearing" of sorts by inviting and then considering a request for reconsideration, the rules in fact state that the bar's decision shall be final "and no further consideration shall be given by the State Bar to said application or another based upon the same facts." (Rules Proc. of State Bar, rule 685.) While the bar may permit an applicant to have a more active role in the proceedings, nothing requires it to do so under the present system.⁷ In **[**536]** short, the rules do not give an applicant any right to respond to the bar's or the attorney's assertions.

[**35]** We do not prescribe the exact form that the hearing may take. The bar may fully utilize the disciplinary proceedings which frequently occur simultaneously with CSF proceedings to satisfy hearing requirements. Alternatively, it may provide a separate procedure for written or oral responses to its actions. (See Civil Service Assn. v. City and County of San Francisco, *supra*, 22 Cal.3d at p. 564.) The goal it must achieve, however, is to afford applicants a reasonable opportunity to raise objections to the particular action the bar desires to take. (See *Horn v. County of Ventura*, *supra*, 24 Cal.3d 605, 619.)

CA(10a)^[↑] **(10a)** As we have described, petitioner does not have a right to an award from the CSF. The bar is free to exercise its discretion and to set any guidelines it sees fit which advance the legislative policy behind the CSF. Nonetheless, an applicant may be entitled to relief "if the announced grounds for [the bar's decision have] been patently arbitrary or discriminatory." (*People v. Ramirez*, *supra*, 25 Cal.3d at p. 269, quoting Cafeteria Workers v. McElroy (1961) 367 U.S. 886, 898 [6 L. Ed. 2d 1230, 1238, 81 S. Ct. 1743].) The existing procedures do **[****36]** not require the bar to "announce grounds" **[***379]** in a manner which would permit judicial review. **CA(11)**^[↑] **(11)** We have previously stressed that "a findings requirement serves to conduce **[*567]** the administrative body to draw legally relevant sub-conclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions. [Citations.]" (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 516 [113 Cal. Rptr. 836, 522 P.2d 12]; 2 Davis, Administrative Law Treatise (1958) § 16.05, p. 444; see B. & O. R. Co. v. Aberdeen & R. R. Co. (1968) 393 U.S. 87, 92 [21 L. Ed. 2d 219, 224, 89 S. Ct. 280].) Requiring findings also assists a reviewing court in following the agency's "mode of analysis" and the parties in deciding whether and on what basis review should be sought. They additionally serve to "persuade the parties that administrative decision-making is careful, reasoned, and equitable." (*Topanga*, *supra*, at p. 517.) The bar concedes some review is appropriate. Some findings are necessary to make that review meaningful.

[**37]** Rules of Procedure of the State Bar, rule 687 E, which provides that "[upon] order of the review department directing payment from the fund, the order, the application for reimbursement, the formal pleadings, transcripts, exhibits, findings, conclusions and recommendations in the client security fund proceeding shall be available for public inspection . . .," implies that a record, "findings, conclusions, and recommendations" exist. On closer inspection, this implication proves misleading. First, absent from the rule is any requirement for documentation if there is no order from the review department directing payment. In addition, the bar has not offered such documentation here. Our review of the Rules of Procedure of the State Bar reveals that the review department, final arbiter of CSF decisions, is apparently *not* required to make findings or enunciate conclusions. The letters to petitioner from the bar announcing its conclusions are completely barren of any information other than conclusory statements that petitioner's loss first was not and then was deemed reimbursable. No other "findings" or record of review department proceedings is provided. **CA(10b)**^[↑] **(10b)** **HN9**^[↑] While the bar is not **[****38]** required to make findings as formal as those required of a court (see *Mahdavi v. Fair Employment Practice Com.* (1977) 67 Cal. App. 3d 326, 335 [136 Cal. Rptr. 421]; *McMillan v. American Gen. Fin. Corp.* (1976) 60 Cal. App. 3d 175, 183 [131 Cal. Rptr. 462]), it must provide information "sufficient to apprise interested parties and the courts of the bases for the administrative action." (*San Francisco Ecology Center v. City and County of San Francisco* (1975) 48 Cal. App. 3d 584, 596 [122 Cal. Rptr. **[**537]** 100]; *Topanga Assn. for a Scenic Community v. County of Los Angeles*, *supra*, 11 Cal.3d at pp. 515-517.)

⁷ As we have noted, in contrast, the attorney is entitled to notice and an opportunity to be heard and present evidence before a final CSF decision is made. (See *id.*, rules 679, 680 B, C.)

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The procedures already in existence in disciplinary proceedings may well provide the basis for formulating appropriate hearing and findings mechanisms.⁸ [*568] The purpose of due process in this context is to assure that the bar acts within its discretion, i.e., in a nondiscriminatory and nonarbitrary manner. (Cf. Perry v. Sindermann, *supra*, 408 U.S. at p. 597 [33 L. Ed. 2d at p. 577] [government may not deny benefit to person on basis "that infringes his constitutionally protected interests"].) We therefore find it appropriate to [****39] order the bar to reformulate its regulations pursuant to its authority under *Business and Professions Code section 6140.5* and in light of the discussion above.⁹ We believe that the bar, [***380] with this guidance, will be in the best position to comply with the announced requirements of due process. It is intimately acquainted with the resources at hand, and its interests essentially are not "adverse" to those of petitioner and other applicants who form the class of persons the CSF is aimed at assisting.

[****40] Finally, we decline to decide whether the bar's award to petitioner was improperly decided because we have no basis on which to evaluate the bar's determination. Instead, we remand petitioner's application to the bar for such further consideration as may be appropriate following reformulation of the bar rules. We express no view on the merits of petitioner's claim.

Attorney Fees

CA(12a)[†] (12a) Petitioner argues that the prohibition set forth in rule 686 of the Rules of Procedure of the State Bar which states "No attorney shall be compensated from any source for prosecuting an application against the fund," should be struck down. He contends, first, the rule improperly denies claimants a right to effective counsel which is contrary to the intent of the CSF that "[victims] will be made whole." Second, he asserts his counsel should be entitled to fees under the "private attorney general" doctrine. (Code Civ. Proc., § 1021.5.)

As to rule 686 of Rules of Procedure of the State Bar, petitioner argues that an attorney is important to assure vindication of the rights of claimants [*569] who otherwise must depend on the bar's examiner to press their claims in the disciplinary proceedings [****41] and that "it is manifest in this petition that the State Bar cannot be depended upon to give accurate or complete information to applicants about their rights."¹⁰ He maintains that by denying compensation to counsel, the rules effectively deny any representation because few if any attorneys will work without compensation in this area. Given the goal of the CSF to make victims of dishonest lawyers "whole," petitioner concludes that this goal can only be met by regulating fees rather than denying them completely. Finally, he suggests fees could be awarded from the CSF itself [**538] which is presently in healthy financial shape.

The issue of whether a limitation on compensation for attorneys is a denial of due process was recently considered by the United States [****42] Supreme Court in the context of 38 *United States Code sections 3404 and 3405* which limit fees to attorneys representing veterans pursuing "Service Connected Death and Disability Claims" before the Veterans Administration to the sum of \$ 10 and provide criminal penalties for charging more than that limit. (Walters v. National Association of Radiation Survivors (1985) U.S. [87 L. Ed. 2d 220, 105 S. Ct. 3180])

⁸ For example, findings in the disciplinary proceedings may be fashioned to address the issue of whether "reimbursable loss" has occurred. Additional findings may be necessary, however, regarding how the finding of a covered loss was ultimately translated into the actual award.

⁹ The approach we have taken is consistent with that taken by the Legislature in establishing another "indemnification" fund to assist crime victims suffering serious pecuniary losses. (See Gov. Code, § 13959 et seq.) The system for awarding such benefits includes provisions for hearings as a matter of course (§§ 13962, subd. (d), 13963), "reasonable notice of a decision" (§ 13969.1, subd. (a)), requests for reconsideration (*id.*, subd. (b)), and an express statement that judicial review may be had by writ of mandate (*id.*, subd. (c)). The difference between that fund and the CSF is that in the former case the Legislature explicitly described the procedure to be followed for determining payment, while in the latter, the procedure was left to the discretion of the bar. The approach to the victims' fund is instructive in that it demonstrates an awareness on the part of the Legislature that administration of such a fund required attention to the dictates of due process.

¹⁰ Petitioner's counsel here was also the bar examiner in the underlying *Tarver* matter. (Petitioner waived any claims of conflict and the bar has not contested counsel's representation here.) This casts a somewhat odd light on this contention.

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revg. *sub nom.*, [National Association of Radiation Survivors v. Walters \(N.D.Cal. 1984\) 589 F. Supp. 1302.](#)) The high court reversed the district court's determination that the restrictions at issue unconstitutionally denied due process to veterans bringing claims.

Earlier, in [Gendron v. Saxbe \(C.D. Cal. 1975\) 389 F. Supp. 1303](#), affirmed per curiam *sub nom.*, [Gendron v. Levi \(1975\) 423 U.S. 802 \[46 L. Ed. 2d 23, 96 S. Ct. 9\]](#), the United States Supreme Court summarily affirmed the district court's finding that the \$ 10 limitation was not unconstitutional on the ground that a claimant for benefits had no property interest in the benefits. As noted by the district court in *Walters*, such a summary affirmance, while of binding [***381] effect, [****43] extends only to issues if they were actually decided in the lower court, necessary to that court's decision, presented to the Supreme Court in the jurisdictional statement, and necessarily decided by the Supreme Court in its disposition. ([589 F. Supp. at p. 1309](#); see [Cherry v. Steiner \(9th Cir. 1983\) 716 F.2d 687, 690.](#))

The *Gendron* summary affirmance was thereafter relied upon as controlling by the Ninth Circuit in *Demarest v. United States* (9th Cir. 1983) [718 F.2d 964](#), cert. den. (1984) 466 U.S. 950 [80 L. Ed. 2d 536, 105 S. Ct. 12]. The circuit court found that the procedural due process challenge raised before it had been previously presented to the Supreme Court in *Gendron*, [*570] and the high court's summary affirmance meant it had concluded either that *Gendron* had no protectable property interest or that he had such an interest but it was not violated by the fee limitation. (*Demarest*, 718 F.2d at p. 967.)

At issue in the Supreme Court's *Walters* opinion was whether the district court properly found that the plaintiffs had demonstrated they were denied due process by operation of the fee limitation as applied. The district court's analysis [****44] did not focus on a facial attack on the statutory proscription; rather it considered that issue foreclosed by precedent and instead turned to consideration of the plaintiffs' *factual* contentions. The Supreme Court, in reversing the lower court's finding of a violation, reiterated the flexible nature of "due process" and then scrutinized the various interests at stake and the available protections to ascertain what process was due. The court stressed that "various veterans organizations across the country make available trained service agents, free of charge, to assist claimants in developing and presenting their claims. These service representatives are contemplated by the VA statute, 38 U.S.C. § 3402, and they are recognized as an important part of the administrative scheme." ([U.S. at p. \[87 L. Ed. 2d at p. 227\]](#).) Next, the court articulated the stated congressional purpose of keeping proceedings informal in order to avoid the need for attorneys whose fees would divert some of the award from the claimant. It accorded this purpose great deference and weight in its analysis. ([Id., at p. \[87 L. Ed. 2d at p. 233\]](#).) After reviewing the rights and benefits [****45] at issue, the court concluded that in view of the interests present and the express congressional intent, the plaintiffs needed to make a strong showing of a probability of error to warrant a holding that the limitation denied them due process. ([Id., at p. \[87 L. Ed. 2d at p. 236\]](#).)

The high court considered the evidence relied on by the district court and found it insufficient to support the factual findings underlying that court's determination. ([Id., at pp. \[87 L. Ed. 2d at pp. 237-241\]](#).) [**539] It therefore concluded that on the facts presented, the lower court had erred in finding that the limitation violated due process for those plaintiffs.

In the present case, the briefing on this complex issue is minimal at best and the factual predicate is inadequate. Petitioner's claims are generalized and he presents no information to assist in deciding whether as applied the limitation on payment of fees here operates in a manner inconsistent with the requirements of procedural due process. In fact, petitioner never asserts that he unsuccessfully attempted to obtain counsel to assist him in pursuing his CSF claim before the bar, or that he sought the assistance [****46] of counsel on a voluntary basis. Nor does he offer any statistic generally about the use of attorneys in CSF proceedings, nor allege that he presented his claim that rule 686 denied him due process to the bar in the first instance so that body [*571] could consider it. At most, one can consider his attack on rule 686 of the Rules of Procedure of the State Bar a facial attack.

[CA\(13\)\[↑\]](#) (13) It has long been held that limitations may be placed on the amount of fees to which an attorney is entitled when he represents clients, particularly those seeking benefits. (See, e.g., [Yeiser v. Dysart \(1925\) 267 U.S.](#)

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[540 \[69 L. Ed. 775, 45 S. Ct. 399\]](#) [upholding Nebraska statute limiting fees in workers' compensation cases to [***382] amounts set by court]; *Coviello v. State Bar* (1953) 41 Cal.2d 273, 276-277 [259 P.2d 7] [constituted professional misconduct for attorney to attempt to obtain fees in excess of those awarded by Industrial Accident Com.]; see [Lab. Code, § 4906](#) [workers' compensation]; Prob. Code, § 910 [limiting fees for estate attorneys].) As stated in *Coviello*, the purpose of such limitations "is to protect claimants before the commission from the exaction [****47] of excessive fees" (41 Cal.2d at p. 276.) In 1975, the California Legislature placed limitations on contingency fee contracts in yet another context, namely, in medical malpractice actions. (See [Bus. & Prof. Code, § 6146](#); *Roa v. Lodi Medical Group, Inc.* (1985) 37 Cal.3d 920 [211 Cal. Rptr. 77, 695 P.2d 164] [limits constitutionally acceptable at this juncture and in the absence of factual data showing adverse effect on representation available to medical malpractice victims].)

While the authority discussed is of some assistance in our analysis, ultimately it is not definitive and is of only limited assistance because it concerns limitations on or the regulation of attorney fees, rather than an outright bar on such compensation. ¹¹ [****49] Petitioner has not, as was done by the nonetheless unsuccessful plaintiffs in [National Association of Radiation Survivors v. Walter, supra, 589 F. Supp. 1302](#), presented information regarding how this limitation on fees has operated or shown specifically that it has deprived applicants of adequate representation. On the other hand, the bar has failed to show any effective method by which claimants who desire [*572] representation [****48] may obtain it. ¹² Thus, we [**540] are confronted with a flat prohibition on payment, no guarantee of assistance from any source, and the logical conclusion that no assistance therefore is generally available.

In certain instances an attorney may be barred from appearing on behalf of clients. For example, parties to small claims actions may not be represented by counsel in original small claims court proceedings. ([Code Civ. Proc., § 117.4](#).) However, rule 686 is broader in its limitation because the preclusion of attorneys' participation in the small claims forum does not include [****50] barring parties from consulting (and compensating) attorneys with regard to such action. Moreover, while plaintiffs may elect to proceed without counsel by choosing to proceed in small claims court, defendants, who did not originally select such a route, are eventually entitled to seek assistance of counsel should they take an appeal from an adverse judgment and seek trial de novo. ([Code Civ. Proc., § 117.10](#).) In contrast, the bar's proscription extends to any compensation from any source for any prosecution of any application for relief from the CSF. This arguably can be construed as extending even to actions seeking judicial review of original determinations of applications [***383] as well as to the actual processing of claims directly before the bar.

[CA\(12b\)\[↑\]](#) (12b) We have already determined that the bar must revise the existing rules in order to conform to minimal due process standards. We now conclude that this revision must extend to rule 686. The bar is not necessarily restrained from *reasonably* regulating fees or providing alternate means by which adequate representation will be made available to those seeking compensation from the CSF. However, the bar's assertion that the [****51] rule is justified because payments are "a matter of grace and not of right" and CSF proceedings

¹¹ Note that the ABA, in its model rules, advanced the following formulation: "Except as approved by this Committee, no lawyer shall charge for or accept compensation for prosecuting a claim on behalf of a claimant." (ABA Model Rules for Clients' Security Funds, *supra*, rule 17, italics added.) In the comment to the rule, the ABA suggested that while claimants should receive assistance of counsel "it would be inconsistent with the benevolent purpose of the fund to charge a claimant a fee for such representation." One difference between rule 686 and the ABA's rule is that the latter apparently contemplates fees to the extent "approved" by the governing committee, while the former has no such qualification. The ABA rule thus involves a "reasonable regulation" of compensation, and is more in line with statutes specifying limitations requiring approval by an adjudicatory body. Moreover, the ABA expressly contemplates assistance of counsel in some manner, something the present CSF scheme does not assure.

¹² The bar argues that applicants' interests are sufficiently represented under the present system as demonstrated by the fact that bar "employees" inform injured clients about the fund, and the bar examiner handling the underlying disciplinary proceeding may vigorously represent the wronged client's CSF interests, as assertedly did the attorney here. However, the bar points to no formal procedures assuring any, much less adequate and effective, assistance. This, of course, contrasts with the veterans' situation described by the Supreme Court in *Walters*. The federal regulatory scheme contemplates that free assistance will be made available to claimants. ([U.S. at pp. . . . \[87 L. Ed. 2d at pp. 240-241\]](#).)

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are defined in the bar's own rules as "non-adversary," does not, as the bar would seem to have it, ineluctably lead to the conclusion that it may therefore freely prohibit all compensation to attorneys. The bar's notion of "grace" cannot insulate it from the fact that it is administering a fund for the benefit of wronged clients and its interests may not always be exactly consonant with those of an individual applicant. The bar may determine in nondiscriminatory fashion to whom and to what degree payments shall be made; it may not prevent those seeking relief from assuring that [*573] the bar has adhered to the requirements that it provide proper and fair distribution.

In the best of all possible worlds, it would be preferable if wronged clients seeking recompense from a fund set up to assist them in that search did not ever feel it necessary to hire attorneys to assist them. But, if no alternative method of supplying adequate impartial representation is supplied, and we recognize the possibility of fallibility in even the most benevolent minded, money usually remains the necessary [****52] quid pro quo for the layman to obtain assistance. [HN10](#) [↑] The bar is therefore directed to reconsider its prohibition on the compensation of attorneys and to reformulate its rules to permit attorneys assisting applicants to the fund to be compensated.¹³

[CA\(14\)](#) [↑] (14) We turn now to petitioner's claim that his counsel is entitled to attorney fees pursuant to [Code of Civil Procedure section 1021.5](#). [HN11](#) [↑] That section states that "a court may award attorneys' fees to a successful party . . . in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, [**541] has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement are such as to make the award appropriate, [****53] and (c) such fees should not in the interest of justice be paid out of the recovery, if any." (See *Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 317 [193 Cal. Rptr. 900, 667 P.2d 704].)

Petitioner's counsel asserts that he is presently on a contingency fee arrangement with his client pursuant to which he will receive one-third of amounts recovered if (1) recovery is made from the CSF, (2) a rule is established that fees may be recovered despite rule 686 of the Rules of Procedure of the State Bar, and (3) fees cannot be recovered under [section 1021.5](#). In support of his request, he contends that each requirement of [section 1021.5 of the Code of Civil Procedure](#) has been met, making an award under that section appropriate.

Petitioner first argues that he has vindicated an important right of significant benefit to all future CSF applicants. In *Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917 [154 Cal. Rptr. 503, 593 P.2d 200], we considered what an "important right" under the section might entail. After observing that such rights need not be constitutional in origin, we explained that [section 1021.5](#), by the use of the word "important" [****54] [*574] directed "the judiciary to exercise judgment in attempting to ascertain the 'strength' or 'societal importance' of the right involved." (*Id.*, at p. 935.) The plaintiffs there argued that they had enforced the important public right to subdivisions [***384] which conformed to the applicable general plan, while defendants contended that plaintiffs had merely vindicated a "technical" requirement that specific findings be provided pursuant to [Code of Civil Procedure section 1094.5](#). We concluded that because the trial court had "confronted substantial questions as to the consistency of the proposed subdivision and Los Angeles' currently applicable general plan," the trial court on remand therefore should in the first instance decide whether the litigation had indeed enforced an "important right affecting the public interest." (P. 938.)

The rights vindicated here involve the potential for "arbitrariness" in the bar's CSF decisionmaking. The consequences of our decision and the required alterations in the bar's regulations will have an effect on all subsequent CSF determinations. While applicants may have no right to a specific sum, "the general public or a large [****55] class of persons" will benefit to the extent that establishment of a method of administration allowing full and considered participation will assure proper determinations. At issue is the "appearance of justice" as well as the potential for more material and measurable benefits to be gleaned from assuring comprehensive and evenhanded treatment of CSF requests. (See *Press v. Lucky Stores, Inc.*, *supra*, 34 Cal.3d at p. 322, and fn. 10; *Schwartz v. City of Rosemead* (1984) 155 Cal. App. 3d 547, 558 [202 Cal. Rptr. 400].) These benefits, both

¹³ The bar is *not*, however, precluded from choosing either reasonable regulation of compensation or the establishment of an alternate method of assuring adequate assistance to applicants.

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pecuniary and nonpecuniary, will affect all future CSF applicants, a significant number of persons interested in a significant sum of money.¹⁴

We consider next "the necessity and financial burden of private enforcement" ([§ 1021.5](#)). Petitioner here sought to vindicate personal rights and his claim to a particular sum in addition to challenging the general [****56] regulatory scheme utilized by the bar. Petitioner's "personal interest" was to some degree involved and it therefore may be appropriate to determine what portion of the fees should be attributed to issues transcending that personal interest and what part should be deemed to arise [**542] out of petitioner's individual claim. In *Woodland Hills Residents Assn., Inc. v. City Council*, *supra*, 23 Cal.3d at p. 942, we confronted just such a question and determined that the attorney fees question had to be remanded to the trial court for full consideration. Such a course is not possible here.

As in *Mack v. Younger* (1980) 27 Cal.3d 687, 689 [165 Cal. Rptr. 876, 612 P.2d 966], "Because the underlying petition was a petition for original [*575] writ in this court rather than an appeal . . . we [are] unable to follow our practice of remanding such motions to the court in which the trial was held for the purpose of taking evidence on, and fixing, the reasonable amount of fees to be awarded." The same problem obtains here. As in that case and *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 716 [206 Cal. Rptr. 89, 686 P.2d 609], we here determine [****57] the substantive issues raised by this proceeding, including entitlement to attorney fees under [Code of Civil Procedure section 1021.5](#), but reserve further jurisdiction for the purpose of setting those fees pending consideration to factual issues relevant to the fixing of that award.

Conclusion

[CA\(2c\)](#)[↑] (2c) Generally, the bar should be left as free as possible to effectuate and fulfill the Legislature's grant of authority in *Business and Professions Code section 6140.5*. However, that freedom is not unlimited, and in accordance with the views stated herein we hold that individual CSF decisions in the future may be reviewed by mandamus ([Code Civ. Proc., § 1094.5](#)) in the superior courts in the first instance because such decisions are not an integral part of this court's regulatory jurisdiction [***385] over the bar. We further conclude that the present regulations are deficient in that they do not provide sufficient opportunity for applicants to the CSF to be heard nor do they require findings from which meaningful review may be taken. As to petitioner's requests for attorney fees, we conclude that the bar must reconsider its rule prohibiting the payment of attorney fees from any source [****58] for the prosecution of CSF matters and reformulate a rule permitting counsel to receive compensation for their assistance. Moreover, we believe that an award of attorney fees under the private attorney general statute is appropriate in a sum yet to be fixed.

Let a peremptory writ of mandate issue commanding the bar to (1) reformulate the existing rules to conform generally to such procedural requirements as are described herein, (2) afford petitioner a reasonable opportunity to be heard thereunder, and (3) provide sufficient findings upon which review may be based. Jurisdiction is reserved for the purpose of awarding attorney fees as may be hereinafter determined.

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¹⁴ In 1983, a total of 247 claims were filed. In 1984, a total of \$ 841,345 was paid to fund applicants.

Comparison of States' Client Protection Fund Revenues and Expenses¹

				2016 Revenues			2016 Expenses		2016 Claims Processing	
	Cap per Claim	Principal Funding Source	Annual Assessment per Attorney	Attorney Assessments	Appropriations	Other Revenue	Award Payouts	Operating Costs	Claims Processed	Operating Cost per Claim
Alabama	\$75,000	Annual Assessment	\$25	\$450,575	\$0	\$116,606	\$270,386	\$78,932	97	\$814
Arizona	\$100,000	Annual Assessment	\$20	\$213,990	\$0	\$14,428	\$396,770	\$254,498	74	\$3,439
Arkansas	\$40,000	Annual Assessment	\$20	\$187,722	\$0	\$7,321	\$0	\$12,768	12	\$1,064
California	\$100,000	Annual Assessment	\$40	\$7.7 million	\$0	\$822,000	\$8 million	\$2.3 million	2,332	\$986
Colorado	\$50,000	Annual Assessment	\$25	\$639,211	\$0	\$659,258	\$391,838	\$95,772	36	\$2,660
Connecticut	N/A	Annual Assessment	\$75	\$2,282,339	\$0	\$499,749	\$3,888,718	\$1,180,630	89	\$13,266
Delaware	N/A	Annual Assessment	\$10-\$336 ²	\$118,070	\$0	\$2,200	\$0	\$0	0	N/A
District of Columbia	\$100,000	Budget Appropriation	N/A	\$0	\$0	\$19,643	\$232,273	\$0	28	\$0
Florida	N/A	Budget Appropriation	N/A	\$0	\$2,459,950	\$630,060	\$1,890,349	\$288,215	236	\$1,221
Georgia	\$25,000	One Time Assessment	\$100 total (\$25 per year)	\$150,897	\$0	\$20,072	\$495,338	\$73,000	58	\$1,259
Idaho	\$25,000	Annual Assessment	\$20	\$90,805	\$0	\$902	\$14,379	\$0	4	\$0
Illinois	\$100,000	Annual Assessment	\$25	\$1,811,000	\$0	\$60,000	\$3,094,000	\$250,000	278	\$899
Iowa	\$100,000	One Time Assessment	\$200 total (\$50 per year)	\$454,400	\$0	\$3,046	\$97,765	\$685,019	6	\$114,170
Kentucky	\$50,000	Annual Assessment	\$7	\$119,240	\$0	\$13,138	\$173,927	\$106,508	40	\$2,663

¹ Source: Standing Committee on Client Protection of the ABA Center for Professional Responsibility, 2014-2016 Survey of Lawyers' Funds for Client Protection (2017).

² Annual assessment varies by years in practice.

Attachment D

				2016 Revenues			2016 Expenses		2016 Claims Processing	
	Cap per Claim	Principal Funding Source	Annual Assessment per Attorney	Attorney Assessments	Appropriations	Other Revenue	Award Payouts	Operating Costs	Claims Processed	Operating Cost per Claim
Louisiana	\$25,000	Outside Counsel Health and Ethics Foundation	N/A	\$0	\$0	\$995,787	\$374,133	\$0	77	\$0
Maine	\$50,000	Annual Assessment	\$20	\$104,992	\$0	\$26,426	\$154,647	\$39,969	9	\$4,441
Massachusetts	N/A	Annual Assessment	\$35	\$846,842	\$0	\$101,968	\$846,842	\$0	50	\$0
Michigan	\$150,000	Annual Assessment	\$15	\$638,839	\$0	\$125,950	\$620,306	\$194,808	115	\$1,694
Mississippi	\$10,000	Budget Appropriation	N/A	\$0	\$0	\$0	\$10,000	\$0	15	\$0
Missouri	\$50,000	Budget Appropriation	N/A	N/A	\$271,700	\$3,422	\$91,496	\$0	33	\$0
Nebraska	\$100,000	State Bar Contribution	N/A	\$0	\$0	\$3,420	\$0	\$6,867	3	\$2,289
New Hampshire	\$250,000	Periodic Assessment	\$0	\$0	\$0	\$11,987	\$0	\$2,782	2	\$1,391
New Jersey	\$400,000	Annual Assessment	\$25 - \$50 ³	\$3,873,313	\$0	\$1,636,788	\$1,980,770	\$3,540,866	912	\$3,883
New Mexico	\$50,000	Annual Assessment	\$15	\$111,485	\$0	\$161,159	\$157,917	\$8,202	45	\$182
New York	\$400,000	Biennial Assessment	\$30	\$6,211,508	\$0	\$788,290	\$9,241,394	\$782,316	579	\$1,351
North Dakota	\$25,000	Annual Assessment	\$16	\$48,592	\$0	\$2,516	\$0	\$2,932	0	N/A
Ohio	\$75,000	Biennial Allocation	N/A	\$0	\$1,811,033	\$74,726	\$782,290	\$781,128	188	\$4,155
Oregon	\$50,000	Annual Assessment	\$15	\$225,821	\$0	\$9,784	\$150,149	\$33,230	53	\$627
Pennsylvania	\$100,000	Annual Assessment	\$75	\$2,886,415	\$0	\$78,862	\$4,394,008	\$743,386	200	\$3,717
Texas	\$40,000	Budget Appropriation	N/A	\$0	\$300,000	\$0	\$0	\$0	171	\$0

³ Annual assessment varies by years in practice.

Attachment D

				2016 Revenues			2016 Expenses		2016 Claims Processing	
	Cap per Claim	Principal Funding Source	Annual Assessment per Attorney	Attorney Assessments	Appropriations	Other Revenue	Award Payouts	Operating Costs	Claims Processed	Operating Cost per Claim
Utah	\$20,000	Annual Assessment	\$0-\$20 ⁴	\$47,535	\$0	\$2,220	\$31,140	\$560	10	\$56
Vermont	\$15,000	Voluntary Contributions	\$10	\$21,100	\$0	\$66,369	\$0	\$0	0	N/A
Virginia	\$75,000	Annual Assessment	\$25	\$800,025	\$0	\$131,229	\$212,288	\$0	78	\$0
Washington	\$150,000	Lawyer Assessment	\$25	\$994,738	\$0	\$9,430	\$371,432	\$132,148	56	\$2,360
West Virginia	\$10,000	Budget Appropriation	N/A	\$0	\$80,000	\$0	\$49,482	\$0	14	\$0
Wisconsin	\$150,000	Annual Assessment	\$20	\$411,200	\$0	\$6,915	\$192,402	\$40,440	66	\$613
Wyoming	\$15,000	Budget Appropriation	N/A	\$0	\$59,687	\$3,597	\$30,000	\$151	5	\$30

⁴ Annual assessment varies based on solvency of fund.

2014 – 2016 Survey of Lawyers' Funds for Client Protection



Prepared by the Standing Committee on
Client Protection of the American Bar Association
Center for Professional Responsibility

2014 – 2016 Survey of Lawyers' Fund for Client Protection

Introduction

The ABA Survey of Lawyers' Funds for Client Protection questionnaires were sent to administrators of client protection funds throughout the United States and Canada. The survey spans the years 2014-2016. Of the 63 questionnaires mailed to jurisdictions in the United States, 51 were returned for tabulation. The following jurisdictions in the United States did not respond to the survey questionnaire Alaska, Hawai'i, Indiana, Kansas, Maryland, Minnesota, Montana, North Carolina, Oklahoma, Rhode Island, South Carolina, and South Dakota. The questionnaire is attached at the end of the survey.

The Survey consists of eight sections organized by jurisdiction. In some instances, exact figures were not available. Therefore, approximate figures were provided. If a question is not applicable to the jurisdiction, N/A was applied. "Unknown" where the information requested was unavailable and "0" only to indicate a zero-numerical amount. As the data contained in these sections was compiled from statistics reported to the ABA by the various jurisdictions, its accuracy is, therefore, dependent upon the reporting agencies. You may wish to contact a specific jurisdiction if you have further inquiries.

Questions about the Survey and how to contact specific jurisdictions should be addressed to Selina S. Thomas, Senior Counsel Client Protection Counsel, ABA Center for Professional Responsibility, 321 North Clark Street, 20th Floor, Chicago, Illinois 60654, (312) 988-6721 or Selina.Thomas@americanbar.org

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SECTION I	Fund Authorization and Administration
SECTION II	Fund Finances
SECTION III	Fund Claim Experiences
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SECTION V	Fund Claim Procedures
SECTION VI	Public Information
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SECTION VIII	Common Problems

SECTION I:
Fund Authorization and Administration

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Lawyers Currently Admitted	Unified Bar	Title	Year Created
USA				
Alabama	17,952	Yes	Client Security Fund	1976
Arizona	18,500	Yes	State Bar of Arizona Client Protection Fund	1961
Arkansas	9,950	No	Arkansas Client Security Fund	1973
California	180,000+	Yes	Client Security Fund	1972
Colorado	26,360	No	Colorado Attorneys' Fund for Client Protection	1999
Connecticut	36,000	No	Client Security Fund	1999
Delaware	4,221	Yes	Lawyers' Fund for Client Protection of the Supreme Court of Delaware	1968
District of Columbia	104,215	Yes	The Clients' Security Fund	1972
Florida	104,198	Yes	Florida Bar Clients' Security Fund	1967
Georgia	45,000	Yes	State Bar of Georgia Clients' Security Fund	1968
Idaho	6,333	Yes	Client Assistance Fund	1982
Illinois	94,600	No	Client Protection Program	1994
Iowa	9,668	No	Client Security Trust Fund of the Bar of Iowa	1974
Kentucky	18,340	Yes	Clients' Security Fund	1971
Louisiana	22,606	Yes	LSBA Client Assistance Fund	1962
Maine	5,319	No	Lawyers' Fund for Client Protection	1997
Massachusetts	59,945	No	Massachusetts Clients' Security Board of the Supreme Judicial Court	1974
Michigan	42,126	Yes	Client Protection Fund	1966
Mississippi	9,115	Yes	Clients Security Fund	
Missouri	30,853	Yes	The Missouri Bar Client Security Fund	1966
Nebraska	6,897	No	Client Assistance Fund of the Nebraska State Bar Association	2001
Nevada	8,916	Yes	The Clients' Security Fund of the State Bar of Nevada	1970
New Hampshire	5,447	Yes	New Hampshire Bar Association Public Protection Fund	
New Jersey	75,137	No	New Jersey Lawyers' Fund for Client Protection	1969
New Mexico	7,191	Yes	New Mexico Client Protection Fund	2005
New York	311,316	No	New York Lawyers' Fund for Client Protection	1981
North Dakota	2,883	Yes	State Bar Association of North Dakota Client Protection Fund	1996
Ohio	44,831	No	Lawyers' Fund for Client Protection for the Supreme Court of Ohio	1985
Oregon	15,104	Yes	Oregon State Bar Client Security Fund	1967
Pennsylvania	65,455	No	Pennsylvania Lawyers Fund for Client Protection	1982
Tennessee	22,796	No	Tennessee Lawyers' Fund for Client Protection	1989

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Lawyers Currently Admitted	Unified Bar	Title	Year Created
USA				
Texas	98,671	Yes	State Bar of Texas Client Security Fund	1975
Utah	9,234	Yes	Utah State Bar Lawyers' Fund for Client Protection	1977
Vermont	2,593	No	Vermont Bar Association Client Security Fund	1986
Virginia	32,442	Yes	Virginia State Bar Clients' Protection Fund	1976
Washington	33,700	Yes	Lawyers' Fund for Client Protection	1994
West Virginia	6,895	No	Lawyers Fund for Client Protection	1981
Wisconsin	25,048	Yes	Wisconsin Lawyers' Fund for Client Protection	1981
Wyoming	2,914	Yes	Client Protection Fund of the Wyoming State Bar	1966
CANADA				
Alberta	9,797	Yes	Assurance Fund	1939
British Columbia	11,560	Yes	Trust Protection Fund	2004
Northwest Territories	395	Yes	Law Society of Northwest Territories Assurance Fund	1978

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Entity Creating Fund	Entity with Supervisory Authority	Entity Administering Fund
USA			
Alabama	Court	Highest Court	Bar Committee
Arizona	Court	Bar Association	Board of Trustees
Arkansas	Court	Highest Court	Arkansas Supreme Court Committee
California	Legislature	CSF Commission	CSF Commission
Colorado	Court	Board of Trustees	Board of Trustees
Connecticut	Court	Judges of the Superior Court	Board of Trustees
Delaware	Court	Highest Court	Board of Trustees
District of Columbia	Court	Highest Court	Bar Committee
Florida	Court	Bar Association	Bar Committee
Georgia	Court	Highest Court	Board of Trustees
Idaho	Legislature	Highest Court	Bar Committee
Illinois	Court	Attorney Registration & Disciplinary Commission of the IL Supreme Court	Attorney Registration & Disciplinary Commission of the IL Supreme Court
Iowa	Court	Highest Court	Client Security Commission
Kentucky	Court	Highest Court	Board of Trustees
Louisiana	Bar Association	LA Client Assistance Foundation	Bar Committee
Maine	Court	Highest Court	Board of Trustees
Massachusetts	Court	Highest Court	Board of Trustees
Michigan	Bar Association	Bar Association	Bar Committee
Mississippi	Bar Association	Bar Association	Bar Committee
Missouri	Bar Association	Bar Association	Bar Committee
Nebraska	Court	Highest Court	Bar Committee
Nevada	Court	Bar Association	Bar Committee
New Hampshire	Court	Highest Court	Bar Committee
New Jersey	Court	Highest Court	Board of Trustees
New Mexico	Court	Bar Association	Jointly by staff of Bar Association and Disciplinary Board
New York State	Legislature	Highest Court	Board of Trustees
North Dakota	Court	Bar Association	Board of Trustees
Ohio	Court	Court	Board of Trustees
Oregon	Bar Association	Bar Association	Bar Committee
Pennsylvania	Court	Highest Court	Board of Trustees
Tennessee	Court	Highest Court	Board of Trustees
Texas	Bar Association	Bar Association	Bar Committee
Utah	Court	Highest Court	Bar Committee
Vermont	Bar Association	Bar Association	Bar Committee
Virginia	Bar Association	Bar Association	Board of Trustees
Washington	Court	Highest Court	Board of Trustees
West Virginia	Bar Association	Bar Association	Bar Committee
Wisconsin	Court	Highest Court	Bar Committee
Wyoming	Court	Highest Court	Bar Committee

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Entity Creating Fund	Entity with Supervisory Authority	Entity Administering Fund
CANADA			
Alberta	Legislature	Law Society of Alberta	Alberta Lawyers Insurance Association
British Columbia	Legislature	Benchers of the Law Society	Administered through the LSBC's insurance program, the Lawyers Insurance Fund
Northwest Territories	Legislature	Law Society of Northwest Territories	Law Society of Northwest Territories

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	# of Board/Committee Members		Frequency of Meetings	# of Lawyer Positions		# of Non-Lawyer Positions	
	Lawyer	Non- Lawyer		Full- Time	Part- Time	Full- Time	Part- Time
USA							
Alabama	9	2	Quarterly	1	0	1	0
Arizona	4	1	Quarterly	0	0	1	1
Arkansas	5	0	Other	0	1	0	0
California	4	3	Other	3	0	4	0
Colorado	5	2	Quarterly	0	0	1	0
Connecticut	12	3	Other	1	0	2	1
Delaware	7	2	Quarterly	0	0	1	0
District of Columbia	5	0	Monthly	1	0	1	0
Florida	26	0	Quarterly	0	1	2	1
Georgia	6	1	Quarterly	0	1	0	1
Idaho	3	2	As Needed	1	0	1	0
Illinois	4	3	Other	1	1	0	2
Iowa	5	2	Bi-Annually	0	2	0	6
Kentucky	3	2	Bi-Annually	0	1	0	1
Louisiana	23	0	Quarterly	0	2	0	1
Maine	5	2	Quarterly	0	1	0	2
Massachusetts	7	0	Monthly	2	0	1	0
Michigan	15	0	Quarterly	0	1	1	1
Mississippi	6	0	Other	0	0	0	0
Missouri	6	0	Other	0	1	0	1
Nebraska	6	2	Other	0	1	0	1
Nevada	10	2	Bi-Annually	0	0	0	1
New Hampshire	7	2	Other	0	0	0	1
New Jersey	5	2	Monthly	4	0	14	
New Mexico	9	0	Quarterly	0	2	0	1
New York	5	2	Quarterly	2	0	3	0
North Dakota	15	0	Other	1	0	0	1.5
Ohio	6	1	Quarterly	1	0	3	0
Oregon	12	1	Other	0	1	0	1
Pennsylvania	5	2	Quarterly	1	0	1	0
Tennessee	6	3	Other	2	0	0	0
Texas	3	3	Quarterly	1	0	0	1
Utah	13	0	Bi-Annually	0	0	0	1
Vermont	3		Annually	N/A	N/A	N/A	N/A
Virginia	13	1	Other	0	1	1	1
Washington	11	2	Quarterly	0	1	0	1
West Virginia	5	2	Quarterly	1	0	1	0
Wisconsin	5	2	Quarterly	1	0	0	0
Wyoming	9	0	Other	1	0	1	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	# of Board/Committee Members		Frequency of Meetings	# of Lawyer Positions		# of Non-Lawyer Positions	
	Lawyer	Non- Lawyer		Full- Time	Part- Time	Full- Time	Part- Time
CANADA							
Alberta	20	4	Other	7	0	5	0
British Columbia			Other	0	4	0	2
Northwest Territories	5	1		0	0	0	3

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Fund Immunity	Agents Immunity	Staff Immunity	Trustees Immunity
USA				
Alabama	Yes	Absolute	Absolute	Absolute
Arizona	Yes	Absolute	Absolute	Absolute
Arkansas	No	N/A	N/A	N/A
California	Yes	Absolute	Absolute	Absolute
Colorado	Yes	Absolute	Absolute	Absolute
Connecticut	Yes	Absolute	Absolute	Absolute
Delaware	Yes	Absolute	Absolute	Absolute
District of Columbia	Yes	Qualified	Qualified	Absolute
Florida	Yes	Absolute	Absolute	Absolute
Georgia	Yes	Absolute	Absolute	Absolute
Idaho	Yes	Absolute	Absolute	Absolute
Illinois	Yes	Absolute	Qualified	Qualified
Iowa	Yes	N/A	Absolute	Absolute
Kentucky	Yes	Absolute	Absolute	Absolute
Louisiana	No	N/A	N/A	N/A
Maine	Yes	Absolute	Absolute	Absolute
Massachusetts	Yes	UK	Absolute	Absolute
Michigan	No	N/A	N/A	N/A
Mississippi	No	N/A	N/A	N/A
Missouri	Yes	N/A	N/A	N/A
Nebraska	No	Other	Other	Other
Nevada	Yes	Absolute	Absolute	Absolute
New Hampshire	No	N/A	N/A	N/A
		Independent contractors must carry separate insurance		
New Jersey	Yes		Absolute	Absolute
New Mexico	Yes	Qualified	Qualified	Qualified
New York	Yes	Absolute	Absolute	Absolute
North Dakota	Yes	Absolute	Absolute	Absolute
Ohio	Yes	Absolute	Absolute	Absolute
Oregon	Yes	Absolute	Absolute	Absolute
Pennsylvania	Yes	N/A	Absolute	Absolute
Tennessee	Yes	Absolute	Absolute	Absolute
Texas	Yes	Absolute	Absolute	Absolute
Utah	Yes	Absolute	Absolute	Absolute
Vermont	Yes	Qualified	Qualified	Qualified
Virginia	Yes	N/A	Qualified	Qualified
Washington	Yes	N/A	Absolute	Absolute
West Virginia	Yes	Qualified	Qualified	Absolute
Wisconsin	No	N/A	N/A	N/A
Wyoming	Yes	Absolute	Absolute	Absolute

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION I: FUND ADMINISTRATION

Section I. Fund Administration	Fund Immunity	Agents Immunity	Staff Immunity	Trustees Immunity
CANADA				
Alberta	Yes	Other	Other	Other
British Columbia	Yes	Qualified	Qualified	
Northwest Territories	Yes	N/A	Absolute	Absolute

SECTION II:

Fund Finances

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Principle Source of Funding	Frequency of Lawyer Assessment
USA		
Alabama	Lawyer Assessment	Annually
Arizona	Lawyer Assessment	Annually
Arkansas	Other/\$20 License Fee	Annually
California	Lawyer Assessment	Annually
Colorado	Lawyer Assessment	Annually
Connecticut	Lawyer Assessment	Annually
Delaware	Lawyer Assessment	Annually
District of Columbia	Budget Appropriation	N/A
Florida	Budget Appropriation	N/A
Georgia	Lawyer Assessment	Other
Idaho	Lawyer Assessment	Annually
Illinois	Lawyer Assessment	Annually
Iowa	Lawyer Assessment	Annually
Kentucky	Lawyer Assessment	Annually
Louisiana	Other: Louisiana Outside Counsel Health and Ethics Foundation (LOCHEF)	N/A
Maine	Lawyer Assessment	Annually
Massachusetts	Lawyer Assessment	Annually
Michigan	Lawyer Assessment	Annually
Mississippi	Budget Appropriation	N/A
Missouri	Budget Appropriation	Annually
Nebraska	Original \$500,000 contribution, 2002-2013 NSBA made \$20,000 Annual Contribution	N/A
Nevada	Lawyer Assessment	Annually
New Hampshire	Lawyer Assessment	As required and determined by the NH Supreme Court to keep fund at an appropriate level
New Jersey	Lawyer Assessment	Annually
New Mexico	Other: Transfer of MCLE fees Attorney Assessment	Annually
New York	Lawyer Assessment	Biennially
North Dakota	Lawyer Assessment	Annually
Ohio	Supreme Court Allocation from Attorney Registration Fees	Bi-Annual Attorney Registration
Oregon	Lawyer Assessment	Annually
Pennsylvania	Lawyer Assessment	Annually
Tennessee	Lawyer Assessment	Annually
Texas	Budget Appropriation	N/A
Utah	Lawyer Assessment	Annually
Vermont	Voluntary Contributions	N/A
Virginia	Lawyer Assessment	Annually
Washington	Lawyer Assessment	Annually

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Principle Source of Funding	Frequency of Lawyer Assessment
USA		
West Virginia	Budget Appropriation	N/A
Wisconsin	Lawyer Assessment	Annually
Wyoming	Budget Appropriation	N/A
CANADA		
Alberta	Lawyer Assessment	Annually
British Columbia	Budget Appropriation	Annually
Northwest Territories	Lawyer Assessment	Annually

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Individual Lawyer Assessments on an Annualized Basis
USA	
Alabama	\$25
Arizona	\$20
Arkansas	The \$20 per license fee is collected annually and included in the license fee
California	\$40 Active Members/\$10 Inactive Members
Colorado	2014-\$40/2016-\$25
Connecticut	\$75
Delaware	It varies by how many years in practice; government; emeritus or inactive. The lowest is \$10.00. The highest is \$336.00
District of Columbia	N/A
Florida	N/A
Georgia	One \$100 assessment paid over 4 years.
Idaho	\$20
Illinois	\$25
Iowa	\$50 until a total of \$200 is paid
Kentucky	\$7
Louisiana	N/A
Maine	\$20
Massachusetts	\$35
Michigan	\$15 Active Attorney / \$7.50 Inactive Attorneys
Mississippi	N/A
Missouri	N/A
Nebraska	N/A
Nevada	\$25
New Hampshire	Last assessment in 2011
New Jersey	3 rd & 4 th yr. of admission =\$25; 5 th thru 49 th yr. of admission =\$50
New Mexico	\$15
New York	\$30
North Dakota	\$16
Ohio	N/A
Oregon	\$15
Pennsylvania	\$75
Tennessee	\$10
Texas	N/A
Utah	\$0-20 depending on amount needed to keep the fund solvent, usually \$5
Vermont	\$10
Virginia	\$25
Washington	\$25
West Virginia	N/A
Wisconsin	\$20
Wyoming	N/A
	(Funds allocated as needed by vote of the Board of Officers and Commissioners)

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Individual Lawyer Assessments on an Annualized Basis
CANADA	
Alberta	\$492
British Columbia	\$0
Northwest Territories	\$150

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Part of Another Assessment If Yes, What Other Assessments are Collected	Who Collects the Assessment
USA		
Alabama	No	N/A
Arizona	Yes: Bar Dues	Bar Association
Arkansas	No	Court
California	Yes: Bar Membership Dues	Bar Association
Colorado	Yes: Annual Attorney Registration Dues	Office of Attorney Regulation Counsel
Connecticut	No	Court
Delaware	Yes: Annual Registration; Office of Disciplinary Counsel; Lawyers' Assistance Program and Continuing Legal Education	Court
District of Columbia	No	N/A
Florida	No	N/A
Georgia	No	Bar Association
Idaho	Yes: Licensing Fees	Bar Association
Illinois	Yes: Annual Registration Dues	Court
Iowa	Yes: Annual fee for support of the Disciplinary System	Client Security Commission
Kentucky	Yes: Annual dues for membership in the Kentucky Bar Association	Bar Association
Louisiana	No	N/A
Maine	Yes: Attorney License Fee, Assessment for Maine Assistant Program for Lawyers and Judges	Disciplinary Agency
Massachusetts	No	The Registration Dept. of the Board of Bar Overseers
Michigan	Yes: Bar and disciplinary system dues	Bar Association
Mississippi	No	N/A
Missouri	Yes: Bar Enrollment Fee, Advisory Committee Fee Low Income Legal Services Fee	Court
Nebraska	Yes: Has not been addressed under the NSBA's new structure (since 2014)	
Nevada	No	Bar Association
New Hampshire	Yes: NH Supreme Court Professional Conduct Committee; NH Minimum Legal Continuing Education; Lawyer Assessment	Bar Association
New Jersey	Yes: Disciplinary Oversight Committee; lawyers Assistance Program; Board on Continuing Legal Education	NJ Layers' Fund for Client Protection
New Mexico	Yes: Annual State Bar Licensing Fee, Annual Disciplinary Fee	Bar Association
New York	Yes: Attorney licensing Fund; Indigent Legal Services; Assigned Counsel Fee	Court
North Dakota	Yes: License Fee	Bar Board
Ohio	No	Court Collects Attorney Registration Fee
Oregon	No	Bar Association
Pennsylvania	Yes: Disciplinary Board and IOLTA Board	Attorney Registration

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Part of Another Assessment If Yes, What Other Assessments are Collected	Who Collects the Assessment
USA		
Tennessee	Yes: Annual License Renewal	Board of Professional Responsibility
Texas	No	N/A
Utah	Yes: Bar Dues	Bar Association
Vermont	Yes: Vermont Bar Dues	Bar Association
Virginia	Yes: Virginia Bar Dues	Bar Association
Washington	Yes: License Fee	Bar Association
West Virginia	No	N/A
Wisconsin	Yes: Board of Bar Examiners, Office of Lawyer Regulation, WisTAF	Bar Association
Wyoming	No	N/A
CANADA		
Alberta	Yes: Assurance Fund is now a Trust Safety Insurance & part of the Professional Liability Insurance Coverage & Levy	ALIA
British Columbia	Yes: Practice fee \$2,048, Compulsory insurance (including negligence) \$1,750	The Law Society of BC
Northwest Territories	No	Law Society of Northwest Territories

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	\$ Amount of Other Assessments on an Annualized Basis	Sanction for Failure to Pay	Persons Exempt from Paying Assessment
USA			
Alabama	\$25	Suspension	Retired
Arizona	\$485	Summary suspension	Judicial/Retired
Arkansas	\$0	Failure to pay annual license fee results in administrative suspension of the lawyer's license to practice law	N/A
California	\$372	Late fee of \$100 / Suspension for non-payment	Judicial
Colorado	\$300 for Active Attorneys practicing more than 3 yrs./ 2014-\$285	Administrative Suspension	Inactive
Connecticut	N/A	Administrative Suspension of License to Practice Law	Government/Retired/Active Duty Military/Disbarred/Resigned
Delaware	\$401 for Pro Hac Vice Renewals	\$300 late fee and Rule to Show Cause	Judicial / Retired / Emeritus
District of Columbia	N/A	N/A	Inactive
Florida	N/A	Funded by budget allocation of \$25 of Bar dues. Those who fail to pay dues are deemed delinquent and administratively suspended from the practice of law	Retired/Activated members of the Armed Services (more than 30 days)
Georgia	\$248	Suspension	N/A
Idaho	\$425	Administrative suspension by the Idaho Supreme Court	Inactive/Judicial
Illinois	\$385	Removal from Master Roll	Judicial/Retired/Military/Over Age 75
Iowa	\$175	Suspension of license	Inactive/Retired/Active Military/ Emeritus
Kentucky	\$310	Suspension	Honorary Members appointed by the Board of Governors/Senior Retired Inactive Members
Louisiana	N/A	N/A	Government/Inactive/Judicial/ Retired
Maine	\$245 (\$225 License Fee, \$20 MAP fee) Total including LFCP is \$265	Administrative Suspension	Inactive/Retired/Military/Law Clerks
Massachusetts	\$300	Administrative Suspension	Judicial/Retired/Suspended or Disbarred
Michigan	\$270	Administrative Suspension	Retired

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	\$ Amount of Other Assessments on an Annualized Basis	Sanction for Failure to Pay	Persons Exempt from Paying Assessment
USA			
Mississippi	N/A	N/A	N/A
Missouri	Depends upon enrollment fee category: \$410 / \$325 / \$280	Suspension	Senior Counselors/Retired Judges
Nebraska	Has not been addressed under the NSBA's new structure (since 2014)		N/A
Nevada	N/A	N/A	Inactive/Retired
New Hampshire	\$235	License Suspension	
New Jersey	DOC \$148; LAP \$10; BCLE \$4	Administrative ineligibility; 7 consecutive years of ineligibility = revocation of license	Retired/50+ years of admission/ Active Military, Peace Corps, AmeriCorps
New Mexico	Licensing Fee \$245/ Disciplinary Board Fee \$150	Administrative Suspension	Inactive/Judicial
New York	\$152.50/yr.	Suspension	Inactive/Judicial/Retired
North Dakota		N/A	
Ohio	N/A	Suspension	Inactive/Judicial/Retired
Oregon	N/A	Suspension	Inactive/50-year members
Pennsylvania	Disciplinary Board \$125, IOLTA \$30	Administrative Suspension	Inactive/Judicial/Retired
Tennessee	\$140 Annual Reg and \$20 LAP	Administrative Suspension	Retired
Texas	N/A	N/A	N/A
Utah	\$425	Administrative suspension	Inactive/Judicial/Retired
Vermont	Varies	Loss of membership	N/A
Virginia	\$225	Suspension	Inactive/Judicial/Retired
Washington	Currently \$375; Starting 10/1/17 \$450	Suspension	Inactive/Judicial/Retired
West Virginia	N/A	N/A	Government/Inactive/Judicial/ Retired
Wisconsin	\$470	Suspension	Inactive
Wyoming	N/A	N/A	N/A

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	\$ Amount of Other Assessments on an Annualized Basis	Sanction for Failure to Pay	Persons Exempt from Paying Assessment
CANADA			
Alberta	\$3,483	Suspension	Government/Inactive/Judicial/ Retired/In-House
British Columbia	\$3,798	If the fees are not paid by November 30 the fees can still be paid in December but with a \$100 late fee. If the fees are not paid by December 31 membership ceases on January 1	Inactive/Judicial/Retired
Northwest Territories	N/A	Suspension	Inactive/Retired/Judicial

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Payment Cap Per Claimant	Current Cumulative Limit	Payment Cap Per Lawyer	Current Cumulative Limit
USA				
Alabama	Yes	\$75,000	Yes	\$200,000
Arizona	Yes	\$100,000	Yes	\$250,000
Arkansas	Yes	\$40,000	No	N/A
California	Yes	\$100,000	No	N/A
Colorado	Yes	\$50,000	Yes	\$100,000
Connecticut	No	N/A	No	N/A
Delaware	No	N/A	No	N/A
District of Columbia	Yes	\$100,000	No	N/A
Florida	No	N/A	No	N/A
				10% of the Fund's balance at the time the first claim was awarded against the attorney
Georgia	Yes	\$25,000	Yes	
Idaho	Yes	\$25,000	No	N/A
Illinois	Yes	\$100,000	Yes	\$1,000,000
Iowa	Yes	\$100,000	Yes	\$300,000
Kentucky	Yes	\$50,000	Yes	\$150,000
Louisiana	Yes	\$25,000	No	N/A
Maine	Yes	\$50,000	Yes	\$100,000
Massachusetts	No	N/A	No	N/A
Michigan	Yes	\$150,000	Yes	\$375,000
Mississippi	Yes	\$10,000	Yes	\$39,999
Missouri	Yes	\$50,000	No	N/A
Nebraska	Yes	\$100,000	Yes	\$100,000
Nevada	Yes	\$50,000	No	
New Hampshire	Yes	\$250,000	Yes	\$250,000
New Jersey	Yes	\$400,000	Yes	\$1.5 Million
New Mexico	Yes	\$50,000	No	N/A
New York	Yes	\$400,000	No	N/A
North Dakota	Yes	\$25,000	Yes	\$75,000
Ohio	Yes	\$75,000	No	N/A
Oregon	Yes	\$50,000	No	N/A
Pennsylvania	Yes	\$100,000	Yes	\$1,000,000
Tennessee	Yes	\$100,000	Yes	\$250,000
Texas	Yes	\$40,000	No	N/A
				\$75,000/year; \$425,000 lifetime
Utah	Yes	\$20,000	Yes	
Vermont	Yes	\$15,000	Yes	\$30,000
				15% of Fund balance at time of claim
Virginia	Yes	\$75,000	Yes	
Washington	Yes	\$150,000	No	N/A
West Virginia	Yes	\$10,000	Yes	20,000

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Payment Cap Per Claimant	Current Cumulative Limit	Payment Cap Per Lawyer	Current Cumulative Limit
USA				
Wisconsin	Yes	\$150,000	No	N/A
Wyoming	Yes	\$15,000	No	N/A
CANADA				
Alberta	No	N/A	No	N/A
British Columbia	Yes	\$300,000 per claim	No	There is no limit per lawyer, although TPC has a profession wide annual aggregate limit of \$17.5 million
Northwest Territories	No		No	N/A

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Special Limit for Specific Loss Type of Loss / Limits
USA	
Alabama	No
Arizona	No
Arkansas	No
California	No
Colorado	No
Connecticut	No
Delaware	No
District of Columbia	No
Florida	Yes: Fee claims are capped at \$5,000; Theft/misappropriation claims are capped at \$250,000
Georgia	No
Idaho	No: \$25,000 Per Claim/Loss
Illinois	No
Iowa	No
Kentucky	No
Louisiana	No
Maine	No
Massachusetts	No
Michigan	No
Mississippi	No
Missouri	No
Nebraska	No
Nevada	No
New Hampshire	No
New Jersey	No
New Mexico	No
New York	No
North Dakota	No
Ohio	No
Oregon	No
Pennsylvania	No
Tennessee	No
Texas	No
Utah	No
Vermont	No
Virginia	No
Washington	No
West Virginia	No
Wisconsin	No
Wyoming	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Special Limit for Specific Loss Type of Loss / Limits
CANADA	
Alberta	Yes: Misappropriation limit = \$5,000,000 Profession Aggregate limit = \$25,000,000
British Columbia	No
Northwest Territories	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Reimburse Claimant for Consequential Damages Type of Reimburse
USA	
Alabama	No
Arizona	No
Arkansas	No
California	No
Colorado	No
Connecticut	No
Delaware	Yes: Case by Case
District of Columbia	No
Florida	No
Georgia	No
Idaho	No
Illinois	No
Iowa	No
Kentucky	No
Louisiana	No
Maine	No
Massachusetts	No
Michigan	Yes: May reimburse legal fees under some situations. Ex: Fund requests Claimant to pursue forged instrument before claim is paid so that SOL does not expire
Mississippi	No
Missouri	No
Nebraska	No
Nevada	No
New Hampshire	No
New Jersey	No
New Mexico	No
New York	Yes: Interest or penalties incurred as a direct result of the attorney's misappropriation may be considered at the discretion of the Trustees.
North Carolina	
North Dakota	No
Ohio	No
Oregon	No
Pennsylvania	No
Tennessee	No
Texas	No
Utah	No
Vermont	No
Virginia	No
Washington	No
West Virginia	No
Wisconsin	No
Wyoming	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Reimburse Claimant for Consequential Damages Type of Reimburse
CANADA	
Alberta	No
British Columbia	Yes: pre and post-judgment interest and costs
Northwest Territories	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Assessments			Revenues from Appropriation		
USA	2014	2015	2016	2014	2015	2016
Alabama	\$439,650	\$444,800	\$450,575	\$0	\$0	\$0
Arizona	\$207,435	\$211,445	\$213,990	\$0	\$0	\$0
Arkansas	\$167,080	\$182,436	\$187,722	\$0	\$0	\$0
California	\$7.5 million	\$7.7 million	\$7.7 million	\$0	\$0	\$0
Colorado	\$748,264	\$644,487	\$639,211	\$0	\$0	\$0
Connecticut	\$2,312,089	\$2,333,597	\$2,282,339	\$0	\$0	\$0
Delaware	\$115,380	\$116,670	\$118,070	\$0	\$0	\$0
District of Columbia	\$0	\$0	\$0	\$0	\$0	\$0
Florida	\$0	\$0	\$0	\$2,354,500	\$2,411,975	\$2,459,950
Georgia	\$168,196	\$164,877	\$150,897	\$0	\$0	\$0
Idaho	\$121,705	\$120,415	\$90,805	\$0	\$0	\$0
Illinois	\$1,740,000	\$1,802,999	\$1,811,000	\$0	\$0	\$0
Iowa	\$881,360	\$859,820	\$454,400	\$0	\$0	\$0
Kentucky	\$116,295	\$117,919	\$119,240	\$0	\$0	\$0
Louisiana	\$0	\$0	\$0	\$0	\$0	\$0
Maine	\$109,340	\$108,460	\$104,992	\$0	\$0	\$0
Massachusetts	\$1,324,815	\$2,949,085	\$846,842	\$0	\$0	\$0
Michigan	\$624,131	\$632,783	\$638,839	\$0	\$0	\$0
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	N/A	N/A	N/A	\$234,000	\$259,000	\$271,700
Nebraska	\$0	\$0	\$0	\$0	\$0	\$0
Nevada	\$294,520	\$262,368	Pending	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0	\$0	\$0	\$0
New Jersey	\$3,781,152	\$3,805,875	\$3,873,313	\$0	\$0	\$0
New Mexico	\$108,480	\$109,536	\$111,485	\$1800	\$0	\$0
New York	\$5,870,395	\$5,239,350	\$6,211,508	\$0	\$0	\$0
North Dakota	\$43,488	\$48,432	\$48,592	\$0	\$0	\$0
Ohio	\$0	\$0	\$0	\$1,870,164	\$1,772,193	\$1,811,033
Oregon	\$675,194	\$674,928	\$225,821	\$0	\$0	\$0
Pennsylvania	\$2,624,575	\$2,897,395	\$2,886,415	\$0	\$0	\$0
Texas	\$0	\$0	\$0	\$300,000	\$300,000	\$300,000
Utah	\$171,400	\$177,640	\$47,535	\$0	\$0	\$0
Vermont	\$21,100	\$21,270	\$21,100	\$0	\$0	\$0
Virginia	\$770,275	\$789,270	\$800,025	\$0	\$0	\$0
Washington			\$994,738	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0	\$80,000	\$80,000	\$80,000
Wisconsin	\$410,530	\$411,520	\$411,200	\$0	\$0	\$0
Wyoming	\$0	\$0	\$0	\$0	\$14,000	\$59,687
US Average	\$681,339	\$717,925	\$678,304	\$127,381	\$127,294	\$131,115
US Median	\$167,080	\$164,877	\$119,240	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Assessments			Revenues from Appropriation		
CANADA	2014	2015	2016	2014	2015	2016
Alberta						
British Columbia						
Northwest Territories	\$52,471	\$73,922	\$74,250	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Investments			Revenues from Restitution & Subrogation		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	\$49,077	\$40,392	\$63,062	\$19,832	\$19,932	\$53,544
Arizona	\$3,775	\$8,937	\$9,369	\$30,114	\$100,554	\$5,059
Arkansas	\$3,212	\$2,645	\$7,321	\$0	\$0	\$0
California	\$18,000	\$13,000	\$29,00	\$406,000	\$548,000	\$755,000
Colorado	\$4,094	\$4,549	\$4,762	\$46,007	\$72,373	\$653,110
Connecticut	\$23,635	\$26,471	\$58,208	\$21,530	\$22,379	\$441,541
Delaware	Varies	Varies	Varies	\$1,400	\$2,000	\$2,200
District of Columbia	\$0	\$0	\$0	\$1,026	\$1,110	\$19,643
Florida	\$410,993	(\$15,699)	(\$166,849)	\$30,597	\$92,192	\$95,901
Georgia	\$9,020	\$13,202	\$10,328	\$5,038	\$14,532	\$9,744
Idaho	\$1,114	\$973	\$902	\$0	\$0	\$0
Illinois	\$15,000	\$9,100	\$10,000	\$96,000	\$15,000	\$50,000
Iowa	\$1,515	\$2,225	\$2,846	\$2,272	\$7,630	\$0
Kentucky	\$48,431	\$124,302	\$12,387	\$2,563	\$18,125	\$271
Louisiana	\$70,339	\$69,317	\$68,891	\$74,377	\$15,761	\$26,896
Maine	\$18,488	\$20,391	\$16,421	\$2,700	\$0	\$10,005
Massachusetts	N/A	N/A	N/A	\$77,792	\$31,163	\$101,968
Michigan	\$12,796	\$11,271	\$11,776	\$16,110	\$46,072	\$30,750
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	\$2,040	\$1,707	\$2,239	\$44,444	\$4,560	\$1,183
Nebraska	\$158	\$513	\$3,420	\$5,827	\$0	\$0
Nevada	\$0	\$0	\$0	\$173,375	\$34,935	Pending
New Hampshire	\$8,290	\$12,662	\$11,987	\$0	\$0	\$0
New Jersey	\$58,233	\$79,097	\$145,334	\$770,600	\$265,844	\$720,008
New Mexico	\$739	\$917	\$1,159	\$1,200	\$13,300	\$0
New York	\$6,716	\$7,164	\$15,165	\$946,467	\$225,207	\$577,537
North Dakota	\$2,116	\$2,161	\$2,164	\$185	\$83	\$352
Ohio	\$1,357	\$1,617	\$5,591	\$115,478	\$48,862	\$69,135
Oregon	\$2,512	\$5,593	\$9,104	\$1,100	\$28,350	\$680
Pennsylvania	\$1,122,366	\$337,520	(\$59,652)	\$1,222,366	\$122,164	\$138,514
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$877	\$1,089	\$1,614	\$802	\$17,271	\$606
Vermont	\$71,407	\$6,570	\$66,369	\$0	\$0	\$0
Virginia	\$101,935	\$103,189	\$108,509	\$13,300	\$49,169	\$22,720
Washington			\$6,460	\$0	\$0	\$2,970
West Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$0	\$0	\$0	\$16,397	\$24,655	\$5,591
Wyoming	\$640	\$497	\$11	\$1,291	\$0	\$3,586
US Average	\$59,111	\$26,365	\$25,197	\$109,110	\$48,453	\$102,663
US Median	\$3,775	\$5,593	\$7,321	\$5,433	\$15,381	\$5,059

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Investments			Revenues from Restitution & Subrogation		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia						
Northwest Territories	\$44,450	\$33,356	\$31,270	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Gifts			Miscellaneous Revenues		
USA	2014	2015	2016	2014	2015	2016
Alabama	\$0	\$0	\$0	\$0	\$0	\$0
Arizona	\$0	\$0	\$0	\$0	\$0	\$0
Arkansas	\$0	\$0	\$0	\$0	\$0	\$0
California	\$0	\$0	\$0	\$14,000	\$22,000	\$19,000
Colorado	\$0	\$0	\$0	\$49,000	\$2,542	\$693
Connecticut	\$0	\$0	\$0	\$0	\$0	\$0
Delaware	\$0	\$0	\$0	Pro Hac Vice	Pro Hac Vice	Pro Hac Vice
District of Columbia	\$0	\$0	\$0	\$0	\$0	\$0
Florida	\$0	\$0	\$0	\$100,340	\$78,662	\$350,504
Georgia	\$0	\$0	\$0	\$0	\$500,000	\$0
Idaho	\$0	\$0	\$0	\$0	\$0	\$0
Illinois	\$0	\$0	\$0	\$0	\$0	\$0
Iowa	\$0	\$0	\$0	\$2,825	\$178	\$100
Kentucky	\$1,240	\$1,869	\$240	\$0	\$0	\$0
Louisiana	\$0	\$0	\$0	\$450,000	\$450,000	\$450,000
Maine	\$0	\$0	\$0	\$0	\$0	\$0
Massachusetts	\$0	\$0	\$0	\$0	\$0	\$0
Michigan	\$8,721	\$2,092	\$28,827	\$12,825	\$11,325	\$12,885
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	\$0	\$0	\$0	\$0	\$0	\$0
Nebraska	\$0	\$0	\$0	\$0	\$0	\$0
Nevada	\$1,925	\$2,980	Pending	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0	\$0	\$0	\$0
New Jersey	\$1,094	\$832	\$212	\$331,863	\$375,185	\$385,511
New Mexico	\$0	\$0	\$0	\$0	\$0	\$80,000
New York	\$0	\$2,050	\$1,276	\$85,150	\$52,600	\$96,518
North Dakota	\$0	\$0	\$0	\$0	\$0	\$0
Ohio	\$0	\$0	\$0	\$0	\$0	\$0
Oregon	\$0	\$0	\$0	\$0	\$0	\$0
Pennsylvania	\$0	\$0	\$0	\$50,157	\$0	\$0
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$0	\$0	\$0	\$0	\$0	\$0
Vermont	\$0	\$0	\$0	\$0	\$0	\$0
Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Washington	\$0	\$0	\$0	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$0	\$0	\$0	\$1,335	\$425	\$662
Wyoming	\$0	\$0	\$0	\$0	\$0	\$0
US Average	\$351	\$265	\$849	\$17,986	\$28,970	\$26,274
US Median	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Revenues from Gifts			Miscellaneous Revenues		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia						
Northwest Territories	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Revenues Details	Total Amount of Awards Paid		
		2014	2015	2016
USA				
Alabama	N/A	\$448,538	\$154,309	\$270,386
Arizona	N/A	\$413,016	\$409,071	\$396,770
Arkansas	N/A	\$40,000	\$3,500	\$0
California	Court-ordered sanctions	\$9 million	\$6 million	\$8 million
Colorado	COLTAF	\$331,800	\$309,958	\$391,838
Connecticut	N/A	\$324,176	\$375,451	\$3,888,718
Delaware	N/A	\$236,115	\$7,534	\$0
District of Columbia	N/A	\$305,103	\$168,011	\$232,273
Florida	N/A	\$1,523,585	\$2,275,988	\$1,890,349
Georgia	N/A	\$288,622	\$328,986	\$495,338
Idaho	N/A	\$57,800	\$52,955	\$14,379
Illinois	N/A	\$1,300,775	\$2,491,000	\$3,094,000
Iowa	N/A	\$135,500	\$286,579	\$97,765
Kentucky	N/A	\$167,634	\$22,050	\$173,927
Louisiana	From Louisiana Outside Counsel Health and Ethics Foundation	\$169,796	\$161,941	\$374,133
Maine	N/A	\$25,771	\$61,448	\$154,647
Massachusetts	N/A	\$1,324,815	\$2,949,085	\$846,842
Michigan	Pro Hac Vice	\$394,984	\$502,070	\$620,306
Mississippi	N/A	\$0	\$0	\$10,000
Missouri	N/A	\$357,690	\$207,911	\$91,496
Nebraska	N/A	\$8,700	\$1,560	\$0
Nevada	N/A	\$365,005	\$214,444	Pending
New Hampshire	N/A	\$0	\$0	\$0
New Jersey	Late/Reinstatement Fees	\$8,097,557	\$4,922,447	\$1,980,770
New Mexico	MCLE Transfer Fee	\$59,055	\$90,518	\$157,917
New York	N/A	\$6,066,125	\$12,336,506	\$9,241,394
North Dakota	N/A	\$0	\$0	\$0
Ohio	N/A	\$782,741	\$767,081	\$782,290
Oregon	N/A	\$51,944	\$148,217	\$150,149
Pennsylvania	N/A	\$3,849,743	\$2,377,877	\$4,394,008
Texas	N/A	\$0	\$0	\$0
Utah	N/A	\$72,931	\$40,270	\$31,140
Vermont	N/A	\$0	\$0	\$0
Virginia	N/A	\$353,540	\$260,412	\$212,288
Washington	N/A	\$0	\$0	\$371,432
West Virginia	N/A	\$40,000	\$32,616	\$49,482
Wisconsin	N/A	\$121,764	\$125,663	\$192,402
Wyoming	N/A	\$7,775	\$47,501	\$30,000

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Revenues Details			Total Amount of Awards Paid		
				2014	2015	2016
USA						
US Average				\$966,384	\$1,003,499	\$1,044,228
US Median				\$202,956	\$158,125	\$192,402
CANADA						
Alberta						
British Columbia		N/A		\$132,900	\$125,000	\$94,000
Northwest Territories		N/A		\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Personnel Services			Rent		
USA	2014	2015	2016	2014	2015	2016
Alabama	\$114,948	\$109,826	\$78,003	\$0	\$0	\$0
Arizona	\$102,063	\$113,653	\$116,818	\$11,018	\$11,015	UK
Arkansas	\$0	\$0	\$0	\$0	\$0	\$0
California	\$0	\$0	\$0	\$0	\$0	\$0
Colorado	\$87,240	\$93,060	\$95,772	\$0	\$0	\$0
Connecticut	\$512,341	\$534,760	\$537,563	\$0	\$0	\$0
Delaware	\$0	\$0	\$0	\$0	\$0	\$0
District of Columbia	\$0	\$0	\$0	\$0	\$0	\$0
Florida	\$63,619	\$65,145	\$65,810	\$16,396	\$15,579	\$7,271
Georgia	\$0	\$0	\$0	\$0	\$0	\$0
Idaho	\$0	\$0	\$0	\$0	\$0	\$0
Illinois	\$0	\$0	\$0	\$0	\$0	\$0
Iowa	\$230,963	\$252,475	\$302,908	\$8,125	\$8,125	\$8,125
Kentucky	\$60,855	\$60,178	\$50,495	\$0	\$0	\$0
Louisiana	\$0	\$0	\$0	\$0	\$0	\$0
Maine	\$3,094	\$10,481	\$39,969	\$0	\$0	\$0
Maryland						
Massachusetts	\$0	\$0	\$0	\$0	\$0	\$0
Michigan	See Total Administrative Costs			\$0	\$0	\$0
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	\$0	\$0	\$0	\$0	\$0	\$0
Nebraska	\$1,800	\$1,800	\$1,800	\$1,042	\$1,042	\$1,042
Nevada	\$0	\$0	\$0	\$0	\$0	\$0
New Hampshire	\$2,271	\$1,283	\$1,282	\$0	\$0	\$0
New Jersey	\$1,531,271	\$1,549,788	\$1,629,969	\$0	\$0	\$0
New Mexico	\$7,962	\$2,091	\$0	\$1000	\$0	\$0
New York	\$0	\$0	\$0	\$0	\$0	\$0
North Dakota	\$1,173	\$1,125	\$1,052	\$0	\$0	\$0
Ohio	\$340,820	\$345,570	\$370,095	\$0	\$0	\$0
Oregon	\$0	\$0	\$0	\$0	\$0	\$0
Pennsylvania	\$224,000	\$235,000	\$191,508	\$39,993	\$35,062	\$36,610
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$0	\$0	\$0	\$0	\$0	\$0
Vermont	\$0	\$0	\$0	\$0	\$0	\$0
Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Washington	\$0	\$0	\$1,366	\$0	\$0	\$128,187 (Overhead)
West Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$0	\$0	\$0	\$0	\$0	\$0
Wyoming	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Personnel Services			Rent		
USA	2014	2015	2016	2014	2015	2016
US Average	\$88,768	\$91,250	\$94,173	\$2,041	\$1,864	\$4,898
US Median	\$0	\$0	\$0	\$0	\$0	\$0
CANADA						
Alberta						
British Columbia						
Northwest Territories	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Administrative Costs			Total Administrative Costs		
USA	2014	2015	2016	2014	2015	2016
Alabama	\$4.50	\$13.00	\$36.50	\$544	\$538	\$929
Arizona	\$13,400	\$14,910	UK	\$126,481	\$139,578	\$137,680
Arkansas	\$0	\$0	\$0	\$127	\$2,846	\$12,768
California	\$0	\$0	\$0	\$2.4 million	\$2.3 million	\$2.3 million
Colorado	\$0	\$0	\$0	\$0	\$0	\$0
Connecticut	\$115,341	\$104,139	\$105,504	\$627,682	\$638,899	\$643,067
Delaware	\$0	\$0	\$0	\$0	\$0	\$0
District of Columbia	\$0	\$0	\$0	\$0	\$0	\$0
Florida	\$56,648	\$273,914	\$36,857	\$229,738	\$440,299	\$215,134
Georgia	\$0	\$0	\$0	\$73,000	\$73,000	\$73,000
Idaho	\$0	\$0	\$0	\$0	\$0	\$0
Illinois	\$0	\$0	\$0	\$250,000	\$250,000	\$250,000
Iowa	\$64,186	\$58,758	\$62,953	\$303,274	\$319,358	\$373,986
Kentucky	\$6,882	\$5,486	\$5,518	\$67,737	\$65,664	\$56,013
Louisiana	\$0	\$0	\$0	\$0	\$0	\$0
Maine	\$16,666	\$22,708	\$54,165	\$0	\$0	\$0
Massachusetts	\$0	\$0	\$0	\$0	\$0	\$0
Michigan	See Total Administrative Costs			\$189,874	\$193,427	\$194,808
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	\$0	\$0	\$0	\$0	\$0	\$0
Nebraska	\$1,702	\$2,024	\$1,183	\$4,544	\$4,866	\$4,025
Nevada	\$0	\$0	\$0	\$0	\$0	\$0
New Hampshire	\$229	\$219	\$218	\$2500	\$1502	\$1500
New Jersey	\$211,931	\$241,756	\$280,928	\$1,743,202	\$1,791,545	\$1,910,897
New Mexico	\$9,985	\$11,830	\$8,202	\$18,947	\$13,922	\$8,202
New York	\$0	\$0	\$0	\$698,574	\$765,083	\$782,316
North Dakota	\$263	\$1,818	\$829	\$1,436	\$2,944	\$1,880
Ohio	\$129,344	\$26,623	\$40,938	\$470,164	\$372,193	\$411,033
Oregon	\$0	\$0	\$0	\$19,666	\$37,778	\$33,230
Pennsylvania	\$253,942	\$290,784	\$287,150	\$517,935	\$560,846	\$515,268
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$490	\$629	\$560	\$490	\$629	\$560
Vermont	\$0	\$0	\$0	\$0	\$0	\$0
Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Washington	\$0	\$0	\$1,229	\$0	\$0	\$2,595
West Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$0	\$0	\$0	\$54,793	\$46,757	\$40,440
Wyoming	\$0	\$0	\$151	\$0	\$0	\$151
US Average	\$23,811	\$28,530	\$24,623	\$205,282	\$211,097	\$209,723
US Median	\$0	\$0	\$0	\$990	\$2,174	\$2,238

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Administrative Costs			Total Administrative Costs		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia						
Northwest Territories	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Disbursements			Ending Balance in Fund		
USA	2014	2015	2016	2014	2015	2016
Alabama	\$0	\$0	\$0	\$2,391,560	\$2,692,212	\$2,912,436
Arizona	\$0	\$0	\$0	\$2,700,181	\$2,394,248	\$2,088,216
Arkansas	\$0	\$0	\$0	\$953,085	\$1,143,339	\$1,328,014
California	\$0	\$0	\$0	\$2.2 million	\$2.2 million	\$1.4 million
Colorado	\$0	\$0	\$0	\$0	\$0	\$0
Connecticut	\$210,000	\$210,000	\$210,000	\$16,612,933	\$17,771,029	\$15,811,333
Delaware	\$0	\$0	\$0	\$4,826,217	\$4,943,440	\$5,084,256
District of Columbia	\$0	\$0	\$0	\$439,707	\$583,099	\$537,371
Florida	\$0	\$0	\$0	\$4,427,354	\$5,621,218	\$5,418,012
Georgia	\$0	\$0	\$0	\$2,141,983	\$2,432,697	\$2,035,238
Idaho	\$0	\$0	\$0	\$775,855	\$843,216	\$919,398
Illinois	\$0	\$0	\$0	\$3,300,000	\$2,400,000	\$1,000,000
Iowa	\$0	\$0	\$0	\$934,040	\$1,276,762	\$1,301,577
Kentucky	\$0	\$0	\$0	\$573,995	\$641,439	\$551,967
Louisiana	\$44,574	\$50,061	\$52,126	\$2,981,595	\$3,304,347	\$3,424,187
Maine	\$0	\$0	\$0	\$1,278,169	\$1,365,660	\$1,410,328
Massachusetts	\$0	\$0	\$0	\$0	\$0	\$7,270,519
Michigan	\$0	\$0	\$0	\$2,508,917	\$2,516,916	\$2,424,698
Mississippi	\$0	\$0	\$0	\$0	\$0	\$100,000
Missouri	\$0	\$0	\$0	\$122,985	\$180,341	\$363,967
Nebraska	\$0	\$0	\$0	\$535,022	\$529,077	\$527,665
Nevada	\$0	\$0	\$0	\$250,767	\$336,606	Pending
New Hampshire	\$729	\$0	\$389	\$2,338,896	\$2,350,056	\$2,360,154
New Jersey	\$0	\$0	\$0	\$19,989,438	\$17,802,479	\$18,981,542
New Mexico	\$0	\$0	\$0	\$586,445	\$579,934	\$626,354
New York	\$0	\$0	\$0	\$9,388,062	\$5,030,520	\$4,204,094
North Dakota	\$0	\$0	\$0	\$372,652	\$420,383	\$469,611
Ohio	\$0	\$0	\$0	\$2,232,381	\$2,839,527	\$3,607,293
Oregon	\$0	\$0	\$0	\$620,503	\$1,098,116	\$1,130,760
Pennsylvania	\$328,745	\$343,798	\$346,443	\$10,812,181	\$10,901,945	\$8,611,503
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$0	\$0	\$0	\$64,651	\$216,752	\$234,807
Vermont	\$0	\$0	\$0	\$703,462	\$731,303	\$818,672
Virginia	\$1080	\$1,342	\$2,124	\$6,956,597	\$7,596,994	\$8,309,226
Washington	\$0	\$0	\$130,783 (Overhead)	\$0	\$2,144,291	\$2,646,224
West Virginia	\$0	\$0	\$0	\$40,000	\$47,384	\$30,518
Wisconsin	\$0	\$0	\$0	\$212,764	\$125,663	\$192,402
Wyoming	\$0	\$0	\$0	\$56,652	\$23,648	\$56,782
US Average	\$15,398	\$15,926	\$19,523	\$2,800,692	\$2,765,385	\$2,924,030
US Median	\$0	\$0	\$0	\$934,040	\$1,210,051	\$1,328,014

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Miscellaneous Disbursements			Ending Balance in Fund		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia				17,500,000	\$17,500,000	\$17,500,000
Northwest Territories	\$0	\$0	\$287,000	\$0	\$0	\$1,652,644

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Must Claims be Paid if They Meet Rule Requirements	Does Trustee Discretion Govern
USA		
Alabama	No	Yes
Arizona	No	Yes
Arkansas	No	Yes
California	No	Yes
Colorado	No	Yes
Connecticut	No	Yes
Delaware	No	Yes
District of Columbia	No	Yes
Florida	No	No
Georgia	No	Yes
Idaho	No	Yes
Illinois	No	Yes
Iowa	No	No
Kentucky	No	Yes
Louisiana	Yes	No
Maine	No	Yes
Massachusetts	No	Yes
Michigan	No	Yes
Mississippi	No	Yes
Missouri	No	No
Nebraska	No	Yes
Nevada		Yes
New Hampshire	No	
New Jersey	No	Yes
New Mexico		Yes
New York		Yes
North Dakota	Yes	Yes
Ohio	No	Yes
Oregon		Yes
Pennsylvania		Yes
Texas	No	No
Utah	No	Yes
Vermont	Yes	
Virginia	No	
Washington	No	Yes
West Virginia	No	Yes
Wisconsin	Yes	Yes
Wyoming	No	Yes
CANADA		
Alberta	No	No
British Columbia	Yes	No
Northwest Territories		Yes

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Require Claimant Was a Client of Lawyer If Not, in What Other Capacities Would Claimant Have Standing
USA	
Alabama	Yes
Arizona	Yes
Arkansas	Yes
California	No: If the attorney were acting in a fiduciary capacity customary to the practice of law such as administrator, executor, trustee, guardian or conservator, or were representing another party in the matter
Colorado	No: Court Appointed Fiduciary
Connecticut	Yes
Delaware	Yes
District of Columbia	No: Acting in a fiduciary capacity customary to the practice of law, such as personal representative, administrator, executor, trustee of an express trust, guardian or conservator
Florida	Yes
Georgia	Yes
Idaho	Yes
Illinois	No: Fiduciary relationship with lawyer, related to lawyer's practice
Iowa	Yes
Kentucky	Yes
Louisiana	Yes
Maine	No: 1) Claims certified to the Trustees by the Board of Overseers of the Bar for consideration pursuant to this Rule; or 2) Any other claims for losses due to the dishonest conduct of a member of the Maine Bar that the Trustees, in their discretion pursuant to subdivision (e) of the rule, deem appropriate for consideration in that such consideration will advance the purposes of the Fund
Massachusetts	No: Where an attorney held funds related to a real estate transaction that he received from his client but was due and owing to a third-party (mortgagee, buyer of claimant's property, taxing authority) and stole the funds, the third party would be a viable claimant.
Michigan	No: The Claimant can be the payee of the retainer fee; however, the client must participate and sign the subrogation agreement along with the payee. Additionally, individuals such as Personal Representatives, Guardians, and Trustees can file on behalf of wards, trusts and estates
Mississippi	No: Third party whose funds were converted by lawyer
Missouri	No: Personal representatives, beneficiaries of a trust, family members that have made payments to the attorney
Nebraska	Yes
Nevada	Yes
New Hampshire	No: Client of the lawyer and beneficiary of a fund of which the lawyer is the fiduciary
New Jersey	Yes
New Mexico	No: Fiduciary Relationship between the lawyer and claimant
New York	No: Escrow beneficiary (e.g. realty claim)
North Dakota	Yes
Ohio	No: Escrow Beneficiary, Ward, Personal Representative
Oregon	Yes

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Require Claimant Was a Client of Lawyer If Not, in What Other Capacities Would Claimant Have Standing
USA	
Pennsylvania	Yes
Texas	Yes
Utah	Yes
Vermont	
Virginia	No: Fiduciary Relationship
Washington	No: Fiduciary Relationship
West Virginia	
Wisconsin	Yes
Wyoming	Yes
CANADA	
Alberta	Yes
British Columbia	No: The claimant does not have to provide specific capacity, but the lawyer must have received the money or other property in his or her capacity as a lawyer
Northwest Territories	Yes

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Any Claimants or Claims Not Compensated
USA	
Alabama	Yes: "Non-Reimbursable Losses" pursuant to Client Security Fund Rules
Arizona	Yes: 1) the spouse (present or former) child, parent, grandchild, grandparent, or sibling of the lawyer whether by blood or marriage; 2) partners, associates co-shareholders, or employees of the lawyer; 3) any insurer surety or bonding agency or company which seeks reimbursement for payment made under an insurance or surety contract or bond covering the risk involved in the lawyer's dishonest conduct; 4) any business entity controlled by the lawyer or person described in paragraphs F.1 or 2 above; 5) any governmental entity or agency; 6) medical providers or other third parties with claims against the lawyer pursuant to law; or 7) any business entity unless considered pursuant to Paragraph I of this Rule
Arkansas	Yes: (1) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates, and employees of lawyer(s) causing the losses; (2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety, or insurer is subrogated, to the extent of that subrogated interest; (3) Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract; (4) Losses incurred by any business entity controlled by the lawyer, any person or entity described in Section (1), (2), or (3) hereof; (5) Losses incurred by any governmental entity or agency. None of those losses are compensated
California	Yes: Spouse, domestic partner, family members, lives(d) with attorney, business relationship, associate, partner, employee or employer, insurer, bonding entity, business controlled by the attorney, assignees, lienholders, government agency or entity
Colorado	Yes: Spouses, children, parents, grandparents, siblings, partners, associates, and employees
Connecticut	Yes: Filed more than four years after loss; filed by spouse, child, parent, grandparent, sibling, partner, associate or employee of attorney that caused loss; loss covered by insurance or bond; loss incurred by business entity controlled by the attorney; loss incurred by governmental agency or entity
Delaware	Yes: The spouse, law partner, attorney stockholder in a professional corporation, associate or conspirator of any defaulting attorney shall not have any right to file claims for reimbursement from the Fund
District of Columbia	Yes: The spouse or other close relative partner associate or employee of the lawyer causing the loss; or an insurer surety or bonding agent or company or any business entity controlled by the lawyer or any person who would be ineligible for reimbursement directly; or a government entity or agency
Florida	Yes: Claims by relatives, partners, or other close associates of the attorney. Where the lawyer, unrelated to a lawyer and client relationship, is a personal representative, testamentary trustee, guardian or escrow agent for the claimant, and the lawyer's status as the personal representative, testamentary trustee, guardian or escrow agent is not due to or the result of an existing lawyer-client relationship with the claimant, the claim will be denied. Claims by government agencies, institutional lenders, insurance companies, publicly owned entities including their subsidiaries and affiliates, entities which fail to disclose to the Clients' Security Fund Committee the names and addresses of their direct and indirect beneficial and record owners, and subrogees, brought on their behalf and not as representatives, will not ordinarily be considered for payment

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Any Claimants or Claims Not Compensated
USA	
Georgia	Yes: (1) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses; (2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest; (3) Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract; (4) Losses incurred by any business entity controlled by the lawyer, or any person or entity described in Section (e) (1) hereof; (5) Losses incurred by any governmental entity or agency; (6) Losses incurred by corporations or partnerships, including general or limited
Idaho	Yes: Family members, siblings, partners, associates and employees of lawyer causing losses; losses covered by any bond, surety agreement or insurance contract; losses of any financial institution that are recoverable under a "banker's blanket bond"
Illinois	Yes: Family members, partners, associates of lawyer
Iowa	No
Kentucky	Yes: As outlined in Kentucky Supreme Court Rule 3.820(10) (d): Negligent act of malpractice, losses incurred by family members, partners, associates, and employees of lawyer causing the loss; losses covered by bond, surety agreement, or insurance; losses incurred by any financial institution recoverable under a "banker's blanket bond" or similar contract; losses incurred by any business entity controlled by the lawyer; losses incurred by any governmental entity or agency
Louisiana	Yes: Spouse, relatives, partners, associates, and employees of the lawyer causing the loss
Maine	Yes: (1) Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates and employees of the lawyer or lawyers causing the losses; (2) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby; (3) Losses to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest; (4) Losses incurred by any financial institution or insurance company; (5) Losses incurred by any business entity controlled by the lawyer or by any person or entity described in paragraphs (1), (2), or (3) of this subdivision; (6) Losses incurred by any governmental entity or agency; (7) Losses arising from the activities of a lawyer not having an office or residence in Maine, where those activities do not have substantial contacts with Maine
Massachusetts	Yes: Although there is no rule prohibiting such claimants compensation, the Board reviews claims filed by family member and corporations carefully for possible conflicts, contributory negligence, or alternate sources of recovery

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Any Claimants or Claims Not Compensated
USA	
Michigan	Yes: Losses incurred by spouses, children, parents, grandparents, siblings, partners, associates, employers and employees of lawyer(s) causing the losses; Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated, to the extent of that subrogated interest; Losses incurred by any financial institution which are recoverable under a "banker's blanket bond" or similar commonly available insurance or surety contract; Losses incurred by any business entity controlled by the lawyer, or any person or entity described in section D(1), (2), or (3) hereof; Losses incurred by any governmental entity or agency; Consequential or incidental damages such as lost interest or attorney's fees or other costs incurred in seeking recovery of a loss; Losses arising from the inadequate, insufficient or negligent rendition of services; In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Board may, in its discretion, deny the claim. A claimant who fails to provide the Fund with a transfer of the claimant's rights against the lawyer, the lawyer's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the claimant's loss, unless the Board of Commissioners decides otherwise
Mississippi	Yes: Family members, claims over three years old
Missouri	Yes: A surety, subrogee, creditor or indemnitor. Certain relatives of the attorney. A partner, associate, employer or employee of the attorney
Nebraska	Yes: Employee-Employer; third-party beneficiary
Nevada	Yes: Corporations, Negligence or Malpractice Claims
New Hampshire	Yes: Family members, business associates, governmental entities, insurers, sureties, and assignees
New Jersey	Yes: Most fee disputes, malpractice or negligence, unfortunate or ill-advised investments, insured/third parties. Claimants must show dishonest conduct; that re respondent attorney received funds and misappropriates them in the course of attorney/client relationship or took and kept a retainer despite knowing that services could not or would not be performed
New Mexico	Yes: Spouses or other family members; claims covered by bon or insurance contract; bonded financial institutions; business entity controlled by lawyer or family member; governmental entity or agency; business or personal investments not part of the lawyer-client relationship; consequential or incidental damages – see Rule 17A-010 (D) 1-7 NMRA
New York	Yes: Losses not eligible for reimbursement include damages resulting from an attorney's negligence, malpractice or neglect; losses incurred by government agencies; losses incurred by financial institutions; losses incurred by business organizations having twenty or more employees; and losses arising from financial transactions with attorneys that do not occur within an attorney-client relationship and the practice of law. (22 NYCRR 7200.8(d))
North Dakota	No
Ohio	Yes: The spouse, children, parents, grandparents or siblings, partner, associate, employee, or employer of lawyer; business entity controlled by lawyer
Oregon	Yes: Fee dispute, no dishonesty, malpractice

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Any Claimants or Claims Not Compensated
USA	
Pennsylvania	Yes: Spouse, close relative, partner, associate of lawyer; surety or bonding agency or company; a government unit, financial institution, business organization with 20+ employees; losses arising from investments occurring outside the client-lawyer relationship
Texas	Yes: Government entities
Utah	Yes: Spouses, parents, grandparents, siblings, partners and associates of lawyer; losses covered by bond, surety, agreement or insurance contract to extent of amount covered thereby; losses of any financial institution recoverable under "Banker's Blanket Bond"; any business entity controlled by the lawyer or lawyer's family, partners or associates; governmental entities; assigned claims, third-party claims, claims of heirs or estates of claimant; claims where claimant has failed to exhaust all other reasonably available services or means of recovery; investment losses characterized as pyramid or Ponzi scheme, loan to an offshore account, tax evasion or other tax shelter, or investment that promises such a high return as to be suspect to the reasonable investor
Vermont	Yes: Losses of spouses, children, grandparents, siblings, partners associates, and employees of lawyers causing loss; losses compensable by bond, surety agreement or insurance contracts to the extent covered thereby; losses of any financial institution covered under "banker's blanket bond" or similar insurance
Virginia	Yes: Losses of spouses and other close relatives, partners, associates and employees of lawyer causing loss; losses covered by insurance or bond; losses of financial institutions covered by surety contracts; losses by business entity controlled by lawyer; government entities; losses caused by loans or investments with lawyer; losses for cause of action that never resulted in settlement of judgment
Washington	Yes: Family relationship; losses covered by bond; losses incurred by financial institution; losses by business entity controlled by lawyer; losses incurred by assignees of lawyer (unless client authorizes); investment losses unrelated to attorney-client relationship
West Virginia	No
Wisconsin	Yes: Employers, family members, reimbursed through other sources
Wyoming	Yes: Spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyers. Financial institutions, a business entity controlled by the lawyer, governmental entity or agency
CANADA	
Alberta	No
British Columbia	Yes: Family members and any claim arising from or in connection with an investment (except for any part of the investment funds that are diverted by the lawyer to any party, including the lawyer, not contemplated by the terms of the investment)
Northwest Territories	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION II: FUND FINANCES

Section II. Fund Finances	Fund Covered by Insurance, Reinsurance or Fidelity Bond If Yes, Amount of Premium
USA	
Alabama	No
Arizona	Yes: Insurance/\$2,828
Arkansas	No
California	No
Colorado	No
Connecticut	No
Delaware	No
District of Columbia	No
Florida	No
Georgia	No
Idaho	No
Illinois	No
Iowa	Yes: Fidelity Bond/\$ included in General Liability Policy
Kentucky	No
Louisiana	No
Maine	Yes: Insurance/\$589
Massachusetts	Yes: Fidelity Bond/\$0
Michigan	No
Mississippi	No
Missouri	Yes: Insurance/\$0
Nebraska	Yes: Fidelity Bond/\$809; Insurance/Nominal
Nevada	No
New Hampshire	No
New Jersey	Yes: Directors and officers (amount not provided)
New Mexico	Yes: Insurance/\$451
New York	No
North Dakota	No
Ohio	Yes: Fidelity Bond/\$500,000
Oregon	No
Pennsylvania	No
Texas	N/A
Utah	No
Vermont	No
Virginia	No
Washington	No
West Virginia	No
Wisconsin	No
Wyoming	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION II: FUND FINANCES

Section II. Fund Finances	Fund Covered by Insurance, Reinsurance or Fidelity Bond If Yes, Amount of Premium
CANADA	
Alberta	Yes: Insurance & Reinsurance/\$0
British Columbia	Yes: Insurance/\$0
Northwest Territories	Yes: Reinsurance/Unknown

SECTION III:

Fund Claim Experiences

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Number of Claims Pending at Beginning of Year			Number of New Claims Received			Number of Claims Approved		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
USA									
Alabama	222	157	121	17	26	69	63	59	64
Arizona	0	12	19	89	60	45	43	53	49
Arkansas	1	5	7	14	11	8	1	0	1
California	6,342	5,674	5,465	1,554	1,178	1,120	1,152	821	1,793
Colorado	0	0	0	74	42	60	72	33	26
Connecticut	41	73	88	89	87	167	14	25	39
Delaware	3	2	0	22	3	0	14	4	0
District of Columbia	6	9	1	42	9	28	21	15	26
Florida	342	339	312	314	452	485	113	139	194
Georgia	70	72	95	42	60	66	32	25	46
Idaho	11	13	8	17	11	11	8	14	4
Illinois	0	0	0	256	541	277	95	366	146
Iowa	6	20	24	25	25	13	9	4	4
Kentucky	42	32	41	37	42	35	22	8	23
Louisiana	60	42	43	83	81	87	40	40	59
Maine	4	4	17	37	12	5	9	18	7
Massachusetts	100	78	52	121	59	47	114	61	28
Michigan	140	150	146	108	77	105	46	36	67
Mississippi	0	0	0	0	0	15	0	0	1
Missouri	0	0	0	144	84	57	126	49	31
Nebraska	8	5	1	10	4	3	5	1	0
Nevada	33	15	9	33	19	29	44	16	26
New Hampshire	6	7	3	2	0	2	0	0	0
New Jersey	144	91	855	187	986	138	138	143	95
New Mexico	4	6	11	22	35	22	26	41	33
New York	814	525	488	621	520	538	559	274	155
North Dakota	0	0	0	4	0	0	2	0	0
Ohio	279	324	263	257	257	160	125	141	150
Oregon	9	16	30	33	43	48	23	22	31
Pennsylvania	350	396	547	282	364	204	117	150	119
Texas	0	0	0	134	138	171	118	102	115
Utah	8	8	6	19	11	12	14	10	9
Vermont	0	0	0	0	0	0	0	0	0
Virginia	40	55	51	101	84	87	57	59	43
Washington	0	0	0	141	79	56	44	59	44
West Virginia	0	0	0	9	14	13	6	6	10
Wisconsin	4	9	7	87	77	66	51	53	37
Wyoming	0	0	0	7	7	4	7	7	5
US Average	239	214	229	132	145	112	88	75	92
US Median	8	12	11	42	43	48	40	33	31

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Number of Claims Pending at Beginning of Year			Number of New Claims Received			Number of Claims Approved		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
CANADA									
Alberta	193	195	324	28	170	22	10	8	93
British Columbia	23	33	29	22	11	29	2	4	7
Northwest Territories	0	0	0	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Number of Lawyers Involved in Claims Approved			Number of Claims Pending at the end of Year		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	6	5	4	176	157	151
Arizona	19	26	25	12	19	15
Arkansas	1	0	1	6	8	3
California	277	182	122	5,674	5,465	4,253
Colorado	11	16	15	0	0	0
Connecticut	6	10	14	73	88	166
Delaware	4	3	0	2	0	0
District of Columbia	13	12	18	9	1	0
Florida	183	166	165	339	312	369
Georgia	25	11	25	72	95	102
Idaho	0	0	0	13	8	10
Illinois	40	34	48	0	0	0
Iowa	2	2	4	19	25	31
Kentucky	12	3	7	32	41	31
Louisiana	18	24	22	42	43	45
Maine	4	4	4	4	17	17
Massachusetts	23	22	23	78	52	48
Michigan	27	21	34	150	146	136
Mississippi	0	0	4	0	0	1
Missouri	31	17	18	0	0	0
Nebraska	2	1	0	5	1	1
Nevada	14	10	13	15	9	8
New Hampshire	0	0	0	7	3	3
New Jersey	38	40	36	91	855	83
New Mexico	19	26	27	6	11	9
New York	69	51	48	525	488	447
North Dakota	2	0	0	0	0	0
Ohio	40	41	48	219	262	230
Oregon	20	14	17	20	17	17
Pennsylvania	36	50	43	396	547	533
Texas	0	0	0	0	0	0
Utah	10	7	6	8	6	8
Vermont	0	0	0	0	0	0
Virginia	23	25	17	54	39	51
Washington	14	20	16			
West Virginia	2	4	11	0	0	0
Wisconsin	17	33	11	9	6	5
Wyoming	1	2	2	0	0	0
US Average	27	23	22	218	236	183
US Median	14	12	15	12	11	10

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Number of Lawyers Involved in Claims Approved			Number of Claims Pending at the end of Year		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta	6	3	7	195	324	220
British Columbia	2	3	5	33	29	50
Northwest Territories	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Total Amount of Reimbursement Requested in New Claims Received			Total Amount of Awards Approved during the Year		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	\$1,221,210	\$179,670	\$4,152,273	\$303,501	\$193,607	\$243,448
Arizona	\$2,279,616	\$1,315,831	\$1,590,471	\$413,016	\$409,071	\$396,770
Arkansas	\$105,577	\$114,065	\$274,802	\$3,500	\$0	\$1
California	\$20 million	\$17 million	\$16 million	\$9 million	\$6 million	\$8 million
Colorado	\$1,215,718	\$1,243,103	\$8,390,002	\$331,800	\$309,958	\$391,438
Connecticut	\$4,929,727	\$9,768,300	\$9,061,185	\$171,524	\$2,738,313	\$1,464,985
Delaware	\$735,422	\$32,547	\$0	\$236,115	\$7,534	\$0
District of Columbia	\$6,430,903	\$307,800	\$1,438,241	\$31,207	\$168,011	\$232,273
Florida	\$11,515,617	\$12,992,646	\$9,265,749	\$1,680,550	\$2,327,105	\$1,917,615
Georgia	\$0	\$0	\$0	\$288,622	\$328,986	\$495,338
Idaho	\$74,625	\$47,275	\$49,024	\$41,450	\$57,255	\$8,373
Illinois	\$0	\$0	\$0	\$1,300,775	\$2,491,000	\$3,094,000
Iowa	\$1,58,830	\$4,260,781	\$1,162,064	\$52,448	\$53,700	\$57,924
Kentucky	\$1,434,889	\$966,967	\$244,698	\$170,284	\$22,050	\$174,937
Louisiana	\$703,953	\$1,988,011	\$1,271,909	\$169,296	\$161,421	\$373,183
Maine	\$189,933	\$427,737	\$487,950	\$25,866	\$66,271	\$147,516
Massachusetts	\$0	\$0	\$0	\$1,324,815	\$2,949,085	\$846,842
Michigan	\$2,384,525	\$4,558,850	\$2,762,836	\$620,779	\$161,997	\$912,566
Mississippi	\$0	\$0	\$0	\$0	\$0	\$10,000
Missouri	\$0	\$0	\$0	\$404,521	\$152,702	\$110,026
Nebraska	\$329,350	\$283,297	\$13,480	\$8,700	\$1,560	\$0
Nevada	\$686,367	\$133,467	\$1,089,725	\$385,919	\$339,863	\$79,823
New Hampshire	\$5,121	\$0	\$0	\$0	\$0	\$0
New Jersey	\$10,876,490	\$165,656,629	\$16,769,774	\$8,068,120	\$5,165,627	\$2,161,302
New Mexico	\$291,358	\$164,086	\$347,519	\$59,055	\$90,518	\$157,917
New York	\$88,020,987	\$45,515,100	\$42,820,451	\$6,066,125	\$12,336,506	\$9,241,394
North Dakota	\$14,993	\$0	\$0	\$293	\$0	\$0
Ohio	\$3,261,077	\$3,690,427	\$3,053,523	\$782,741	\$767,081	\$782,290
Oregon	\$157,139	\$2,868,368	\$537,396	\$46,193	\$182,268	\$120,230
Pennsylvania	\$29,585,329	\$6,784,550	\$28,682,975	\$2,372,002	\$5,173,168	\$5,001,842
Texas	\$0	\$0	\$0	\$1.2 Million	\$639,581	\$814,616
Utah	\$126,141	\$55,115	\$47,725	\$78,931	\$40,270	\$31,140
Vermont	N/A	N/A	N/A	N/A	N/A	N/A
Virginia	\$0	\$0	\$0	\$792,610	\$1,498,581	\$799,642
Washington	\$0	\$0	\$0	\$337,160	\$495,218	\$253,228
West Virginia	\$40,000	\$32,616	\$49,482	\$40,000	\$32,616	\$49,482
Wisconsin	\$0	\$0	\$0	\$783,091	\$441,668	\$217,725
Wyoming	\$17,325	\$163,401	\$61,237	\$17,325	\$47,501	\$32,000

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Total Amount of Reimbursement Requested in New Claims Received			Total Amount of Awards Approved during the Year		
	2014	2015	2016	2014	2015	2016
USA						
US Average	\$5,184,261	\$7,582,450	\$4,043,905	\$1,016,441	\$1,239,192	\$1,043,780
US Median	\$240,646	\$164,086	\$274,802	\$288,622	\$182,268	\$232,273
CANADA						
Alberta	\$0	\$0	\$0	\$1,056,136	\$762,754	\$1,628,400
British Columbia	\$1,336,403	\$300,900	\$425,538	\$132,900	\$125,100	\$94,000
Northwest Territories	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Claims Disapproved			Outside Statute of Limitations			Fee Dispute		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
USA									
Alabama	65	54	33	0	0	0	0	0	0
Arizona	30	44	25	5	3	0	8	14	10
Arkansas	8	9	11	0	0	0	0	0	0
California	1,070	566	539	0	0	0	6	4	0
Colorado	8	5	10	1	1	1	5	3	3
Connecticut	43	47	50	0	0	0	6	4	0
Delaware	9	5	0	0	0	0	6	4	0
District of Columbia	16	21	2	0	0	0	0	0	0
Florida	81	78	42	0	0	0	0	0	0
Georgia	5	5	12	0	0	0	6	4	0
Idaho	0	0	0	0	0	0	0	0	0
Illinois	106	152	132	0	0	0	0	0	0
Iowa	14	15	2	0	0	1	4	2	0
Kentucky	27	25	17	3	5	0	0	1	0
Louisiana	21	19	18	1	2	2	9	8	10
Maine	14	4	2	0	0	0	0	0	0
Massachusetts	28	24	22	0	0	0	0	0	0
Michigan	52	45	48	1	0	3	5	5	5
Mississippi	0	0	14	0	0	0	0	0	0
Missouri	23	39	2	0	0	0	6	4	0
Nebraska	8	7	3	0	1	0	3	1	0
Nevada	7	9	9	0	0	0	0	0	0
New Hampshire	1	4	2	0	0	0	0	0	0
New Jersey	108	80	817	0	0	0	6	4	0
New Mexico	16	16	12	0	0	0	0	0	0
New York	351	265	424	0	0	0	0	0	0
North Dakota	2	4	0	0	1	0	0	0	0
Ohio	25	38	38	0	0	0	14	15	13
Oregon	10	16	22	0	0	0	3	1	16
Pennsylvania	60	92	81	0	0	0	31	50	57
Texas	16	36	56	0	0	0	0	0	0
Utah	5	3	1	1	2	0	0	1	1
Vermont	0	0	0	0	0	0	0	0	0
Virginia	29	40	35	0	0	0	0	0	0
Washington	97	20	12	0	0	0	0	0	0
West Virginia	6	6	4	0	0	0	1	0	2
Wisconsin	34	51	29	0	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Claims Disapproved			Outside Statute of Limitations			Fee Dispute		
	2014	2015	2016	2014	2015	2016	2014	2015	2016
USA									
US Average	63	49	66	0	0	0	3	3	3
US Median	16	20	13	0	0	0	0	0	0
CANADA									
Alberta	16	27	51	0	0	0	0	0	0
British Columbia	6	5	3	0	0	0	0	0	0
Northwest Territories	0	0	0	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	Not Compensable			Other		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	0	0	0	0	0	0
Arizona	17	27	15	0	0	0
Arkansas	8	9	11	0	0	0
California	0	0	0	0	0	0
Colorado	0	0	5	2	1	1
Connecticut	0	0	0	0	0	0
Delaware	2	0	0	1	1	0
District of Columbia	2	0	0	No dishonest conduct		
Florida	0	0	0	0	0	0
Georgia	0	0	0	0	0	0
Idaho	0	0	0	0	0	0
Illinois	0	0	0	0	0	0
Iowa	1	6	0	9	7	1
Kentucky	24	19	17	0	0	0
Louisiana	8	6	3	2	3	3
Maine	2	2	0	12	2	2
Massachusetts	28	24	22	0	0	0
Michigan	39	31	29	7	9	11
Mississippi	0	0	13	0	0	0
Missouri	0	0	0	0	0	0
Nebraska	5	5	3	0	0	0
Nevada	7	9	9	0	0	0
New Hampshire	0	3	1	0	1	1
New Jersey	0	0	0	0	0	0
New Mexico	0	0	0	0	0	0
New York	0	0	0	0	0	0
North Dakota	2	3				
Ohio	11	23	25	0	0	0
Oregon	0	0	0	7	15	6
Pennsylvania	29	42	24	0	0	0
Texas	0	0	0	0	0	0
Utah	0	0	0	0	0	0
Vermont	0	0	0	0	0	0
Virginia	0	0	0	0	0	0
Washington	0	0	0	0	0	0
West Virginia	0	0	0	0	0	0
Wisconsin	34	21	29	0	0	0
Wyoming	0	0	0	0	0	0
CANADA						
Alberta	0	0	0	0	0	0
British Columbia	6	5	3			
Northwest Territories	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences USA	# Of Compensable Claims Not Paid Due to Payment Limitations / Amount Not Paid					
	2014		2015		2016	
	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid
Alabama	0	\$0	0	\$0	0	\$0
Arizona	0	\$0	0	\$0	1	\$160,000
Arkansas	0	\$0	0	\$0	0	\$0
California	0	\$0	0	\$0	0	\$0
Colorado	0	\$0	0	\$0	0	\$0
Connecticut	0	\$0	0	\$0	0	\$0
Delaware	0	\$0	0	\$0	0	\$0
District of Columbia	2	\$167,657	0	\$0	1	\$170,00
Florida	0	\$0	0	\$0	0	\$0
Georgia	0	\$0	0	\$0	0	\$0
Idaho	0	\$0	0	\$0	0	\$0
Illinois	0	\$0	0	\$0	0	\$0
Iowa	0	\$0	1	\$25,000	1	\$1,039,270
Kentucky	0	\$0	0	\$0	0	\$0
Louisiana	0	\$0	6	\$318,651	3	\$232,215
Maine	0	\$0	0	\$0	2	\$0
Massachusetts	0	\$0	0	\$0	0	\$0
Michigan	6	\$550,789	0	\$0	15	\$1,621,150
Mississippi	0	\$0	0	\$0	0	\$0
Missouri	0	\$0	0	\$0	0	\$0
Nebraska	0	\$0	0	\$0	0	\$0
Nevada	1	\$21,976	2	\$125,419	0	\$0
New Hampshire	0	\$0	0	\$0	0	\$0
New Jersey	0	\$0	0	\$0	0	\$0
New Mexico	2	\$150,000	0	\$0	0	\$0
New York	2	\$1,610,317	4	\$2,401,082	2	\$2,364,510
North Dakota	2	\$14,700	1	\$1,000	26 (?)	\$0(?)
Ohio	3	\$1,196,591	2	\$75,080	1	\$149,713
Oregon	0	40	0	\$0	0	\$0
Pennsylvania	0	\$0	0	\$0	0	\$0
Texas	0	\$0	0	\$0	0	\$0
Utah	0	\$0	0	\$0	0	\$0
Vermont	0	\$0	0	\$0	0	\$0
Virginia	0	\$0	0	\$0	0	\$0
Washington	0	\$0	0	\$0	0	\$0
West Virginia	0	\$0	0	\$0	0	\$0
Wisconsin	0	\$0	0	\$0	0	\$0
Wyoming	0	\$0	2	\$115,900	3	\$129,146

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences CANADA	# Of Compensable Claims Not Paid Due to Payment Limitations / Amount Not Paid					
	2014		2015		2016	
	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid
Alberta	0	\$0	0	\$0	0	\$0
British Columbia	0	\$0	0	\$0	0	\$0
Northwest Territories	0	\$0	0	\$0	0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences USA	# Of Compensable Claims Not Paid Due to Fund's Lack of Money / Amount Not Paid					
	2014		2015		2016	
	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid
Alabama	0	\$0	0	\$0	0	\$0
Arizona	0	\$0	0	\$0	0	\$0
Arkansas	0	\$0	0	\$0	0	\$0
California	0	\$0	0	\$0	0	\$0
Colorado	0	\$0	0	\$0	0	\$0
Connecticut	0	\$0	0	\$0	0	\$0
Delaware	0	\$0	0	\$0	0	\$0
District of Columbia	0	\$0	0	\$0	0	\$0
Florida	0	\$0	0	\$0	0	\$0
Georgia	0	\$0	0	\$0	0	\$0
Idaho	0	\$0	0	\$0	0	\$0
Illinois	0	\$0	0	\$0	0	\$0
Iowa	0	\$0	0	\$0	0	\$0
Kentucky	0	\$0	0	\$0	0	\$0
Louisiana	0	\$0	0	\$0	0	\$0
Maine	0	\$0	0	\$0	0	\$0
Massachusetts	0	\$0	0	\$0	0	\$0
Michigan	0	\$0	0	\$0	0	\$0
Mississippi	0	\$0	0	\$0	0	\$0
Missouri	0	\$0	0	\$0	0	\$0
Nebraska	0	\$0	0	\$0	0	\$0
Nevada	0	\$0	0	\$0	0	\$0
New Hampshire	0	\$0	0	\$0	0	\$0
New Jersey	0	\$0	0	\$0	0	\$0
New Mexico	0	\$0	0	\$0	0	\$0
New York	0	\$0	0	\$0	0	\$0
North Dakota	0	\$0	0	\$0	0	\$0
Ohio	0	\$0	0	\$0	0	\$0
Oregon	0	\$0	0	\$0	0	\$0
Pennsylvania	0	\$0	0	\$0	0	\$0
Texas	---	---	---	---	---	---
Utah	0	\$0	0	\$0	0	\$0
Vermont	0	\$0	0	\$0	0	\$0
Virginia	0	\$0	0	\$0	0	\$0
Washington	0	\$0	0	\$0	0	\$0
West Virginia	0	\$0	0	\$0	0	\$0
Wisconsin	0	\$0	0	\$0	0	\$0
Wyoming	0	\$0	0	\$0	0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences CANADA	# Of Compensable Claims Not Paid Due to Fund's Lack of Money / Amount Not Paid					
	2014		2015		2016	
	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid
Alberta	0	\$0	0	\$0	0	\$0
British Columbia	0	\$0	0	\$0	0	\$0
Northwest Territories	0	\$0	0	\$0	0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION III: FUND CLAIM EXPERIENCES

Section III. Fund Claim Experiences	# Of Other Claims Not Paid / Amount Not Paid					
	2014		2015		2016	
	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid	# of Claims	\$ Not Paid
USA						
Alabama	0	\$0	0	\$0	0	\$0
Arizona	0	\$0	0	\$0	0	\$0
Arkansas	0	\$0	0	\$0	0	\$0
California	0	\$0	0	\$0	0	\$0
Colorado	0	\$0	0	\$0	0	\$0
Connecticut	0	\$0	0	\$0	0	\$0
Delaware	0	\$0	0	\$0	0	\$0
District of Columbia	0	\$0	0	\$0	0	\$0
Florida	0	\$0	0	\$0	0	\$0
Georgia	0	\$0	0	\$0	0	\$0
Idaho	0	\$0	0	\$0	0	\$0
Illinois	0	\$0	0	\$0	0	\$0
Iowa	0	\$0	0	\$0	0	\$0
Kentucky	0	\$0	0	\$0	0	\$0
Louisiana	0	\$0	0	\$0	0	\$0
Maine	0	\$0	0	\$0	0	\$0
Massachusetts	0	\$0	0	\$0	0	\$0
Michigan	0	\$0	0	\$0	0	\$0
Mississippi	0	\$0	0	\$0	0	\$13
Missouri	0	\$0	0	\$0	0	\$0
Nebraska	0	\$0	0	\$0	0	\$0
Nevada	0	\$0	0	\$0	0	\$0
New Hampshire	0	\$0	0	\$0	0	\$0
New Jersey	0	\$0	0	\$0	0	\$0
New Mexico	0	\$0	0	\$0	0	\$0
New York	0	\$0	0	\$0	0	\$0
North Dakota	0	\$0	0	\$0	0	\$0
Ohio	0	\$0	0	\$0	0	\$0
Oregon	0	\$0	0	\$0	0	\$0
Pennsylvania	0	\$0	0	\$0	0	\$0
Texas	0	\$0	0	\$0	0	\$0
Utah	0	\$0	0	\$0	0	\$0
Vermont	0	\$0	0	\$0	0	\$0
Virginia	0	\$0	0	\$0	0	\$0
Washington	0	\$0	0	\$0	0	\$0
West Virginia	0	\$0	0	\$0	0	\$0
Wisconsin	0	\$0	0	\$0	0	\$0
Wyoming	0	\$0	0	\$0	0	\$0
CANADA						
Alberta	0	\$0	0	\$0	0	\$0
British Columbia	0	\$0	0	\$0	0	\$0

SECTION IV:

Fund Loss Experience

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims Approved for Unearned Legal Fees			Number of Claims Approved for Investment & Loans with Lawyers		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	0	0	0	0	0	0
Arizona	8	14	10	0	0	0
Arkansas	0	0	0	0	0	0
California	1,020	738	1,760	5	2	2
Colorado	36	25	20	0	0	0
Connecticut	46	38	90	0	1	1
Delaware	0	0	0	0	0	0
District of Columbia	17	13	25	0	0	0
Florida	72	79	136	0	0	0
Georgia	0	0	0	0	0	0
Idaho	0	0	0	0	0	0
Illinois	72	232	72	0	0	2
Iowa	8	3	3	1	0	0
Kentucky						
Louisiana	41	30	37	0	0	0
Maine	7	15	1	0	0	0
Massachusetts	87	34	13	0	2	0
Michigan	36	29	46	1	0	1
Mississippi	0	0	0	0	0	0
Missouri	0	0	0	0	0	0
Nebraska	0	0	0	0	0	0
Nevada	0	0	0	0	0	0
New Hampshire	0	0	0	0	0	0
New Jersey	0	0	0	0	0	0
New Mexico	7	25	21	0	0	0
New York	484	53	39	8	10	5
North Dakota	2	1	26	0	0	0
Ohio	106	126	125	0	0	1
Oregon	9	19	29	0	0	0
Pennsylvania	49	60	55	0	0	0
Texas	0	0	0	0	0	0
Utah	0	0	0	0	0	0
Vermont	0	0	0	0	0	0
Virginia	0	0	0	0	0	0
Washington	0	0	0	0	0	0
West Virginia	0	0	0	0	0	0
Wisconsin	32	22	32	0	0	0
Wyoming	7	2	1	0	0	0
US Average	58	42	69	0	0	0
US Median	7	2	1	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims Approved for Unearned Legal Fees			Number of Claims Approved for Investment & Loans with Lawyers		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia	1	3	2	0	0	0
Northern Territories	0	0	0	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims for Real Estate Mortgage Theft & Details		
USA	2014	2015	2016
Alabama	0	0	0
Arizona	0	0	0
Arkansas	0	0	0
California	Included in Fees		
Colorado	0	0	0
Connecticut	1	3	12
Delaware	0	0	0
District of Columbia	0	0	0
Florida	0	0	0
Georgia	0	0	0
Idaho	0	0	0
Illinois	0	0	0
Iowa	0	0	0
Kentucky	0	0	0
Louisiana	0	0	0
Maine	0	0	0
Massachusetts	0	0	0
Michigan	0	0	0
Mississippi	0	0	0
Missouri	0	0	0
Nebraska	0	0	0
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	0	0	0
New Mexico	0	0	0
New York	31	37	35
North Dakota	0	0	0
Ohio	0	0	0
Oregon	0	0	0
Pennsylvania	0	0	0
Texas	0	0	0
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
Washington	0	0	0
West Virginia	0	0	0
Wisconsin	0	0	0
Wyoming	0	0	0
CANADA			
Alberta			
British Columbia	0	0	0
Northern Territories	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims Approved: Other Claims & Details		
USA	2014	2015	2016
Alabama	0	0	0
Arizona	22	30	15
Arkansas	0	0	0
California	0	0	0
Colorado	0	0	0
Connecticut	23 Personal Injury/8 Probate/11 Other	20 Personal Injury/12 Probate/13 Other	10 Personal Injury/ 7 Probate/ 31 Escrow/15 Other
Delaware	N/A	N/A	N/A
District of Columbia	4	2	2
Florida	0	0	0
Georgia	0	0	0
Idaho	0	0	0
Illinois	0	0	0
Iowa	0	1	1
Kentucky	0	0	0
Louisiana	0	0	0
Maine	0	2	4
Massachusetts	114	25	15
Michigan	9	7	20
Settlement Funds, Estates, Theft or Conversion			
Mississippi	0	0	1
Missouri	0	0	0
Nebraska	0	0	0
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	0	0	0
New Mexico	0	0	0
New York	0	0	0
North Dakota	0	0	0
Ohio	0	0	0
Oregon	2 Settlements/1 Other	3 Settlements	1 Settlement
Pennsylvania	68	90	64
Texas	0	0	0
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
Washington	0	0	0
West Virginia	0	0	0
Wisconsin	0	0	0
Wyoming	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims Approved: Other Claims & Details		
	2014	2015	2016
CANADA			
Alberta			
British Columbia	0	0	1
Northern Territories	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims for Total Theft/Conversion (Includes: Insurance Proceeds, Trusts/Conservatorships, Escrow, Other)		
	2014	2015	2016
USA			
Alabama	0	0	0
Arizona	11	2	5
Arkansas	0	0	0
California	127	81	31
Colorado	1	7	7
Connecticut	0	0	0
Delaware	0	0	0
District of Columbia	4	1	1
Florida	113	72	93
Georgia	0	0	0
Idaho	0	0	0
Illinois	23	34	72
Iowa	7	12	1
Kentucky	18	8	21
Louisiana	5	11	9
Maine	37	12	4
Massachusetts	107	55	23
Michigan	Claimant's allegation subject to change based on investigation		
Mississippi	0	0	0
Missouri	0	0	0
Nebraska	0	0	0
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	0	0	0
New Mexico	3	0	1
New York	36	174	76
North Dakota	2	1	26
Ohio	19	15	24
Oregon	0	0	0
Pennsylvania	117	150	119
Texas	0	0	0
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
Washington	0	0	0
West Virginia	0	0	0
Wisconsin	21	19	5
Wyoming	0	2	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Number of Claims for Total Theft/Conversion (Includes: Insurance Proceeds, Trusts/Conservatorships, Escrow, Other)		
	2014	2015	2016
CANADA			
Alberta			
British Columbia	1	1	4
Northern Territories	0	0	0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards Approved for Unearned Legal Fees			Total \$ Amount of Awards Approved for Investments/Loans with Lawyers		
	2014	2015	2016	2014	2015	2016
USA						
Alabama	\$0	\$0	\$0	\$0	\$0	\$0
Arizona	\$73,855	\$345,051	\$176,198	\$0	\$0	\$0
Arkansas	\$0	\$0	\$0	\$0	\$0	\$0
California	\$5.2 million	\$3.4 million	\$7.1 million	\$84,000	\$81,000	\$87,000
Colorado	\$236,811	\$99,992	\$94,400	\$0	\$0	\$0
Connecticut	\$29,798	\$170,990	\$17,689	\$0	\$0	\$25,000
Delaware	\$0	\$0	\$0	\$0	\$0	\$0
District of Columbia	\$61,464	\$100,011	\$137,273	\$0	\$0	\$0
Florida	\$202,985	\$238,761	\$419,137	\$0	\$0	\$0
Georgia	\$0	\$0	\$0	\$0	\$0	\$0
Idaho	\$0	\$0	\$0	\$0	\$0	\$0
Illinois	\$0	\$0	\$0	\$0	\$0	\$0
Iowa	\$2,448	\$3,700	\$7,924	\$0	\$0	\$0
Kentucky	\$170,284	\$22,050	\$174,937	\$0	\$0	\$0
Louisiana	\$111,601	\$93,388	\$92,902	\$0	\$0	\$0
Maine	\$10,000	\$24,226	\$1,200	\$0	\$0	\$0
Massachusetts	\$302,566	\$194,585	\$53,853	\$0	\$707,472	\$0
Michigan	\$59,128	\$39,525	\$212,928	\$59,318	\$0	\$71,615
Mississippi	\$0	\$0	\$0	\$0	\$0	\$0
Missouri	\$0	\$0	\$0	\$0	\$0	\$0
Nebraska	\$0	\$0	\$0	\$0	\$0	\$0
Nevada	\$0	\$0	\$0	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0	\$0	\$0	\$0
New Jersey	\$0	\$0	\$0	\$0	\$0	\$0
New Mexico	\$19,055	\$90,518	\$127,917	\$0	\$0	\$0
New York	\$640,786	\$207,714	\$201,318	\$1,156,453	\$2,269,662	\$389,039
North Dakota	\$14,700	\$1,000	Pending	\$0	\$0	\$0
Ohio	\$157,500	\$250,429	\$311,806	\$0	\$0	\$0
Oregon	\$19,694	\$127,617	\$103,060	\$0	\$0	\$0
Pennsylvania	\$110,080	\$151,012	\$198,506	\$0	\$0	\$0
Texas	\$0	\$0	\$0	\$0	\$0	\$0
Utah	\$0	\$0	\$0	\$0	\$0	\$0
Vermont	\$0	\$0	\$0	\$0	\$0	\$0
Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Washington	\$0	\$0	\$0	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$65,977	\$57,886	\$119,317	\$0	\$0	\$0
Wyoming	\$17,325	\$4,500	\$2,000	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards Approved for Unearned Legal Fees			Total \$ Amount of Awards Approved for Investments/Loans with Lawyers		
	2014	2015	2016	2014	2015	2016
CANADA						
Alberta						
British Columbia	\$81,828	\$25,600	\$3,472	\$0	\$0	\$0
Northern Territories	\$0	\$0	\$0	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards Approved for Real Estate Mortgage Theft & Details		
USA	2014	2015	2016
Alabama	\$0	\$0	\$0
Arizona	\$0	\$0	\$0
Arkansas	\$0	\$0	\$0
California	Included in fees		
Colorado	\$0	\$0	\$0
Connecticut	\$0	\$0	\$134,342
Delaware	\$0	\$0	\$0
District of Columbia	\$0	\$0	\$0
Florida	\$0	\$0	\$0
Georgia	\$0	\$0	\$0
Idaho	\$0	\$0	\$0
Illinois	\$0	\$0	\$0
Iowa	\$0	\$0	\$0
Kentucky	\$0	\$0	\$0
Louisiana	\$0	\$0	\$0
Maine	\$0	\$0	\$0
Massachusetts	\$0	\$0	\$0
Michigan	\$0	\$0	\$0
Mississippi	\$0	\$0	\$0
Missouri	\$0	\$0	\$0
Nebraska	\$0	\$0	\$0
Nevada	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0
New Jersey	UK	UK	UK
New Mexico	\$0	\$0	\$0
New York	\$1,969,461	\$4,564,358	\$3,498,528
North Dakota	\$0	\$0	\$0
Ohio	\$0	\$0	\$0
Oregon	\$0	\$0	\$0
Pennsylvania	0	0	0
Texas	\$0	\$0	\$0
Utah	\$0	\$0	\$0
Vermont	\$0	\$0	\$0
Virginia	\$0	\$0	\$0
Washington	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0
Wisconsin	\$0	\$0	\$0
Wyoming	\$0	\$0	\$0
CANADA			
Alberta			
British Columbia	\$0	\$0	\$0
Northern Territories	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards Approved for Other Claims & Details		
USA	2014	2015	2016
Alabama	\$0	\$0	\$0
Arizona	\$80,594	\$14,020	\$450
Arkansas	\$0	\$0	\$0
California	\$0	\$0	\$0
Colorado	\$0	\$0	\$0
Connecticut	\$10,483 Personal Injury/ \$54,102 Probate	\$476,993 Personal Injury/\$2,070,330 Probate/\$20,000 Escrow Other	\$976,480 Personal Injury/\$305,575 Probate/ \$5,900 Escrow Other
Delaware	N/A	N/A	N/A
District of Columbia	\$108,000	\$68,000	\$95,000
Florida	\$0	\$0	\$0
Georgia	\$0	\$0	\$0
Idaho	\$0	\$0	\$0
Illinois	\$0	\$0	\$0
Iowa	\$0	\$0	\$0
Kentucky	\$0	\$0	\$0
Louisiana	\$0	\$0	\$0
Maine	\$0	\$0	\$0
Massachusetts	\$1,022,249	\$2,241,613	\$792,989
Michigan	\$502,334	\$122,472	\$628,023
Settlement Funds, Estates, Theft or Conversion			
Mississippi	\$0	\$0	\$0
Missouri	\$0	\$0	\$0
Nebraska	\$0	\$0	\$0
Nevada	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0
New Jersey	\$0	\$0	\$0
New Mexico	\$0	\$0	\$0
New York	\$0	\$0	\$0
North Dakota	\$0	\$0	\$0
Ohio	\$0	\$0	\$0
Oregon	\$5,000 Other/ \$28,500 Settlements	\$55,719 Settlements	\$18,170 Settlements
Pennsylvania	\$2,261,922	\$4,828,920	\$4,803,336
Texas	\$0	\$0	\$0
Utah	\$0	\$0	\$0
Vermont	\$0	\$0	\$0
Virginia	\$0	\$0	\$0
Washington	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards Approved for Other Claims & Details		
	2014	2015	2016
USA			
Wisconsin	\$0	\$0	\$0
Wyoming	\$0	\$43,001	\$30,000
CANADA			
Alberta			
British Columbia	\$0	\$0	\$50,516
Northern Territories	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards for Total Theft/Conversion (Includes: Insurance Proceeds, Trusts/Conservatorships, Escrow, Other)		
USA	2014	2015	2016
Alabama	\$0	\$0	\$0
Arizona	\$258,567	\$50,000	\$220,122
Arkansas	\$0	\$0	\$0
California	\$3.6 million	\$2.5 million	\$820,000
Colorado	\$94	\$206,071	\$291,037
Connecticut	\$0	\$0	\$0
Delaware	\$0	\$0	\$0
District of Columbia	\$135,639	\$68,000	\$95,000
Florida	\$1,318,599	\$2,088,344	\$1,474,062
Georgia	\$0	\$0	\$0
Idaho	\$0	\$0	\$0
Illinois	\$0	\$0	\$0
Iowa	\$50,000	\$50,000	\$50,000
Kentucky	\$149,318	\$22,050	\$174,937
Louisiana	\$71,534	\$207,036	\$118,182
Maine	\$25,866	\$66,271	\$147,516
Massachusetts	\$922,563	\$515,342	\$563,224
Michigan	\$502,334	\$122,472	\$628,023
Mississippi	\$0	\$0	\$10,000
Missouri	\$0	\$0	\$0
Nebraska	\$0	\$0	\$0
Nevada	\$0	\$0	\$0
New Hampshire	\$0	\$0	\$0
New Jersey	\$0	\$0	\$0
New Mexico	\$40,000	\$0	\$30,000
New York	\$3,776,700	\$5,294,772	\$5,152,509
North Dakota	\$14,700 (Does not distinguish)	\$1,000 (Does not distinguish)	
Ohio	\$625,241	\$516,651	\$447,983
Oregon	\$0	\$0	\$0
Pennsylvania	\$272,022	\$4,979,942	\$5,001,842
Texas	\$0	\$0	\$0
Utah	\$0	\$0	\$0
Vermont	\$0	\$0	\$0
Virginia	\$0	\$0	\$0
Washington	\$0	\$0	\$0
West Virginia	\$0	\$0	\$0
Wisconsin	\$0	\$387,781	\$98,408
Wyoming	\$0	\$0	\$0

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION IV: FUND LOSS EXPERIENCE

Section IV. Fund Loss Experiences	Total \$ Amount of Awards for Total Theft/Conversion (Includes: Insurance Proceeds, Trusts/Conservatorships, Escrow, Other)		
	2014	2015	2016
CANADA			
Alberta			
British Columbia	\$51,097	\$99,541	\$40,298
Northern Territories	\$0	\$0	\$0

SECTION V:

Fund Claim Procedures

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Standard Claim Form or Application	Available Languages other than English	Fund Provided Information by Lawyer Disciplinary Agency
USA			
Alabama	Yes	No	Yes: The Center for Professional Responsibility will make available disciplinary findings
Arizona	Yes	Spanish	Yes: Provides reports of investigations and records of formal proceedings
Arkansas	Yes	No	Yes: Attorney for the Fund is also a disciplinary counsel
California	Yes	Spanish	Yes: CSF has access to disciplinary investigation materials & State Bar Court documents
Colorado	Yes	Spanish	Yes: The Office of Attorney Regulation Counsel investigates claims for the Fund and provides daily administrative support
Connecticut	Yes	No	Yes: Superior court rules provide for information to be made available
Delaware	Yes	Spanish	Yes: We are made aware by ODC if we are expected to receive claims
District of Columbia	Yes	No	Yes: The Fund has access to all formal proceedings i.e. Specification of Charges
Florida	Yes	Spanish	Yes: Administrator has access to disciplinary files/records
Georgia	Yes	No	Yes: Disciplinary files are often made available for review upon request
Idaho	Yes	No	Yes: Bar Counsel's Office administers the Fund for the volunteer Committee
Illinois	Yes	Spanish	Yes: Fund is a part of the Disciplinary Agency
Iowa	Yes	No	Yes: Client Security Commission is part of the Office of Professional Regulation
Kentucky	Yes	No	Yes: Complete disciplinary file is made available to the Clients' Security Fund Trustees
Louisiana	Yes	No	Yes: The Disciplinary Agency will provide information upon request for a particular Respondent in the interests of Justice
Maine	Yes	No	Yes: Complete disciplinary file is available for review
Massachusetts	Yes	Yes / Vietnamese	Yes: The Fund receives the disciplinary counsels' entire file including all of its investigative material, interviews with attorney, etc.
Michigan	Yes	No	Yes: The agency normally shares, the complaint filed, respondent's answer, the formal complaint, hearing panel report and exhibits, and formal order of discipline. The agency will also share specifically requested documentation such as banking records
Mississippi	Yes	No	Yes: The Bar also the disciplinary authority

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Standard Claim Form or Application	Available Languages other than English	Fund Provided Information by Lawyer Disciplinary Agency
USA			
Missouri	Yes	No	No
Nebraska	Yes	No	No
Nevada	Yes	No	Yes: We are allowed access to records from our disciplinary office regarding a claimant if the proceedings have gone to formal complaint (which are public records)
New Hampshire	Yes	No	Yes: The Fund, like any citizen, may examine non-confidential proceedings.
New Jersey	Yes	No	Yes: Provides copies of disciplinary reports and recommendations
New Mexico	Yes	Spanish	Yes: Rule 17A-012(C) NMRA requires Disciplinary Board notification of claims and requires the Disciplinary Board to allow the Fund access to records during investigation of claims. In 2015, the Disciplinary Board and the State Bar began to jointly administer the Fund
New York	Yes	No	Yes: Pursuant to sec. 1240.18 of the NY Rules of Professional Conduct, grievance committees are authorized to disclose their files on the written request of the lawyers' fund
North Dakota	Yes	No	Yes: Disciplinary records provided
Ohio	Yes	Yes / Spanish	Yes: Grievance information, reports of investigations
Oregon	Yes	No	Yes: Disciplinary Counsel's Office is in-house and files are shared
Pennsylvania	Yes	No	Yes: Disciplinary Board may share all information with the Fund
Texas	Yes	Yes / Spanish	Yes: Fund administrator under supervision of disciplinary agency
Utah	Yes	No	Yes: An attorney from the Office of Professional Conduct of the Utah State Bar attends the meeting and can provide information from the disciplinary hearing case files
Vermont	Yes	No	Yes: Disciplinary Counsel informs Fund of potential claims
Virginia	Yes	No	Yes: CSF Board and staff have access to disciplinary investigations and other records
Washington	Yes	Yes / Spanish	Yes: Disciplinary agency (Office of Disciplinary Counsel) is permitted to share confidential information with the Fund by Court Rule
West Virginia	Yes	No	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Standard Claim Form or Application	Available Languages other than English	Fund Provided Information by Lawyer Disciplinary Agency
USA			
Wisconsin	Yes	No	Yes: Wisconsin Supreme Court Rule authorizes information to be shared between Fund and OLR
Wyoming	Yes	No	Yes
CANADA			
Alberta	Yes	No	Yes: All supporting documents regarding the file is provided in any form of proceedings
British Columbia	Yes	No	Yes: The Lawyers Insurance Fund has access to the entire disciplinary and investigation file
Northern Territories	No	No	

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Does Lawyer Disciplinary Agency Notify Claimants of Funds Existence	Fund Informed by Lawyer Disciplinary Agency of Actions Impacting Fund	Fund Require Claimants to Pursue Separate Action Against Lawyer Accused of Dishonest Conduct
USA			
Alabama	Yes	Yes	Yes: Disciplinary Complaint
Arizona	Yes	Yes	No
Arkansas	Yes	Yes	No
California	Yes	Yes	Yes: Disciplinary Complaint
Colorado	Yes	Yes	Yes: Disciplinary Complaint
Connecticut	Yes	Yes	Yes: Civil Litigation/Criminal Charges/ Disciplinary Complaint
Delaware	Yes	Yes	No
District of Columbia	Yes	Yes	No
Florida	Yes	Yes	Yes: Disciplinary Complaint
Georgia	Yes	Yes	Yes: Civil Litigation/Criminal Charges/ Disciplinary Complaint
Idaho	Yes	Yes	No
Illinois	Yes	Yes	No
Iowa	Yes	Yes	Yes: Civil Litigation/Disciplinary Complaint
Kentucky	Yes	Yes	No
Louisiana	Yes	Yes	Yes: Civil Litigation/Criminal Charges/ Disciplinary Complaint
Maine	Yes	Yes	Yes: Disciplinary Complaint
Massachusetts	Yes	Yes	No
Michigan	Yes	Yes	Yes: Disciplinary Complaint
Mississippi	No	No	Yes: Civil Litigation / Disciplinary Complaint
Missouri	Yes	Yes	Yes: Disciplinary Complaint
Nebraska	Yes	Yes	Yes: Disciplinary Complaint
Nevada	Yes	Yes	No
New Hampshire	Yes	Yes	No
New Jersey	Yes	No	Yes: Disciplinary complaint
New Mexico	Yes	Yes	No
New York	Yes	Yes	Yes: Criminal Charges/Disciplinary Complaint
North Dakota	Yes	Yes	Yes: Civil Litigation/Criminal Charges/ Disciplinary Complaint
Ohio	Yes	Yes	Yes: Disciplinary Complaint
Oregon	Yes	Yes	Yes: Civil Litigation/Disciplinary Complaint/ Criminal Charges
Pennsylvania	Yes	Yes	No
Texas	Yes	Yes	Yes: Disciplinary Complaint
Utah	Yes	Yes	Yes: Civil Litigation
Vermont	Yes	Yes	Yes: Civil Litigation/Criminal Charges/ Disciplinary Complaint
Virginia	Yes	Yes	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Does Lawyer Disciplinary Agency Notify Claimants of Funds Existence	Fund Informed by Lawyer Disciplinary Agency of Actions Impacting Fund	Fund Require Claimants to Pursue Separate Action Against Lawyer Accused of Dishonest Conduct
USA			
Washington	Yes	Yes	Yes: Disciplinary Complaint/Civil Complaint is not required, but claimant's pursuit of other remedies is considered
West Virginia	Yes	No	Yes: Civil Litigation
Wisconsin	No	Yes	No
Wyoming	Yes	Yes	No
CANADA			
Alberta	Yes	Yes	Yes: Disciplinary Complaint
British Columbia	Yes	Yes	No
Manitoba			
Northern Territories	No	No	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Disciplinary Action Required Before Awards to Lawyer's Claimants	Does Fund Hold Hearing for Claimants & Lawyers Accused of Dishonest Conduct
USA		
Alabama	Yes	Sometimes
Arizona	Yes	No/Other
Arkansas	Yes	Sometimes
California	Yes	Sometimes/Written Submissions Only
Colorado	No	No
Connecticut	Yes	No
Delaware	No	No
District of Columbia	No	Sometimes/Written Submissions Only
Florida	Yes	No
Georgia	Yes	No/Written Submissions Only
Idaho	No	Yes
Illinois	Yes	Sometimes
Iowa	No	Sometimes
Kansas		
Kentucky	No	Yes/Other
Louisiana	No	No
Maine	No	Sometimes
Massachusetts	Yes	Yes
Michigan	Yes	Other
Mississippi	No	No
Missouri	Yes	Other
Nebraska	No	No
		Yes: We hold bi-annual meetings that allow a time for testimony where the claimant and/or the accused lawyer may come and give testimony, but it is not required of either side. Most often we deal with written testimony
Nevada	Yes	
New Hampshire	Yes	Yes
New Jersey	Yes	Sometimes
New Mexico	Yes	Written Submissions Only
New York	Yes	Other
North Dakota	No	Yes
Ohio	Yes	Sometimes
Oregon	Yes	No
Pennsylvania	No	Sometimes
Texas	Yes	No
Utah	Yes	Yes
Vermont	Yes	No
Virginia	Yes	Other

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Disciplinary Action Required Before Awards to Lawyer's Claimants	Does Fund Hold Hearing for Claimants & Lawyers Accused of Dishonest Conduct
USA		
Washington	Yes (Board can waive requirement)	No
West Virginia	No	No
Wisconsin	No	No
Wyoming	No	Written Submissions Only/Other
CANADA		
Alberta	No	Sometimes
British Columbia	No	No
Northern Territories	No	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claims Procedures	How Often Are Hearings Held	Average Time to Process Claim (Months)
USA		
Alabama	Not often	15-24 Months
Arizona	Trustees have discretion to hold hearings	6-8 Months
Arkansas	Rarely	1 Year
California	Rarely	Approximately 12 Months
Colorado	Hearings are allowed at the Board of Trustees' discretion. To date, no hearings have been held (C.R.C.P. 252.12(h))	5.25 Months
Connecticut	N/A	12 Months
Delaware	N/A	2-4 Months
District of Columbia	Case by case basis	3-6 Months
Florida	N/A	12 Months
Georgia	N/A	12 Months
Idaho	As needed	About 9 Months
Illinois	Very Seldom	6 Months-1 Year
Iowa	Very Seldom	9 Months
Kentucky	Semi-Annually	6 Months
Louisiana	N/A	9 Months
Maine	Quarterly	8 Months
Massachusetts	Monthly (Claimant must attend)	12 Months
Michigan	Discretion of the Board (No hearings in 15 years)	15.5 Months
Mississippi	N/A	N/A
Missouri	As needed	Less than 12 Months
Nebraska	N/A	6 Months
Nevada	Bi-Annually	6-8 Months
New Hampshire	As Needed	About 9 Months
New Jersey	Monthly	3 Months
New Mexico	N/A	4-6 Months
New York	Infrequently at the discretion of Board of Trustees	9 Months
North Dakota	As required	Varies
Ohio	Rarely	12-18 Months
Oregon	N/A	4-6 Months
Pennsylvania	Once or twice a year	18-24 Months
Texas	N/A	1 Year (12 Months)
Utah	1-2 times per year. We hear 10-12 cases each time	Depends on the number of cases. We wait to schedule hearings until we have 10 eligible cases
Vermont	N/A	2 Years (24 Months)
Virginia	N/A	4

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claims Procedures	How Often Are Hearings Held	Average Time to Process Claim (Months)
USA		
Washington	N/A	Because discipline must be completed, most take several years unless the lawyer dies
West Virginia	N/A	12
Wisconsin	N/A	4
Wyoming	As needed	1.5 Months
CANADA		
Alberta	As needed	Varies
British Columbia	N/A	7.8 Months
Northern Territories	N/A	None have been held in this jurisdiction

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Fund Rules Provide for Rehearing or Reconsideration If Yes, What Body Conducts Rehearing or Reconsideration	Claimant May Request Hearing	Lawyer May Request Hearing
USA			
Alabama	Yes: CSF Committee	Yes	Yes
Arizona	Yes/Board of Trustees	Yes	No
Arkansas	No	Yes	Yes
California	Yes: Client Security Fund Commission	Yes	Yes
Colorado	Yes: Board of Trustees	Yes	No
Connecticut	No	Yes	Yes
Delaware	Yes: Trustees	Yes	No
District of Columbia	Yes: Fund's Trustees	Yes	Yes
Florida	No	Yes	Yes
Georgia	Yes: Board of Trustees	Yes	Yes
Idaho	Yes: First the Idaho State Bar Board of Commissioners and then the Idaho Supreme Court	Yes	Yes
Illinois	Yes: Review Panel by Commissioners	Yes	Yes
Iowa	No	Yes	No
Kentucky	Yes: Clients' Security Fund Trustees	Yes	Yes
Louisiana	Yes: The Committee	Yes	Yes
Maine	Yes/Fund Trustees	Yes	No
Massachusetts	Yes: The same body would hear a motion for reconsideration and hold a hearing if necessary	Yes	Yes
Michigan	Yes: Handled by a sub-committee of the Board of Commissioners	Yes	Yes
Mississippi	No	Yes	Yes
Missouri	No	Yes	No
Nebraska	No	Yes	Yes
Nevada	Yes: Fund Committee	Yes	Yes
New Hampshire	No		
New Jersey	Yes: Board of Trustees	Yes	Yes
New Mexico	Yes: Fund Commission	Yes	Yes
New York	Yes: Board of Trustees	Yes	
North Dakota	Yes: Board of Governors	Yes	Yes
Ohio	Yes: Board of Trustees	Yes	
Oregon	Yes: Board of Governors	Yes	
Pennsylvania	Yes: Board of Trustees	Yes	Yes
Texas	Yes: Fund Committee	Yes	No
Utah	Yes: Bar Committee	Yes	Yes
Vermont	Yes: Fund Committee	Yes	Yes
Virginia	Yes: Board of Trustees	Yes	Yes
Washington	No		
West Virginia	Yes: N/A	Yes	Yes
Wisconsin	Yes: Fund Committee	Yes	Yes
Wyoming	Yes: Bar Committee	Yes	Yes

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Fund Rules Provide for Rehearing or Reconsideration If Yes, What Body Conducts Rehearing or Reconsideration	Claimant May Request Rehearing	Lawyer May Request Rehearing
CANADA			
Alberta	Yes: In-house Hearing Committee	Yes	Yes
British Columbia	No	Yes	No
Northern Territories	No: N/A		

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Fund Allow Appeal of Claim Determination to Court	Claimant May Request Appeal	Lawyer May Request Appeal	By What Authority
USA				
Alabama	No	No	No	N/A
Arizona	No	No	No	N/A
Arkansas	Yes	Yes	No	Court Opinion
California	Yes	Yes	Yes	Court Decision & Fund Rules
Colorado	No	No	No	N/A
Connecticut	No	No	No	N/A
Delaware	No	No	No	N/A
District of Columbia	No	No	No	N/A
Florida	No	No	No	N/A
Georgia	No	No	No	N/A
Idaho	Yes	Yes	Yes	Court Rule
Illinois	No	No	No	N/A
Iowa	No	No	No	N/A
Kentucky	No	No	No	N/A
Louisiana	No	No	No	N/A
Maine	No	No	No	N/A
Massachusetts	No	No	No	N/A
Michigan	No	No	No	N/A
Mississippi	No	No	No	N/A
Missouri	No	No	No	N/A
Nebraska	No	No	No	N/A
Nevada	No	No	No	N/A
New Hampshire	Yes	Yes	Yes	Court Rule
New Jersey	No	No	No	N/A
New Mexico	No	No	No	N/A
New York	Yes	Yes	Yes	NY Civil Practice Law and Rules Article 78
North Dakota	Yes	Yes	Yes	Fund Rule
Ohio	No	No	No	N/A
Oregon	No	No	No	N/A
Pennsylvania	No	No	No	N/A
Texas	No	No	No	N/A
Utah	No	No	No	N/A
Vermont	No	No	No	N/A
Virginia	No	No	No	N/A
Washington	No	No	No	N/A
West Virginia	No	No	No	N/A
Wisconsin	No	No	No	N/A
Wyoming	No	No	No	N/A

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Fund Allow Appeal of Claim Determination to Court	Claimant May Request Appeal	Lawyer May Request Appeal	By What Authority
CANADA				
Alberta	No	No	No	N/A
British Columbia	Yes	Yes	No	
Northern Territories				

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Claimant or Lawyer Sought Judicial Review of Claim If Yes, Case Name, Number & Court
USA	
Alabama	No
Arizona	No
Arkansas	No
California	Yes: Unavailable
Colorado	No
Connecticut	No
Delaware	No
District of Columbia	No
Florida	No
Georgia	No
Idaho	No
Illinois	No
Iowa	No
Kentucky	No
Louisiana	No
Maine	No
Massachusetts	No: By Board rule, its decisions are final and there is no review by the Court
Michigan	No
Mississippi	No
Missouri	No
Nebraska	No
Nevada	No
New Hampshire	Yes: Appeal of the Estate of Beatrice Jakobiec, Case No. 2016-0427, NH Supreme Court
New Jersey	No
New Mexico	No
New York	Yes: Cho v. Lawyers' Fund, No. 4890-13 (Sup. Ct. Albany Co. 2014; Carbone v Lawyers' Fund, No.6589-12 (Sup. Ct. Albany Co. 2013); Yenga & Weiss v. Lawyers' Fund, No.2655-15 (Sup. Ct. Albany Co. 2015); Cousins v. Lawyers' Fund, No.4459-15 (Sup. Ct., Albany Co. 2015); Grivas v. Lawyers' Fund, No. 1076-16 (Sup. Ct. Nassau Co. 2016)
North Dakota	No
Ohio	No
Oregon	No
Pennsylvania	No
Texas	No
Utah	No
Vermont	No
Virginia	No
Washington	No
West Virginia	No
Wisconsin	No
Wyoming	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION V: CLAIM PROCEDURES

Section V. Fund Claim Procedures	Claimant or Lawyer Sought Judicial Review of Claim If Yes, Case Name, Number & Court
CANADA	
Alberta	No
British Columbia	No
Northern Territories	

SECTION VI:

Public Information

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Fund Publish Annual Report	Who is Annual Report Sent To	URL of Report Available Online
USA			
Alabama	No	N/A	N/A
Arizona	Yes	CPF Board of Trustees, State Bar Board of Governors, Supreme Court of Arizona	www.azbar.orgcpf
Arkansas	No	N/A	N/A
California	Yes	Commission Members, Board of Trustees, As Requested	www.calbar.ca.gov
Colorado	Yes	Colorado Supreme Court, funds in other jurisdictions	N/A
Connecticut	Yes	Chief Justice, Executive Committee of the Superior Court	http://www.jud.ct.gov/CSF/default.htm#reports
Delaware	Yes	Court; Bar Association	http://courts.delaware.gov/lfcf
District of Columbia	Yes	DC Board of Governors, District of Columbia Court of Appeals, DC Office of Disciplinary Counsel, upon request. Public Information	N/A
Florida	Yes	Published in the Florida Bar Journal in its June Edition	www.floridabar.org
Georgia	Yes	State Bar of Georgia Membership	https://www.gabar.org/barrules/ethicsandprofessionalism/upload/16_OGC_Report.pdf
Idaho	No	N/A	N/A
Illinois	Yes	All IL lawyers, part of Disciplinary Agency Annual Report	www.iardc.org
Iowa	Yes	Supreme Court of Iowa	http://www.iowacourts.gov
Kentucky	Yes	Kentucky Supreme Court Rule 3.820(7)(d) requires an annual report be provided to the Supreme Court. The redacted annual report is also circulated to the Kentucky Bar Association Board of Governors and the KBA Inquiry Commission	N/A
Louisiana	No	N/A	N/A
Maine	Yes	Fund Trustees and Supreme Judicial Court	http://mebaroverseers.org/complaint/annual_reports.html

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information USA	Fund Publish Annual Report	Who is Annual Report Sent To	URL of Report Available Online
Massachusetts	Yes	The Court and all attorneys who represented claimants	HTTP://www.mass.gov/ClientsSecurityBoard
Michigan	Yes	Board of Commissioners, posted on State Bar of Michigan website, published in bar journal	https://www.michbar.org/generalinfo/clientprotectionfund/
Mississippi	No	N/A	N/A
Missouri	Yes	Office of Chief Disciplinary Counsel, Supreme Court of Missouri Advisory Committee, Annual Report to Members of The Missouri Bar	http://www.mobar.org/forthepublic/clientsecurityfund/
Nebraska	Yes	Nebraska Supreme Court	N/A
Nevada	Yes	State Bar Board of Governors	https://www.nvbar.org/lawyerreferral/dispute-resolution/csf/
New Hampshire	Yes	NH Supreme Court	www.nhbar.org
New Jersey	Yes	Supreme Court, Board of Trustees, and other Client Protection Funds	http://www.judiciary.state.nj.us/attorneys/cpf.html
New Mexico	Yes	State Bar Board; Supreme Court; Regulatory Bodies; Media; Chief Judges; Former Commissioners	http://www.nmbar.org/nmstatebar/For_Members/Client_Protection_Fund_Commission.aspx
New York	Yes	Court of Appeals; Governor; Legislature	www.nylawfund.org/ar.html
North Dakota	No	N/A	N/A
Ohio	Yes	Court, Bar Associations, Community Organizations	www.sc.ohio.gov/BOARDS
Oregon	Yes	Published in Bar's publication The Bulletin	https://www.osbar.org/publications/bulletin/bulletin.html
Pennsylvania	Yes	Court and available online	www.palawfund.com
Texas	No	N/A	N/A
Utah	No	The Court, Commissioners, and published as part of the Bar's annual report to members of the Bar	http://www.utahbar.org/bar-operations/
Vermont	Yes	N/A	N/A
Virginia	Yes	Bar Counsel	www.vsb.org

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Fund Publish Annual Report	Who is Annual Report Sent To	URL of Report Available Online
USA			
Washington	Yes	Supreme Court, WSBA Board of Governors	http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Lawyers-Fund-for-Client-Protection-Board
West Virginia	Yes	N/A	N/A
Wisconsin	Yes	Wisconsin Supreme Court	www.wisbar.org
Wyoming	No	N/A	
CANADA			
Alberta	Yes	All active/practicing lawyers	N/A
British Columbia	Yes	Law Society members	www.lawsociety.bc.ca
Northern Territories			

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Awards Announced Publicly If No, Why Not?
USA	
Alabama	N/A
Arizona	Yes
Arkansas	No: Committee decision
California	Yes
Colorado	Yes
Connecticut	Yes
Delaware	No: Claims are confidential
District of Columbia	No: All information submitted for claim consideration is confidential
Florida	No: All Clients' Security Fund records are confidential without the express written consent of the claimant
Georgia	No
Idaho	No: If an award is made the matter is no longer confidential and the information will be released upon inquiry
Illinois	Yes
Iowa	Yes
Kentucky	Yes
Louisiana	Yes
Maine	Yes
Massachusetts	Yes
Michigan	No: No public announcements are made based on State Bar policy
Mississippi	N/A
Missouri	No: Policy
Nebraska	No: Not prescribed in the Rules.
Nevada	No: There are no formal "announcements," but we do distribute our annual reports to NCPO, which are available online for public viewing. In addition, we have published articles in the Nevada Lawyer magazine regarding the Fund
New Hampshire	No: There were no awards this reporting period
New Jersey	Yes
New Mexico	Yes
New York	Yes
North Dakota	Yes
Ohio	Yes
Oregon	Yes
Pennsylvania	Yes
Texas	No: Numbers published in disciplinary counsel annual report
Utah	No: The annual report has the information in it for bar members to review if they wish
Vermont	No
Virginia	Yes
Washington	No: Since annual reports published on website, no need for further announcement
West Virginia	Yes

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Awards Announced Publicly If No, Why Not?
USA	
Wisconsin	Yes
Wyoming	Yes
CANADA	
Alberta	No: The financial data is in the Annual Report
British Columbia	Yes
Northern Territories	

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Lawyer Name Disclosed in Announcements	Client Name Disclosed in Announcements	Fund Produced Public Service Announcements	Announcements in Other Languages
USA				
Alabama	No	No	No	No
Arizona	Yes	No	No	Spanish
Arkansas	No	No	No	No
California	Yes	Yes	Yes	Spanish, Chinese
Colorado	Yes	No	Yes	Spanish
Connecticut	Yes	Yes	No	No
Delaware	No	No	No	No
District of Columbia	No	No	No	No
Florida	Yes	No	No	No
Georgia	No	No	No	No
Idaho	No	No	No	No
Illinois	Yes	Yes	No	Spanish
Iowa	Yes	No	No	No
Kansas				
Kentucky	Yes	No	No	No
Louisiana	Yes	No	No	No
Maine	Yes	No	No	No
Massachusetts	Yes	No	No	No
Michigan	Yes	No	No	No
Mississippi	No	No	No	No
Missouri	No	No	No	No
Nebraska	Yes	Yes	No	No
Nevada	No	No	No	No
New Hampshire			Yes	No
New Jersey	Yes	No	No	No
New Mexico	Yes	No	No	No
New York	Yes	Yes	Yes	Spanish
North Dakota	Yes	Yes	No	
Ohio	Yes	No	No	
Oregon	Yes	Yes	No	
Pennsylvania	Yes	No	Yes	No
Texas	No	No	Yes	Spanish
Utah	Yes	No	No	No
Vermont	No	No	No	No
Virginia	Yes	No	No	No
Washington	No	No	No	No
West Virginia	Yes	Yes	No	No
Wisconsin	Yes	No	No	No
Wyoming	No	No	No	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Lawyer Name Disclosed in Announcements	Client Name Disclosed in Announcements	Fund Produced Public Service Announcements	Announcements in Other Languages
CANADA				
Alberta	No	No	No	No
British Columbia	No	No	No	No
Northern Territories				

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Printed Brochures /Pamphlets	Brochures/Pamphlets in Other Languages	Confidentiality Rules of Recordings & Proceedings
USA			
Alabama	Yes	No	Yes
Arizona	Yes	Spanish	Yes
Arkansas	Yes	No	No
California	Yes	Spanish, Chinese	Yes
Colorado	Yes	Spanish	Yes
Connecticut	Yes	No	Yes
Delaware	Yes	Spanish	Yes
District of Columbia	Yes	No	Yes
Florida	Yes	Spanish	Yes
Georgia	Yes	No	Yes
Idaho	No	No	Yes
Illinois	Yes	Spanish	Yes
Iowa	Yes	No	Yes
Kentucky	Yes	No	Yes
Louisiana	Yes	No	Yes
Maine	Yes	No	Yes
Massachusetts	Yes	No	Yes
Michigan	Yes	No	Yes
Mississippi	No	No	No
Missouri	No	No	No
Nebraska	No	No	No
Nevada	Yes	No	Yes
New Hampshire	Yes	No	Yes
New Jersey	Yes	No	Yes
New Mexico	Yes	No	Yes
New York	Yes	Spanish	Yes
North Dakota	No	No	Yes
Ohio	Yes	No	Yes
Oregon	Yes	Use Google Translate	Yes
Pennsylvania	Yes	No	Yes
Texas	Yes	Spanish	Yes
Utah	No	No	Yes
Vermont	No	No	Yes
Virginia	Yes	No	Yes
Washington	Yes	Spanish	Yes
West Virginia	No	No	Yes
Wisconsin	Yes	No	Yes
Wyoming	No	No	Yes
CANADA			
Alberta	No	No	Yes
British Columbia	No	No	Yes
Northern Territories			

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Fund and Claim Forms on Websites
USA	
Alabama	Yes: Bar Association Website
Arizona	Yes: Bar Association & Fund Website
Arkansas	Yes: Court Website
California	Yes: Bar Association Website
Colorado	Yes: Court Website
Connecticut	Yes: Court & Fund Website
Delaware	Yes: Court & Fund Website
District of Columbia	Yes: Bar Association & Fund Website
Florida	Yes: Bar Association Website
Georgia	No
Idaho	Yes: Bar Association Website
Illinois	Yes: Fund Website
Iowa	Yes: Bar Association & Court Website
Kentucky	Yes: Bar Association Website
Louisiana	Yes: Bar Association & Fund Website
Maine	Yes: Bar Association, Court & Fund Website
Massachusetts	Yes: Bar Association, Court & Fund Website
Michigan	Yes: Bar Association & Fund Website
Mississippi	Yes: Bar Association Website
Missouri	Yes: Bar Association Website
Nebraska	Yes: Bar Association Website
Nevada	Yes: Bar Association and Fund Website
New Hampshire	Yes: Bar Association and Court Website
New Jersey	Yes: Court and Fund Website
New Mexico	Yes: Bar Association Website
New York	Yes: Bar Association, Court and Fund Website
North Dakota	Yes: Bar Association and Court Website
Ohio	Yes: Bar Association, Court and Fund Website
Oregon	Yes: Bar Association and Fund Website
Pennsylvania	Yes: Bar Association, Court and Fund Website
Texas	Yes: Bar Association Website
Utah	Yes: Bar Association and Court Website
Vermont	Yes: Bar Association Website
Virginia	Yes: Bar Association and Fund Website
Washington	Yes: Bar Association Website
West Virginia	No
Wisconsin	Yes: Bar Association, Court and Fund Website
Wyoming	Yes: Bar Association and Court Website
CANADA	
Alberta	Yes: Fund Website
British Columbia	Yes: Bar Association and Fund Website
Northern Territories	

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Option for Completing & Submitting Claim Forms Electronically	Fund Home Page & Website
USA		
Alabama	No	No
Arizona	No	www.azbar.org/cpf
Arkansas	No	https://courts.arkansas.gov/boards-committees/client-security-fund
California	No	No
Colorado	No	http://coloradosupremecourt.com/Complaints/FAQ_CP_F.asp?m=1
Connecticut	No	http://www.jud.ct.gov/CSF/default.htm
Delaware	No	http://courts.delaware.gov/lfcf
District of Columbia	No	www.dcbar.org/csf
Florida	No	www.floridabar.org/csf
Georgia	No	No
Idaho	No	No
Illinois	Yes	www.iardc.org
Iowa	No	No
Kentucky	No	No. It is part of the KBA website http://www.Kybar.org/page/CSF
Louisiana	No	https://www.lsba.org/Public/ClientAssistance.aspx
Maine	No	http://mebaroverseers.org/complaint/about_fund.html
Massachusetts	No	HTTP://www.Mass.Gov/ClientsSecurityBoard
Michigan	Yes	https://www.michbar.org/client/protectionfund
Mississippi	No	No
Missouri	No	No
Nebraska	No	www.nebar.com
Nevada	No	https://www.nvbar.org/lawyerreferral/dispute-resolution/csf/
New Hampshire	No	
New Jersey	No	http://www.judiciary.state.nj.us/attorneys/cpf.html
New Mexico	No	http://www.nmbar.org/nmstatebar/For_Members/Client_Protection_Fund_Commission.aspx
New York	No	www.nylawfund.org
North Dakota	Yes	No
Ohio	No	www.sc.ohio.gov/BOARDS
Oregon	No	https://www.osbar.org/csf
Pennsylvania	No	www.palawfund.com
Texas	Yes	No
Utah	No	
Vermont	No	No
Virginia	Yes	http://www.vsb.org/site/public/client-protection-fund

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Option for Completing & Submitting Claim Forms Electronically	Fund Home Page & Website
USA		
Washington	No	http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Lawyers-Fund-for-Client-Protection-Board
West Virginia	No	No
Wisconsin	Yes	http://www.wisbar.org
Wyoming	No	No
CANADA		
Alberta	Yes	http://www.lawsociety.ab.ca
British Columbia	No	www.lawsociety.bc.ca
Northern Territories		

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Fund Utilize Other Forms of Social Media to Publicize If Yes, Social Media Details
USA	
Alabama	No
Arizona	No
Arkansas	No
California	No
Colorado	Yes: Newsletters, Press Releases, Facebook
Connecticut	No
Delaware	No
District of Columbia	No
Florida	No
Georgia	No
Idaho	No
Illinois	No
Iowa	No
Kentucky	No
Louisiana	No
Maine	No
Massachusetts	No
Michigan	No
Mississippi	No
Missouri	No
Nebraska	No
Nevada	Yes: State Bar Facebook page includes information about what's going on at the state bar and the services offered
New Hampshire	No
New Jersey	Yes: Twitter is used by the Fund's Director and Judiciary Public Affairs Office
New Mexico	No
New York	Yes: Facebook and Twitter
North Dakota	No
Ohio	
Oregon	No
Pennsylvania	No
Texas	Yes: Facebook
Utah	No: Because attorney discipline, death or disability are required for a claim to be valid, and we don't want to get in claims that are disputes or complaints and don't qualify as a valid claim
Vermont	No
Virginia	No
Washington	No
West Virginia	No
Wisconsin	No
Wyoming	No

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VI: PUBLIC INFORMATION

Section VI. Public Information	Fund Utilize Other Forms of Social Media to Publicize If Yes, Social Media Details
CANADA	
Alberta	Yes
British Columbia	No
Northern Territories	

SECTION VII:
Loss Prevention Programs /
Electronic Communications

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Trust Account Overdraft Notification	Trust Account Record Keeping	Certification of Compliance with Record Keeping Rules	Random Audits
USA				
Alabama	Enacted	Enacted	Never Considered	Never Considered
Arizona	Enacted	Enacted	Never Considered	Enacted
Arkansas	Enacted	Never Considered	Never Considered	Never Considered
California	Enacted	Enacted	Under Study	Under Study
Colorado	Enacted	Enacted	Enacted	Rejected
Connecticut	Enacted	Enacted	Enacted	Enacted
Delaware	Enacted	Enacted	Enacted	Enacted
District of Columbia	Enacted	Enacted	Enacted	Enacted
Florida	Enacted	Enacted	Enacted	Rejected
Georgia	Enacted	Enacted	Never Considered	Never Considered
Idaho	Enacted	Enacted	Enacted	Never Considered
Illinois	Enacted	Enacted	Never Considered	Under Study
Iowa	Enacted	Enacted	Enacted	Enacted
Kentucky	Enacted	Enacted	Never Considered	Never Considered
Louisiana	Enacted	Enacted	Never Considered	Under Study
Maine	Enacted	Enacted	Never Considered	Never Considered
Massachusetts	Rejected	Enacted	Enacted	Rejected
Michigan	Enacted	Never Considered	Never Considered	Never Considered
Mississippi	Under Study	Never Considered	Never Considered	Never Considered
Missouri	Enacted	Enacted	Enacted	Never Considered
Nebraska	Enacted	Enacted	Enacted	Enacted
Nevada	Enacted	Under Study	Under Study	Under Study
New Hampshire	Enacted	Enacted	Enacted	Enacted
New Jersey	Enacted	Enacted	Never Considered	Enacted
New Mexico	Enacted	Enacted	Enacted	Rejected
New York	Enacted	Enacted	Enacted	Never Considered
North Dakota	Enacted	Under Study	Under Study	Under Study
Ohio	Enacted	Never Considered	Never Considered	Never Considered
Oregon	Enacted	Never Considered	Never Considered	Never Considered
Pennsylvania	Enacted	Enacted	Enacted	Never Considered
Texas	Rejected	Rejected	Rejected	Rejected
Utah	Enacted	Enacted	Never Considered	Never Considered
Vermont	Enacted	Enacted	Under Study	Enacted
Virginia	Enacted	Enacted	Never Considered	Rejected
Washington	Enacted	Enacted	Enacted	Enacted
West Virginia	Enacted	Enacted	Enacted	Under Study
Wisconsin	Rejected	Enacted	Never Considered	Rejected
Wyoming	Enacted	Enacted	Enacted	Never Considered

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Trust Account Overdraft Notification	Trust Account Record Keeping	Certification of Compliance with Record Keeping Rules	Random Audits
CANADA				
Alberta	Under Study	Enacted	Enacted	Enacted
British Columbia	Enacted	Enacted	Enacted	Enacted
Northern Territories				

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Restitution as a Disciplinary Sanction	Insurance Payee Notification	Mortgage payee Notification	Mandatory Arbitration of Fee Disputes
USA				
Alabama	Enacted	Never Considered	Never Considered	Never Considered
Arizona	Enacted	Rejected	Never Considered	Never Considered
Arkansas	Enacted	Rejected	Never Considered	Never Considered
California	Enacted	Enacted	Never Considered	Enacted
Colorado	Enacted	Under Study	Rejected	Rejected
Connecticut	Enacted	Enacted	Never Considered	Never Considered
Delaware	Enacted	Enacted	Never Considered	Never Considered
District of Columbia	Enacted	Never Considered	Never Considered	Enacted
Florida	Enacted	Rejected	Never Considered	Never Considered
Georgia	Enacted	Enacted	Never Considered	Rejected
Idaho	Enacted	Never Considered	Never Considered	Rejected
Illinois	Enacted	Under Study	Never Considered	Under Study
Iowa	Enacted	Never Considered	Never Considered	Never Considered
Kentucky	Enacted	Rejected	Never Considered	Never Considered
Louisiana	Enacted	Under Study	Never Considered	Rejected
Maine	Enacted	Never Considered	Never Considered	Enacted
Massachusetts	Under Study	Enacted	Never Considered	Rejected
Michigan	Enacted	Rejected	Never Considered	Rejected
Mississippi	Never Considered	Never Considered	Never Considered	Never Considered
Missouri	Enacted	Rejected	Never Considered	Never Considered
Nebraska	Enacted	Never Considered	Never Considered	Rejected
Nevada	Enacted	Enacted	Never Considered	Under Study
New Hampshire	Never Considered	Rejected	Rejected	Rejected
New Jersey	Enacted	Enacted	Under Study	Enacted
New Mexico	Enacted	Rejected	Never Considered	Under Study
New York	Enacted	Enacted	Never Considered	Enacted
North Dakota	Enacted	Never Considered	Never Considered	Never Considered
Ohio	Enacted	Rejected	Never Considered	Enacted
Oregon	Enacted	Enacted	Never Considered	Enacted
Pennsylvania	Enacted	Never Considered	Never Considered	Never Considered
Texas	Enacted	Rejected	Rejected	Rejected
Utah	Enacted	Never Considered	Never Considered	Rejected
Vermont	Enacted	Under Study	Never Considered	Rejected
Virginia	Under Study	Enacted	Never Considered	Rejected
Washington	Enacted	Never Considered	Never Considered	Never Considered
West Virginia	Enacted	Under Study	Under Study	Under Study
Wisconsin	Enacted	Under Study	Never Considered	Rejected
Wyoming	Enacted	Never Considered	Never Considered	Enacted

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Restitution as a Disciplinary Sanction	Insurance Payee Notification	Mortgage payee Notification	Mandatory Arbitration of Fee Disputes
CANADA				
Alberta	Under Study	Never Considered	Never Considered	Never Considered
British Columbia	Never Considered	Rejected	Never Considered	Never Considered
Northern Territories				

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Voluntary Arbitration of Fee Disputes	Mediation of Client- Lawyer Disputes	Mandatory Legal Malpractice Insurance	Disclosure of Lack of Malpractice Insurance
USA				
Alabama	Never Considered	Never Considered	Never Considered	Never Considered
Arizona	Enacted	Never Considered	Rejected	Enacted
Arkansas	Never Considered	Never Considered	Never Considered	Never Considered
California	Enacted	Never Considered	Rejected	Enacted
Colorado	Enacted	Never Considered	Rejected	Enacted
Connecticut	Enacted	Never Considered	Rejected	Rejected
Delaware	Enacted	Enacted	Never Considered	Enacted
District of Columbia	Enacted	Enacted	Never Considered	Never Considered
Florida	Enacted	Enacted	Never Considered	Never Considered
Georgia	Enacted	Never Considered	Rejected	Never Considered
Idaho	Enacted	Enacted	Enacted	Enacted
Illinois	Never Considered	Never Considered	Never Considered	Enacted
Iowa	Enacted	Never Considered	Never Considered	Never Considered
Kentucky	Enacted	Enacted	Rejected	Rejected
Louisiana	Enacted	Enacted	Never Considered	Under Study
Maine	Never Considered	Never Considered	Rejected	Enacted
Massachusetts	Enacted	Never Considered	Rejected	Enacted
Michigan	Enacted	Rejected	Under Study	Enacted
Mississippi	Enacted	Enacted	Never Considered	Never Considered
Missouri	Enacted	Enacted	Never Considered	Never Considered
Nebraska	Enacted	Never Considered	Rejected	Enacted
Nevada	Enacted	Enacted	Under Study	Under Study
New Hampshire	Enacted	Enacted	Rejected	Enacted
New Jersey	Rejected	Never Considered	Rejected	Rejected
New Mexico	Enacted	Under Study	Rejected	Enacted
New York	Enacted	Enacted	Never Considered	Never Enacted
North Dakota	Under Study	Under Study	Under Study	Under Study
Ohio	Enacted	Never Considered	Never Considered	Enacted
Oregon	Enacted	Enacted	Enacted	Enacted
Pennsylvania	Enacted	Never Considered	Rejected	Enacted
Texas	Rejected	Never Considered	Rejected	Rejected
Utah	Enacted	Enacted	Rejected	Rejected
Vermont	Enacted	Enacted	Never Considered	Rejected
Virginia	Enacted	Never Considered	Rejected	Enacted
Washington	Rejected	Rejected	Under Study	Enacted
West Virginia	Enacted	Enacted	Rejected	Enacted
Wisconsin	Enacted	Never Considered	Never Considered	Never Considered
Wyoming	Enacted	Enacted	Under Study	Under Study

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Voluntary Arbitration of Fee Disputes	Mediation of Client- Lawyer Disputes	Mandatory Legal Malpractice Insurance	Disclosure of Lack of Malpractice Insurance
CANADA				
Alberta	Never Considered	Never Considered	Never Considered	Never Considered
British Columbia	Enacted	Enacted	Enacted	Never Considered
Northern Territories				

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Written Fee Agreements	If Limited to Certain Matters Please Explain	Specify Others
USA			
Alabama	Enacted	N/A	Never Considered
Arizona	Enacted	N/A	Never Considered
Arkansas	Enacted	Contingent Fee Agreements must be in writing	Never Considered
California	Enacted	Contingency fee cases/retainer over \$1000	Never Considered
Colorado	Enacted	N/A	Never Considered
Connecticut	Enacted	N/A	Never Considered
Delaware	Enacted	N/A	Never Considered
District of Columbia	Enacted	See RPC 1.5	Never Considered
Florida	Enacted	N/A	Never Considered
Georgia	Enacted	N/A	Never Considered
Idaho	Enacted	N/A	
Illinois	Enacted	N/A	Never Considered
Iowa	Enacted	Contingent fee agreements	Under Study
Kentucky	Enacted	N/A	Never Considered
Louisiana	Under Study	N/A	Never Considered
Maine	Enacted	N/A	Never Considered
Massachusetts	Enacted	N/A	Never Considered
Michigan	Enacted	N/A	Never Considered
Mississippi	Never Considered	N/A	Never Considered
Missouri	Enacted	Contingent Fee (Rule 4-1.5)	Never Considered
Nebraska	Enacted	For contingency fee cases	Never Considered
Nevada	Enacted	N/A	
New Hampshire	Enacted	Limited to contingent fee cases	
New Mexico	Enacted	N/A	
New Jersey	Enacted	Matrimonial, divorce	
New York	Enacted	N/A	
North Dakota	Under Study	N/A	
Ohio	Enacted	Contingent fee agreements only	
Oregon	Enacted	Contingent fee, non-traditional fee agreements, fees earned upon receipt	
Pennsylvania	Enacted	N/A	
Texas	Rejected	N/A	
Utah	Enacted	Contingent Fee Cases	
Vermont	Enacted	Flat fees if considered earned upon receipt	Voluntary fee mediation
Virginia	Enacted	N/A	
Washington	Enacted	Contingent fees only	
West Virginia	Enacted	N/A	
Wisconsin	Enacted	N/A	
Wyoming	Never Considered	N/A	

2014 – 2016 Survey of Lawyers' Fund for Client Protection
SECTION VII: LOSS PREVENTION PROGRAMS / ELECTRONIC COMMUNICATIONS

Section VII. Loss Prevention	Written Fee Agreements	If Limited to Certain Matters Please Explain	Specify Others
CANADA			
Alberta		Never Considered	Never Considered
British Columbia	Never Considered	Contingency Only	Never Considered
Northern Territories			

SECTION VIII:

Common Problems

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VIII: COMMON PROBLEMS

Section VIII. Common Problems	What is the Most Common Problem Experienced by Your Fund
USA	
Alabama	Limited availability of funds to pay out
Arizona	Fee disputes
Arkansas	N/A
California	Lack of funds and large volume of applications
Colorado	N/A
Connecticut	N/A
Delaware	N/A
District of Columbia	Claims submitted to the Fund for losses caused by neglect or malpractice and not dishonest conduct as described in the Fund's Rules of Procedure. Also, claimants fail to submit corroborating evidence of loss
Florida	It seems that often the disciplinary arm and the Fund are at cross purposes. Whenever possible, the lawyer regulation people try to obtain a disciplinary revocation in which there are no admissions of guilt or facts established that can be used in evaluating a claim. While that does serve the purpose of getting the "bad" lawyer out of the bar as quickly as possible, it does not aid in claim evaluation. Another issue is the Bar's inability to prevent losses by incorporating more than just the basic loss prevention measures, i.e., overdraft notification
Georgia	
Hawaii	
Idaho	Lawyers taking fees and not doing the work and not returning the fee. Usually these lawyers are also under investigation for disciplinary violations
Illinois	Unearned fee claims
Indiana	
Iowa	Distinguishing between dishonest conduct and non-compensable fee dispute
Kentucky	Restitution efforts remain the most difficult problem the Fund faces. Often times a lawyer is either missing/unreachable or the lawyer is deceased with an insolvent estate
Louisiana	Permanent funding source
Maine	Making the public aware of the Fund
Massachusetts	Lack of publicity
Michigan	Limited loss prevention measures, reimbursement recovery remains difficult, investigating immigration claims, incapacitated or deceased attorneys with insufficient trust funds, and there is a noticeable increase in the number and dollar amount misappropriated in our large claims
Mississippi	N/A
Missouri	Evaluating claims to determine amount of work performed
Nebraska	Unearned Retainers
Nevada	Lack of funding during catastrophic years
New Hampshire	Claimants' failure to understand (or accept) that the fund pays only if a lawyer steals from the claimant
New Jersey	Unearned retainer claims. New Jersey does not require fees to be placed in trust accounts when paid, even when paid for future work

2014 – 2016 Survey of Lawyers' Fund for Client Protection

SECTION VIII: COMMON PROBLEMS

Section VIII. Common Problems	What is the Most Common Problem Experienced by Your Fund
USA	
New Mexico	Most common problem is attorneys taking a retainer and doing no or very little work. The attorney subsequently either abandons practice, dies, or loses the ability to practice by suspension or disbarment, leaving the client with no work and no money
New York	Theft of Realty Escrow
North Dakota	Time involved in completion of disciplinary investigation and process
Ohio	Unearned Fee Claims vs. Fee Disputes
Oregon	Communication with incarcerated claimants
Pennsylvania	Conversion by attorneys acting as trustee for a trust created by the attorney
Texas	Lawyers overdrawing trust accounts
Utah	One side of the story (if attorney does not attend)
Vermont	Misappropriation of client funds
Virginia	
Washington	Length of time to make decisions on applications
West Virginia	Lack of staff to investigate claims
Wisconsin	
Wyoming	Funding
CANADA	
Alberta	Refer to the LSA website - Trust Safety Program
British Columbia	Theft of funds taken as a retainer or for disbursements, with no work done or disbursements incurred
Northern Territories	

Default Question Block

**American Bar Association
Center for Professional Responsibility
Standing Committee on Client Protection
Survey of Lawyers' Funds for Client Protection: 2014-2016**

Please complete this questionnaire by **Friday, March 3, 2017**. If you have any questions while filling it out, please contact Selina S. Thomas, Client Protection Counsel, (312) 988-6721 or Selina.thomas@americanbar.org.

If a question is not applicable to your jurisdiction, please respond with "N/A". Please use the response "unknown" where the information requested is unavailable. Use "0" only to indicate a zero numerical amount.

Thank you for participating in the survey. We appreciate your feedback.

Click the button to start the survey.

Please provide contact information.

Jurisdiction:	<input type="text"/>
Title & Name of Fund Administrator:	<input type="text"/>
Address:	<input type="text"/>
Telephone:	<input type="text"/>
Email:	<input type="text"/>
Survey Completed by:	<input type="text"/>
Email:	<input type="text"/>

Please answer as of January 1, 2017

Number of lawyers currently admitted, resident and nonresident, with active licenses:

Does your jurisdiction have a unified bar?

☐ Yes

☐ No

Part I: Fund Administration

Please indicate the year in which the Fund, in its current form, was created or established. Please do not indicate the year in which a prior, now defunct or substantially changed fund was created.

Name of Fund:	<input type="text"/>
Year Established:	<input type="text"/>

Attachment E

Entity that created the Fund:

- *The ultimate body with authority to create or disband the Fund.*

- ☐ Bar Association
- ☐ Court
- ☐ Legislature

Entity with supervisory authority over your Fund:

- *The body that may change the operating rules and regulations of the Fund and that may not have the ultimate authority to disband the Fund.*

- ☐ Bar Association
- ☐ Highest Court
- ☐ Other (identify)

Entity that administers Fund:

- *The body that operates the Fund on a day-to-day basis. It may or may not have the authority to change the rules and regulations of the Fund.*

- ☐ Bar Committee
- ☐ Board of Trustees
- ☐ Other (identify)

Number of Board/Committee Members:

Lawyer:

Nonlawyer:

Frequency of Meetings:

- ☐ Annually
- ☐ Bi-Annually
- ☐ Monthly
- ☐ Quarterly
- ☐ Other

Number of staff positions:

	Full-Time	Part-Time
Lawyers		
Nonlawyers		

Attachment E

Does your Fund have immunity?

- *Immunity: The trustees, staff and agents of the Fund shall be immune from suit for any conduct in the course of their official duties.*

☐ Yes

☐ No

Mark "x" to all that Immunity apply.

	Absolute	Qualified	Other (identify)
Agents:			
Staff:			
Trustees:			

Part II: Fund Finances

Principal source of funding:

- *Lawyer Assessment: A separate, specified and identified amount of money charged to lawyers that is **not** part of the budget allocation of any other entity. An assessment may be collected along with other licensing fees or bar dues.*
- *Budget Appropriation: The Fund's allocation is part of the budget of a larger entity and is not assessed separate from the entity.*

☐ Budget Appropriation

☐ Lawyer Assessment

☐ Voluntary Contributions

☐ Other

How frequently are lawyers assessed for the Fund?

☐ Annually

☐ Bi-Annually

☐ Other (identify)

If the lawyer assessment is collected more or less often than annually, please calculate the annualized assessment and indicate that amount.

If your Fund is financed by lawyer assessment, what is the individual lawyer assessment on an annualized basis?

Is this collected as part of another assessment?

☐ Yes

☐ No

Attachment E

If yes, what other assessments are collected at that time?

Who collects the assessment?

- ☐ Bar Association
- ☐ Court
- ☐ Other (specify) _____

What is the dollar amount of the other assessments on an annualized basis?

What is the sanction for those who fail to pay?

Which of the following, if any, are exempt from paying the assessment?

	Yes	No
Government	<input type="radio"/>	<input type="radio"/>
Inactive	<input type="radio"/>	<input type="radio"/>
Judicial	<input type="radio"/>	<input type="radio"/>
Retired	<input type="radio"/>	<input type="radio"/>
Other (please identify)	<input type="radio"/>	<input type="radio"/>

Does your Fund have a payment cap per claimant?

- ☐ Yes
- ☐ No

What is the current cumulative limit?

Does your Fund have a payment cap per lawyer?

- ☐ Yes
- ☐ No

Attachment E

What is the current cumulative limit?

Does your Fund have a special limit for a specific kind of loss, such as unearned retainers?

☐ Yes

☐ No

For each type of loss, indicate the limit:

Does your Fund reimburse claimants for consequential damages? (e.g., costs of a lawsuit, interest, penalty fees, attorneys fees, etc.)

☐ Yes

☐ No

If yes, please identify:

Please complete for the following reporting years ending in:

	2014	2015	2016
Revenues from assessments:			
Revenues from appropriations:			
Revenues from investments:			
Revenues from restitution and subrogation:			
Revenues from gifts			
Miscellaneous revenues (please describe source)			
Total dollar amount of awards paid:			
Personnel services:			
Rent:			
Miscellaneous administrative costs:			
Total administrative costs			
Miscellaneous disbursements:			
Ending balance in fund:			

Attachment E

Must claims be paid if they meet rule requirements?

- ☐ Yes
- ☐ No
- ☐ Trustee discretion govern

Does Fund require that claimant was a client of lawyer?

- ☐ Yes
- ☐ No

If not, in what other capacities would the claimant have standing?

Are there any claimants or types of claims your Fund will not compensate? (e.g., family members, corporations, etc.)

- ☐ Yes
- ☐ No

If yes, please list or describe:

Is your Fund covered by any of the following:

	Yes	No	Amount Premium
Fidelity Bond			
Insurance			
Reinsurance			

Part III: Fund Claim Experiences

Attachment E

Please complete for the following reporting years ending in:

	2014	2015	2016
Number of claims pending at the beginning of the year:			
Number of new claims received:			
Number of claims approved:			
Number of lawyers involved in claims approved:			
Number of claims pending at the end of the year:			
Total amount of reimbursement requested in new claims received:			
Total amount of awards approved during the year:			

The total should equal the "number of claims disapproved" in each year.

	2014	2015	2016
Total number of claims disapproved:			
Outside statute of limitations:			
Fee dispute:			
Not compensable:			
Other:			

How many otherwise compensable claims were not paid, or paid in full, because of:

	Payment limitations (per claimant, aggregate, annual, etc.)		Fund's lack of money (or inability or unwillingness to spend it)		Other claims not paid:	
	Number of claims affected:	Amount of \$ not paid:	Number of claims affected:	Amount of \$ not paid:	Number of claims affected:	Amount of \$ not paid:
2014						
2015						
2016						

Part IV: Fund Loss Experience

Number of claims which involve the following approved during the reporting year ending in:

	2014	2015	2016
Unearned legal fees:			
Investments and loans with lawyers:			
Real Estate Mortgage theft:			
Other (specify):			

Attachment E

Number of claims for the following:

- *Theft/Conversion: Claims alleging theft other than estate property or of investments with lawyers.*

Please note the total should equal the number of claims received each year for "Theft/Conversion".

	2014	2015	2016
Total theft/conversion:			
Insurance proceeds:			
Trusts/Conservatorships:			
Escrow:			
Other:			

Total dollar amount of awards which involve the following approved during the reporting year ending in:

	2014	2015	2016
Unearned legal fees:			
Investments and loans with lawyers:			
Real Estate Mortgage theft:			
Other (specify):			

Total dollar amount of awards.

- *Theft/Conversion: Claims alleging theft other than estate property or of investments with lawyers.*

Please note the total should equal the total dollar amount of awards received each year for "Theft/Conversion".

	2014	2015	2016
Total theft/conversion:			
Insurance proceeds:			
Trust/Conservatorships:			
Escrow:			
Other:			

Part V: Fund Claim Procedures

Does the Fund use a standard claim form/application?

☐ Yes

☐ No

Is the claim form available in languages other than English?

☐ Yes

☐ No

Attachment E

If yes, what languages?

Is information provided to the Fund by your jurisdiction's lawyer disciplinary agency? (e.g., provides reports of investigations and records of formal proceedings)

☐ Yes

☐ No

If yes, please explain:

Does the lawyer disciplinary agency notify complainants about the existence of the Fund?

☐ Yes

☐ No

Is the Fund informed by the lawyer disciplinary agency of disciplinary actions that may have an impact on the Fund? (i.e., order of restitution, lawyers' reinstatement request)

☐ Yes

☐ No

Does your Fund usually require claimants to pursue civil litigation, a disciplinary complaint or criminal charges against the lawyer who is accused of dishonest conduct as a prerequisite to recovery from Fund?

	Yes	No
Civil Litigation:	<input type="radio"/>	<input type="radio"/>
Criminal charges:	<input type="radio"/>	<input type="radio"/>
Disciplinary complaint:	<input type="radio"/>	<input type="radio"/>

Is disciplinary action against the lawyer required before awards are made to the lawyer's claimants?

☐ Yes

☐ No

Does the Fund hold hearings for claimants and lawyers accused of dishonest conduct?

☐ Yes

☐ No

☐ Sometimes

☐ Both must attend

☐ Written submissions only

☐ Other

Attachment E

How often are hearings held?

What is the average time, in months, required to fully process a claim with the Fund?
(From the date it would be eligible for payment/consideration to final payment or denial)

Do the Fund rules provide for rehearing or reconsideration of a claim determination?

☐ Yes

☐ No

If yes, what body conducts hearing?

If yes, who may request a rehearing or reconsideration?

☐ Claimant

☐ Lawyer

☐ Both

Does your Fund, by rule or otherwise, allow appeal of a claim determination to court?

☐ Yes

☐ No

If yes, who may request appeal of a claim determination to the court?

☐ By Claimant

☐ By Lawyer

☐ Both

By what authority (statute, court rule, fund rule)?

In the past three years, has a claimant or a lawyer ever sought judicial review of a claim determination made by the Fund?

☐ Yes

☐ No

Attachment E

If yes, please provide the Case Name, Citation, or Number and Court:

Part VI: Public Information

Does the Fund publish an Annual Report?

☐ Yes

☐ No

Annual Report:

To whom is the Annual Report sent?

If available online, please provide the address (URL):

Awards from the Fund:

	Yes	No
Are awards from the Fund announced publicly?	<input type="radio"/>	<input type="radio"/>
Is lawyer's name disclosed?	<input type="radio"/>	<input type="radio"/>
Is client's name disclosed?	<input type="radio"/>	<input type="radio"/>

If no public announcement is made for awards from the Fund, why not?

Has the Fund produced public service announcements?

☐ Yes

☐ No

Has the Fund produced printed brochures or pamphlets about the Fund and its procedures?

☐ Yes

☐ No

Do announcements appear in languages other than English?

☐ Yes

☐ No

Attachment E

Are brochures or pamphlets offered in languages other than English?

☐ Yes

☐ No

If so, what languages?

If so, what languages?

Does your Fund have rules with respect to the confidentiality of its records and proceedings?

☐ Yes

☐ No

Is there information about the Fund and claim forms available on websites:

	Yes	No
Bar Association Website	<input type="radio"/>	<input type="radio"/>
Court Website	<input type="radio"/>	<input type="radio"/>
Fund Website	<input type="radio"/>	<input type="radio"/>

Does the Fund provide an option for completing and submitting claim forms electronically?

☐ Yes

☐ No

Does the Fund have a Home Page? If yes, please provide the address (URL):

Does the Fund utilize other forms of social media to publicize the Fund (i.e. Facebook, Twitter, LinkedIn)? If so, please provide details:

Part VII: Loss Prevention Programs

Attachment E

Please indicate the status of loss prevention programs in your jurisdiction. Check all that apply.

	Enacted	Rejected	Under Study	Never Considered
Trust account overdraft notification:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trust account record keeping rules:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Certification of compliance with record keeping rules	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Random audits:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Restitution as a disciplinary sanction:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Insurance payee notification:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mortgage payee notification:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mandatory arbitration of fee disputes:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Voluntary arbitration of fee disputes:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mediation of client-lawyer disputes:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mandatory legal malpractice insurance:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disclosure of lack of malpractice insurance:	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Written fee agreements (If limited to certain matters, please specify):	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Others (identify):	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Part VIII: Comments and Additional Information

What is the most common problem experienced by your Fund?

Please attach a copy of your rules for the Lawyers' Fund for Client Protection, Rules of Procedure for the Fund, and any pamphlets or brochures.

Please limit your files to 2.0MB

We appreciate your cooperation in helping us collect this vital data. Your timely responses are greatly appreciated.

Any suggestions for future modifications of the Survey are encouraged and welcomed.

Attachment E

Questions about the Survey should be addressed to:

Selina S. Thomas, Client Protection Counsel
ABA Center for Professional Responsibility
321 North Clark Street, 17th Floor
Chicago, Illinois 60654
(312) 988-6721 or Selina.Thomas@americanbar.org