

In the rare event that an attorney misappropriates client funds, leaving him or her without recourse, the Clients' Security Fund can help. Drawing from a fund supported by the State Bar of Nevada, clients may be eligible for reimbursement of up to \$50,000. This report outlines the Clients' Security Fund Committee's efforts to make clients whole and in so doing, promote the honor and integrity of the profession.



Clients' Security Fund Annual Report

2011



**Clients' Security
Fund Committee
Members**

John Shook
Chair

Edwin A. Keller
Vice-Chair

Ross Goodman
Nathalie Gottschalk
Jon S. Greene
Harvey Gruber
Jennifer Henry
Vernon (Gene) Leverty
Janet Pancoast
Jeffrey S. Posin
Carl B. Weller
W. Chris Wicker

**Clients' Security
Fund Staff**

Lisa McGrane
*Client Protection
Manager*

Cathi Britz
*Client Protection
Coordinator*

Fund Establishment

The State Bar of Nevada's Clients' Security Fund (Fund) was established in 1970 to reimburse clients for losses sustained when a lawyer betrays a client's trust and misappropriates the client's funds through defalcation or other dishonest acts. As such, the Fund helps the State Bar of Nevada to fulfill several of the Bar's enumerated purposes, including: improving the administration of justice; upholding the honor, integrity, professionalism and dignity of the profession of law; applying its knowledge and experience in the field of law to the promotion of the public good; enhancing the professional competence and ethical conduct of members of the Bar; and seeking fulfillment of the obligations of the legal profession in the courts and in the community.

To some, the Clients' Security Fund can be seen as the Bar's single most public relations function for the State Bar. It provides a source of recovery for those members of the public who have suffered a loss at the hands of dishonest State Bar licensees.

Supreme Court Rule 86.5

"The board of governors may establish, from dues paid by members of the state bar, voluntary contributions and any other sources which may become available, a clients' security fund for the purpose of providing reimbursement, in whole or in part, as a matter of grace and not of right, to persons who have sustained loss by reason of a dishonest act of a member of the state bar, acting in his capacity as an attorney and counselor at law, in the nature of defalcation or embezzlement of money or the wrongful taking or conversion of money, property or other things of value, and may provide for the administration and termination of such fund. The board of governors is authorized to invest such funds as is provided for in paragraph 11 of Rule 86."

Clients' Security Fund 2011 Annual Report

Fund Overview

In order to qualify for reimbursement from the Clients' Security Fund, there must be an alleged act of theft which occurred within an attorney-client relationship and which involves an attorney no longer practicing due to suspension, disbarment, death or incapacitation. In 2011, the Clients' Security Fund Committee investigated 156 such claims¹ and approved 104 of them for reimbursement totaling \$190,488.28.

The Clients' Security Fund Committee is comprised of 12 members, including two lay members, who investigate claims and meet twice a year to determine whether reimbursement to the client can be made. Approved claims may be reimbursed up to \$50,000 per claimant.

This year, as in previous years, the Clients' Security Fund Committee has had to adjust for a large fluctuation in claims filed and amounts approved.



As demonstrated by the two charts on the left, the amounts approved by the Committee vary greatly year to year, while the overall revenue into the Fund remains consistent. Additionally, the number of claims filed each year swing from fewer than 50 to more than 150.

In past years, this fluctuation often forced the Committee to pro rate reimbursements for pennies on the dollar. To address this problem, the Committee established a reserve account this year that will be used in years in which there is insufficient revenue to support approved claims. The reserve includes a one-time donation from the Lawyer Referral & Information Service Committee and excess revenue from previous Fund balances. Eventually, the Committee would like to build a reserve large enough to pay claims without the \$50,000 cap.

¹ Includes claims filed, but not resolved in previous years.

Clients' Security Fund 2011 Annual Report

Funding

The Clients' Security Fund receives its primary revenue through a portion of every licensed attorney's annual dues (\$25). Last year, the Fund was able to successfully amend SCR 42 to increase pro hac vice licensing fees to \$550 and double the total amount of money dedicated to the Fund from \$50 to \$100 per pro hac vice application. Other secondary sources of revenue come through donations to the Fund and restitution from attorneys on whose behalf claims have been paid.

This year, the Fund established a reserve account with a goal to eventually eliminate caps on claims and fully reimburse clients. The Fund received a one-time \$46,000 donation from the Lawyer Referral and Information Service (LRIS) Committee to begin the reserve. The Committee also established a policy to roll over any unused revenue from previous years to continue to build the reserve account.

Revenue & Expenditures ²	
Funding	Amount
2011 Annual Dues	\$195,525
2011 Pro Hac Vice Fees	\$78,000
Restitution	\$2,100
Donations	\$6,595.25
TOTAL:	\$282,220.25
Reimbursements	Amount
2011 Claims Paid ³	(\$176,773.72)

The Fund has worked with the Clark County District Attorney's Office to pursue restitution to the Fund in cases where criminal action is taken against an attorney for theft. Revenue from this effort is expected to be realized in the next year.

Reserve Fund	
Funding	Amount
LRIS Donation	\$46,000
2010 Balance Carryover	\$41,879.56
2011 Balance Carryover	\$105,446.53
TOTAL:	\$193,326.09

The Fund also participated in ongoing negotiations with the US Trustee's Office and suspended attorney Jorge Sanchez and appeared in Federal Bankruptcy Court to ensure timely reimbursement to 49 victims and preservation of frozen funds for use by the Fund.

² 100% of all Fund expenditures are related to claim reimbursement. Committee and staff overhead, salaries, etc. are supported through the State Bar of Nevada.

³ Represents total reimbursements made after receiving subrogation agreements, not total amount approved (\$190,488.28). Claimants have up to one year after approval to return subrogation agreements.

Clients' Security Fund 2011 Annual Report

Approved Claims

Last year, the Clients' Security Fund approved 104 claims for reimbursement. The vast majority of approved claims – 78 – were related to the dishonest actions of just two attorneys. Although the total number of claimants was much higher than in years past, overall reimbursement rates were comparatively low. This is largely attributed to the smaller dollar amounts in question and to the help of several attorneys who volunteered to take on these clients *pro bono* or at reduced rates.

2011 Approved Claims			
Attorney Name	Status	Awards	Awarded
Steven Altig	Active ⁴	1	\$1,250
Stephen C. Amesbury	Deceased	2	\$2,365
Troy Baker	Disbarred	3	\$39,895.59
Anthony Blackwell	Active ⁵	1	\$500
Edmund Botha	Suspended	1	\$13,714.56
Douglas H. Clark	Discipline/CLE Suspended	1	\$1,550
Jeffrey Heath	CLE Suspended	7	\$6,102
Miguel Galvez	Deceased	29	\$23,443
Alex B. Ghibaudo	Discipline/CLE Suspended	1	\$500
James Jensen	Dues/Admin Suspended	1	\$900
Valner Johnson	Disbarred	2	\$6,500
Joshua Landish	Deceased	1	\$2,500
Carl Lovell	Deceased	1	\$13,500
Manuel Montelongo	Disbarred	1	\$3,685
Gerald Phillips	Deceased	1	\$3,000
Jorge Sanchez	Suspended	49	\$68,787.53
Philip Singer	Discipline/CLE Suspended	1	\$795.60
Dani Stephens	Deceased	1	\$1,500
Total:			\$190,488.28

*"Thank you for all your help."
- Former Jorge Sanchez client*

⁴ Steven Altig's licensed was suspended at the time the claim was received.

⁵ Anthony Blackwell's licensed was CLE Suspended at the time the claim was received and reimbursement made.

2011 Claim Breakdown

The Clients' Security Fund received 82 claims this year, most related to just two attorneys whose practices focused primarily on bankruptcy law and home loan modification representation. The majority of these attorneys' clients were primarily Spanish-speaking and required ongoing representation following the suspension of one attorney and the death of the other.

These clients received a great deal of assistance from private practitioners in the community and organizations such as Legal Aid of Southern Nevada who volunteered to take on their cases *pro bono* or at reduced rates. The assistance received from these attorneys benefitted the Fund greatly as the Committee was able to take into account the value of the services received from other providers when considering final reimbursement.

Year	Claims Received	Attorneys Involved
2008	48	15
2009	88	18
2010	162	23
2011	82	18

In 2010, the Clients' Security Fund received a record number of claims – 162. Of those filed in 2010, the Committee placed 86 claims related to attorney Jorge Sanchez on hold pending negotiations with the US Trustee's Office. The Committee received approval to proceed with those claims this year and resolved all but seven of them.

The Committee received an additional 82 claims in 2011. The chart below demonstrates the Committee's work in resolving 58 of them, leaving only 24 pending claims for consideration in 2012.

