

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

2012



**Clients' Security
Fund Committee
Members**

Janet Pancoast
Chair

Jeffrey S. Posin
Vice-Chair

Harvey Gruber
Eva G. Cisneros
Jon S. Greene
Vernon (Gene) Leverty
Dean Gould
Ann McDermott
Carl B. Weller
Catherine Reichenberg
Miriam Rodriguez
Jason Stoffel

**Clients' Security
Fund Staff**

Lisa McGrane
Program Director

Theresa Freeman
*Client Protection
Manager*

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(1)

"Establishment. The board of governors shall maintain, 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 shall provide for the administration of such fund. The board of governors is authorized to invest such funds as is provided for in paragraph 11 of Rule 86."

Fund Overview

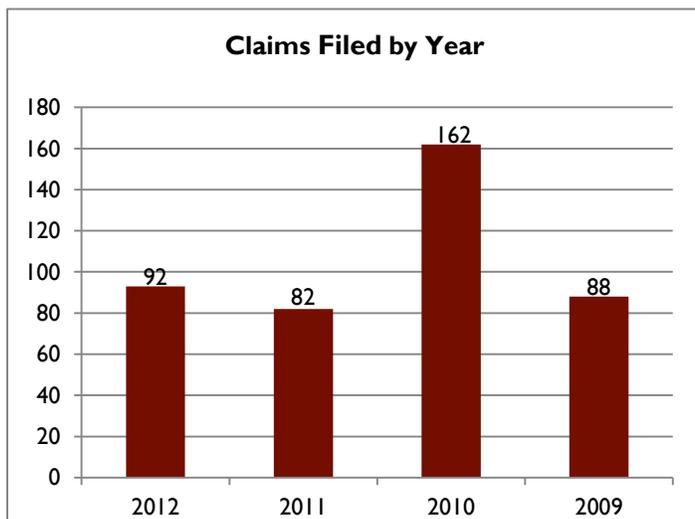
The Clients' Security Fund Committee is comprised of 12 members, including two lay members, who investigate claims. The Committee meets twice a year to discuss claims and determine whether reimbursement can be made to the clients. Approved claims may be reimbursed up to \$50,000 per claimant.

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 that involves an attorney no longer practicing due to suspension, disbarment, death or incapacitation. In 2012, the Clients' Security Fund Committee investigated 95 such claims¹ and approved 68 of them for reimbursement totaling \$364,330.94.



As demonstrated by the two charts on the left, the amounts approved by the Committee vary 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 in 2011 that will be used in years which there is insufficient revenue to support approved claims. It is the Committee's goal to build a reserve account large enough to pay approved claims in full every year without pro rating or capping claims and to cover claims in the event of a catastrophic claims year, when reimbursements approved by the Clients' Security Fund Committee exceed the funds available.



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

Clients' Security Fund 2012 Annual Report

Funding

The Clients' Security Fund receives its revenue primarily through four sources: 1) a dedicated portion of every licensed attorney's annual dues; 2) a portion of SCR 42 pro hac vice application and licensing fees; 3) donations to the Fund; and 4) restitution from attorneys on whose behalf claims have been paid.

Additionally, the Fund continues to work 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. The Fund is also working with the Office of Bar Counsel to seek reimbursement to the Fund from suspended or

disbarred attorneys as a condition of their reinstatement. Restitution to the Fund has increased from \$2,100 in 2011 to \$18,570 in 2012 as a result of these efforts.

The Fund is currently working on a Reserve Fund Policy to build the reserve account to ensure the stability of the Fund in the event of a catastrophic claims year. The Reserve Fund Policy will designate a sufficient amount to be held in the Reserve Fund and specify fund sources and use(s) of the Reserve Fund.

Revenue & Expenditures ²	
Funding	Amount
2012 Annual Dues	\$197,400
2012 Pro Hac Vice Fees	\$100,950
2012 Restitution	\$18,570
2012 Donations	\$ 6,070.86
TOTAL:	\$322,990.86
Reimbursements	Amount
2012 Claims Paid ³	(\$272,111.56)

Reserve Fund	
Funding	Amount
LRIS Donation	\$46,000
2010 Balance Carryover	\$41,879.56
2011 Balance Carryover	\$91,731.97
2012 Balance Carryover	\$50,879.30 ⁴
TOTAL:	\$230,490.83

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 (\$364,330.94). Claimants have up to one year after approval to return subrogation agreements.

⁴ Committee approved claims #12-037 and 12-057 on November 9, 2012, for \$300 and \$2,000 respectively. Claimants have one year to return subrogation agreement or forfeit reimbursement. Balance carryover subject to change if subrogation agreements are received.

**Clients' Security Fund
2012 Annual Report**

Approved Claims

Last year, the Clients' Security Fund approved 68 claims for reimbursement. The vast majority of approved claims – 51 – were related to just three attorneys.

2012 Approved Claims			
Attorney Name	Status	Awards	Awarded
David C. Amesbury	Deceased	3	\$31,895.88
Anthony J. Blackwell	Fee Suspended	2	\$5,290.00
Edmund C. Botha	Discipline Suspended	1	\$480.00
Jeffrey B. Ferguson	Disability Inactive	1	\$10,572.86
John C. Fernandez	Active ⁵	1	\$2,500.00
Brian M. Fisher	Deceased	1	\$1,500.00
George Foley Sr.	Deceased	1	\$1,500.00
Miguel Galvez Jr.	Deceased	9	\$11,646.00
Alex B. Ghibaudo	Discipline/CLE Suspended	1	\$25.00
Carl E. Lovell Jr.	Deceased	1	\$28,750.00
Gary L. Myers	Discipline Suspended	1	\$89,919.38
Ihab T. Omar	Deceased	35	\$168,012.82
Jorge L. Sanchez	Discipline/CLE Suspended	7	\$6,650.00
John H. Sarb	Admin/CLE ⁶ Suspended	3	\$3,589.00
Philip Singer	Disbarred	1	\$2,000.00
Total:			\$364,330.94

⁵ Fernandez was CLE Suspended at the time this claim was made. Due to a policy change after this claim was submitted, CSF no longer accepts claims on Admin/CLE Suspended attorneys. Additionally, CSF is looking for ways to seek restitution to the Fund for claims paid out on behalf of attorneys who were Admin/CLE suspended at the time a claim was submitted but have returned to active status.

⁶ Sarb is currently still Admin/ CLE Suspended. His claim was accepted prior to the policy change. If he seeks active status in the future, CSF will seek restitution.

Clients' Security Fund 2012 Annual Report

2012 Claim Breakdown

The Clients' Security Fund received 92 claims this year. Sixty-six (66) of those claims were related to just two attorneys – one attorney's practice focused primarily on bankruptcy law and home loan modifications with the majority of the clients being primarily Spanish-speaking; and one attorney's practice covered mainly bankruptcy and personal injury cases.

Year	Claims Received	Attorneys Involved
2009	88	18
2010	162	23
2011	82	18
2012	92	16

Of the 92 claims received last year, the Committee approved 46 of them and denied 15, leaving 31 pending claims for consideration in 2013 as demonstrated by the chart below.

