

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

2013



### Clients' Security Fund Committee Members

Janet Pancoast  
*Chair*  
Jeffrey S. Posin  
*Vice-Chair*

Harvey Gruber  
Eva G. Cisneros  
Dean Gould  
Ann McDermott  
Carl B. Weller  
Catherine Reichenberg  
Miriam Rodriguez  
Jason Stoffel  
Courtney Leverty  
Clifton Usher

### Clients' Security Fund Staff

Lisa Dreitzer  
*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."*

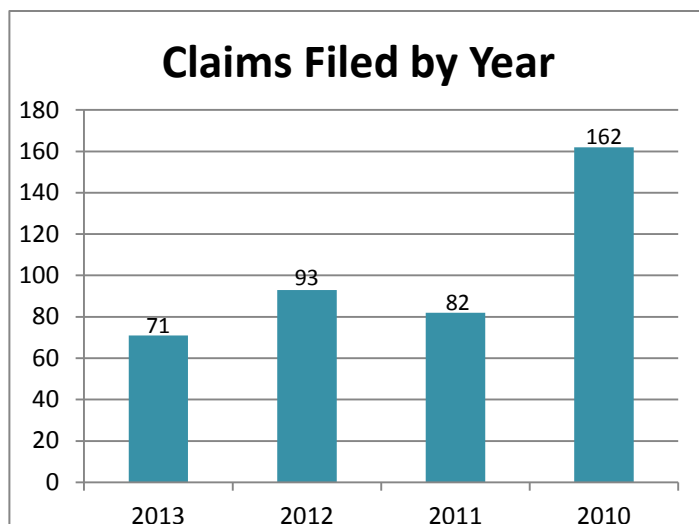
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## Fund Overview

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 2013, the Clients' Security Fund Committee reviewed 77 such claims<sup>1</sup> and approved 59 of them for reimbursement.

As demonstrated by the two charts below, the number of claims filed each year and the amounts approved by the Committee vary from year to year. This fluctuation can create years where there is not enough money in the Fund to pay all approved claims in full. During those years, the Committee is sometimes forced to pro-rate claims. This year was exceptional in that the Fund received the lowest number of claims in the past four years, yet almost doubled its highest prior claim approval amount. This was largely due to the actions of a single attorney whose approved claims totaled over \$330,000.



<sup>1</sup> Includes claims filed, but not resolved in previous years.

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## 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. As a result of these efforts, restitution to the Fund has continued to increase from \$2,100 in 2011, to \$18,570 in 2012, to \$62,470 in 2013.

In 2011, the Committee had established a reserve account to help during years which there is insufficient revenue to support approved claims, and in 2013, the Committee implemented a Fund Reserve Policy. The Fund Reserve Policy dictates that the Committee maintains 50% of the total reserve fund balance each year. This policy helps to insure the stability of the Fund in the case of a catastrophic claims year.

In 2013, the Committee experienced just such a catastrophic claims year. They approved 59 claims totaling \$774,232.50. With a per claim cap of \$50,000, the overall approved reimbursements for 2013 were reduced to \$592,595.62. However, the Fund's total at the end of the year was only \$334,969.60, leaving a shortfall of \$257,626.02. With the implementation of the Fund Reserve Policy, the Committee was allowed to use 50% of the reserve funds to help reduce this shortfall. This allowed for all claims to be paid in full up to \$3,000, and all remaining approved claim amounts to be paid at 70%.

Revenue & Expenditures <sup>2</sup>	
Funding	Amount
2013 Annual Dues	\$194,750.00
2013 Pro Hac Vice Fees	\$75,300.00
2013 Restitution	\$62,470.00
2013 Donations	\$ 2,449.60
<b>TOTAL:</b>	<b>\$334,969.60</b>
Reimbursements	Amount
2013 Claims Paid <sup>3</sup>	(\$446,667.18)

Reserve Fund	
Funding	Amount
LRIS Donation	\$66,000.00
2010 Balance Carryover	\$41,879.56
2011 Balance Carryover	\$91,731.97
2012 Balance Carryover	\$50,579.30
<b>TOTAL:</b>	<b>\$250,190.83</b>

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

<sup>3</sup> Represents total reimbursements made after receiving subrogation agreements, not total amount approved (\$774,232.50). Claimants have up to one year after approval to return subrogation agreements.

**Clients' Security Fund  
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**Approved Claims**

Last year, the Clients' Security Fund approved 59 claims for reimbursement. The vast majority of approved claims – 45 – were related to just two attorneys.

<b>2013 Approved Claims</b>			
Attorney Name	Status	Awards	Awarded
Anthony J. Blackwell	Fee Suspended	2	\$6,370.00
Barry Levinson	Discipline Suspended	35	\$331,912.74
Jeffrey B. Ferguson	Disability Inactive	2	\$55,761.25
Gary L. Myers	Discipline Suspended	1	\$2,288.39
Brian M. Fisher	Deceased	1	\$1,500.00
Ramon L. Dy-Ragos	Discipline/CLE Suspended	1	\$12,100.00
Miguel Galvez Jr.	Deceased	2	\$1,500.00
Ihab T. Omar	Deceased	10	\$24,901.46
Jorge L. Sanchez	Discipline/CLE Suspended	1	\$1,500.00
Rona-Kaye T. Tuitele	Deceased	1	\$3000.00
Robert J. Kossack	Discipline Suspended	2	\$5,833.34
		<b>Total:</b>	<b>\$446,667.18</b>

# Clients' Security Fund 2013 Annual Report

## 2013 Claim Breakdown

The Clients' Security Fund received 71 claims in 2013. Thirty-nine (39) of those claims were related to just one attorney. Those claims were mainly personal injury cases where the attorney misappropriated clients' settlement funds.

Year	Claims Received	Attorneys Involved
2010	162	23
2011	82	18
2012	92	16
2013	71	20

Of the 71 claims received in 2013, the Committee approved 33 of them and denied 7, leaving 31 pending claims for consideration in 2014 as demonstrated by the chart below.

