

Washington State Bar Association



"On behalf of the lawyers of the State of Washington . . ."

LAWYERS' FUND FOR CLIENT PROTECTION

2003 ANNUAL REPORT

September, 2003

Washington State Bar Association
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“There is established the Lawyer's Fund for Client Protection (Fund). The Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any client by reason of the dishonesty of, or failure to account for money or property entrusted to, any member of the WSBA in connection with the member's practice of law, or while acting as a fiduciary in a matter related to the member's practice of law. The Fund may also be used to relieve or mitigate like loss sustained by persons by reason of similar acts of an individual who was at one time a member of the WSBA but who was, at the time of the act complained of, under a court ordered suspension.”

Admission to Practice Rule 15

**Washington State Bar Association
LAWYERS' FUND FOR CLIENT PROTECTION
2002 - 2003**

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I. HISTORY AND ESTABLISHMENT OF THE LAWYERS' FUND FOR CLIENT PROTECTION

The Lawyers' Fund for Client Protection (Fund) was established by the Washington Supreme Court in 1994 at the request of the Washington State Bar Association (WSBA) by the adoption of Rule 15 of the Admission to Practice Rules (APR). Prior to the adoption of that rule, the WSBA had voluntarily maintained a clients' security or indemnity fund since 1960.

Every state in the United States but one, as well as Canada, Australia, New Zealand, and other countries, maintains such funds. Although common to the legal profession, similar protection funds are unknown in most other professions and callings.

It is a familiar adage that lawyers are privileged to be a self-regulating profession. Only lawyers have the power to decide who may enter the legal profession, who should be disciplined for misconduct, and who should be suspended or disbarred. Unlike members of other trades and professions, such as doctors, accountants, architects, or hairdressers, the Legislature and the Department of Licensing have no control over lawyers' professional activities. The Supreme Court has the exclusive power to regulate the legal profession, and the bar association serves as an arm of the Supreme Court in carrying out those functions. But with that privilege goes the responsibility of protecting the public.

Since the inception of an "indemnity fund" in 1960, the lawyers of the State of Washington have given more than \$2,000,000 to the victims of the few dishonest lawyers in this state. No public funds have been involved; these gifts are financed solely by payments from lawyers. Under Admission to Practice Rule 15, the Fund is maintained by a \$13 annual assessment on each of the approximate 24,000 active members of the Bar licensed in Washington. The chart on the following page shows the experience of the past 16 years as the active bar membership has increased from approximately 14,000 in 1988 to 24,000 in 2003.

YEAR	# APPLICATIONS	# APPROVED	AMOUNT PAID
1988	39	19	\$28,494
1989	41	13	\$51,748
1990	30	15	\$35,920
1991	27	12	\$34,609
1992	23	18	\$87,751
1993	29	22	\$100,000
1994	36	23	\$99,902
1995	21	13	\$39,623
1996	42	13	\$134,153
1997	43	17	\$282,629
1998	43	22	\$193,000
1999	95	59	\$132,856
2000	85	41	\$124,012
2001	62	46	\$207,709
2002	69	47	\$247,536
2003	117	51	\$125,913

II. FUND PROCEDURES

The Fund is administered pursuant to APR 15 (Appendix A) and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court (Appendix B).

Administration: The Lawyers' Fund is managed by Trustees comprised of the members of the Board of Governors of the WSBA. The Trustees appoint and oversee the Lawyers' Fund for Client Protection Committee comprised of eleven lawyers and two non-lawyers who administer the Fund. The WSBA General Counsel acts as staff liaison to the Trustees and Committee.

Application: Anyone who files a grievance with the WSBA which alleges a dishonest taking of funds or property by a lawyer, and any other person making such an allegation, may be provided with an application form for payment from the Fund.

Screening and Investigation: When an application is received, it is reviewed to determine that on its face it is eligible for recovery from the Fund. If not, the General Counsel advises the applicant of the reasons for its ineligibility. In order to be eligible for payment, an applicant must show that he or she has suffered a loss of money or property through the dishonest acts of a lawyer. Dishonesty includes, in addition to theft, embezzlement, and conversion, the refusal to return unearned fees as required by Rule 1.15 of the Rules of Professional Conduct.

One of the more difficult claim areas for the Committee and Trustees involves fees paid to a lawyer for which no valuable service was performed. As a general rule, the Fund Committee and Trustees cannot resolve fee disputes between lawyers and clients (the WSBA maintains a voluntary fee arbitration program for such disputes). However, where it appears that there is a pattern of conduct which establishes that a lawyer knew or should have known at the time the lawyer accepted fees from a client that the lawyer would be unable to perform the service for which he or she was employed, the Committee has concluded that such conduct is dishonest within the context of the purposes of the Fund, and will consider such applications. Similarly, if a lawyer withdraws from representing a client or abandons a client's case without refunding any unearned fee, the Committee may conclude that the lawyer has engaged in dishonest conduct.

The Fund is not available to resolve or compensate in matters of lawyer malpractice or professional negligence.

If the application appears eligible for payment, the General Counsel investigates the application. Because most applications also involve disciplinary grievances and proceedings, action on Fund applications normally awaits resolution of the disciplinary process.¹ Finally, a report and recommendation is prepared for the Committee.

Committee and Trustee Review: On applications for \$10,000 or less with recommendation for payment of not more than \$10,000, the Committee's decision is final. Recommendations on applications for more than \$10,000, or for payment of more than \$10,000, are reviewed by the Trustees. However, in those instances, the Committee is authorized by the Trustees to make interim gift payments of up to \$10,000.

Payments regarding any one application are limited to a maximum of \$50,000. Any payments from the Fund are gifts and are at the sole discretion of the Trustees. Similarly,

¹ Rule 3.4(i) of the Rules for Enforcement of Lawyer Conduct provides that otherwise confidential information obtained during the course of a disciplinary investigation may be released to the Lawyers' Fund for Client Protection concerning applications pending before it. Such information is to be treated as confidential by the Fund.

the Trustees must approve any payment on any application during the pendency of a disciplinary proceeding or investigation involving the same act or conduct that is alleged in the claim

Attorney Fees: Lawyers may not charge a fee for assisting with an application to the Fund, except with the consent and approval of the Trustees.

Assignment of Rights and Restitution: In exchange for a gift from the Fund, an applicant is required to sign a subrogation agreement for the amount of the gift. The Fund attempts to recover its payments from the lawyers or former lawyers on whose behalf gifts are made, when possible. Recovery is generally only successful when it is a condition of a criminal sentencing, or when a lawyer petitions for reinstatement to the Bar after disbarment.² (As discussed below, the Committee and Trustees have attempted to increase the recovery rate by engaging outside counsel). To date, the Fund (and its predecessors) has recovered approximately \$172,000.00.

III. LOSS PREVENTION PROGRAMS

The WSBA has initiated two important loss prevention programs which are established by Supreme Court rules.

Random Trust Account Audits: Pursuant to Rule 15.1(a) of the Rules for Enforcement of Lawyer Conduct (ELC), the Board of Governors of the Washington State Bar Association conducts random audits of lawyers and law firms. During FY 2002 (the last year for which statistics are available), 1,141 lawyers in 67 law firms were audited. The results of these audits are reported to the chairperson of the Disciplinary Board. If they disclose serious irregularities or deficiencies in the lawyer's or law firm's handling of client funds, they may be referred to disciplinary counsel for investigation and any appropriate action.

Trust Account Overdraft Notification: Pursuant to ELC 15.4, every financial institution approved for the deposit of client trust funds must agree to report to the Disciplinary Board whenever a check is presented against a trust account containing insufficient funds, whether or not the check is honored. This rule was drafted with the cooperation of the Washington Bankers Association. During 2002, 70 overdraft notices were received. The reasons for the overdrafts were varied: bank error (21%), improper endorsement (9%), deposit to wrong account (15%), math or bookkeeping error (12%) disbursal before deposit cleared (14%), failure to make timely deposit (22%), and other causes (7%).

² Admission to Practice Rule 21(c) provides that no disbarred lawyer may petition for reinstatement until amounts paid by the Fund to indemnify against losses caused by the conduct of the disbarred lawyer have been repaid to the Fund.

IV. FINANCES

The Fund is financed by an assessment on each active status lawyer licensed to practice in Washington. During 2003, the assessment was \$13 per lawyer. The Fund is maintained as a trust, separate from other funds of the WSBA. In addition, interest on those funds accrues to the Fund, and any restitution paid by lawyers is added to the Fund balance. During FY 2002, \$11,299 in restitution was received by the Fund.

The administrative costs of the Fund, such as Committee expenses and bar staff support, are paid from the Fund.

During the last audited fiscal year (October 1, 2001 - September 30, 2002) total Fund revenues were \$333,561. Gifts to applicants totaled \$247,539. Committee expenses and overhead, including staff time, totaled \$22,031, or approximately 6.6% of revenue.

As of June 30, 2003, the Fund balance is \$667,800. This is in addition to interim and final payments made in FY 2003 up to June 30 totaling \$82,921. It is important for the Fund to maintain a sufficient balance to meet anticipated future needs. In 1997 and 1998, because of the limitation on funds available to pay approved applications, payments over \$3,000 were prorated, by a factor of .912 in 1997 and .984 in 1998. This year, the Fund was able to pay all approved applications and is able to carry forward a positive Fund balance and gradually build a Fund reserve against increased and possibly catastrophic future losses.

V. COMMITTEE AND TRUSTEE MEETINGS

Fund Committee: The Lawyers' Fund for Client Protection Committee met four times this fiscal year, November 22, 2002, February 21, May 16, and August 22, 2003, to consider 117 applications to the Fund involving 42 lawyers, and to prepare the Annual Report to the Trustees and the Supreme Court. In addition, the Committee did the following:

- Public information: The Fund maintains a web site (<http://www.wsba.org/lawyers/groups/lawyersfund/>) that provides information about the Fund, its procedures, and an application form that can be downloaded.
- Subpoena power: At the request of the Committee and Trustees, the Supreme Court approved an amendment to APR 15 to authorize the Committee to issue subpoenas for the purpose of carrying out its investigations.
- Other activities: General Counsel Bob Welden made presentations to the ABA 19th National Forum on Client Protection held in Chicago, IL in May, and at a National Client Protection Organization (NCPO) Regional Workshop in Las Vegas, NV in February. In addition, Welden was appointed to serve as

chairperson of the ABA Standing Committee on Client Protection for 2003 - 2004.

Fund Trustees: The Trustees considered all recommendations on applications for more than \$10,000. They approved the annual Committee report at their meeting on September 11, 2003 and submitted it to the Supreme Court pursuant to APR 15(g).

VI. RESPONSES FROM APPLICANTS

The purpose of the Lawyers' Fund for Client Protection is to assist persons who have been the victims of dishonest lawyers. Although the Fund can never fully compensate a person for the harm done by a dishonest lawyer, since October 2002 the Committee and Trustees received several thank you notes from recipients of payments made on behalf of the lawyers of the state of Washington:

- "On behalf of my family, we would like to extend our sincerest thank you for all the help you and your associates extended to us. Thank you."
- "I want to take a moment to thank you for all your help. The WSBA's response to [my clients'] plight has done much to wipe away the hurt caused by [their former lawyer]. . . . I know that they could not be more grateful both to you and the WSBA."
- "Thank you. This helped a lot."
- "Thank you . . . I sincerely appreciated any amount approved by the Committee. I had lost all hope in collecting anything from [my former lawyer]."
- "I would like to thank you and the Bar Association members for the approval of the award from the Lawyers' Fund. My sincere thanks are extended to each one who has made an effort to help make this possible. It will truly make a difference in my life."

VII. 2003 APPLICATIONS AND PAYMENTS

At the beginning of FY 2003, there were 62 pending applications to the Fund. During FY 2003, 98 additional applications were received. The Committee and Trustees acted on 117 applications concerning 42 lawyers, as follows:

Approved for Payment	51
Denied as fee dispute or malpractice claim	45
Denied; restitution made	7
Withdrawn	0
Denied; no evidence of wrongful taking of funds	8
Deferred	2
Other	4

The total amount in approved payments is \$125,913.24. The 51 approved applications involved the following:

Theft/Conversion	14
Failure to return unearned legal fees	36
Investments and loans with lawyers	1
Other	0

SUMMARIES OF APPROVED APPLICATIONS

***"On behalf of the lawyers of the State of Washington . . ."**³*

Pursuant to the Fund Procedural Rules, Committee recommendations on applications for \$10,000 or less, or for payment of no more than \$10,000, are final. Recommendations on applications for more than \$10,000, or for payment of more than \$10,000, must be reviewed and approved by the Trustees. However, the Committee is authorized to make interim payments up to \$10,000 on approved applications in excess of that amount.

BERNARD A. CLARK (Bar No. 25031; Tacoma; Disbarred)

Application 02-04 Action: Pay \$500

Applicant hired Clark for representation in an employment matter against the State of Washington. He paid him \$500. Clark drafted a complaint that he sent to Applicant for

³ Introductory phrase of transmittal letter to recipients of gifts from the Lawyers' Fund for Client Protection.

signature. Applicant made several edits and signed and returned it. After that, he made several attempts to speak to Clark. When he finally reached him, Clark told him that he had filed the complaint in Thurston County. After that, Applicant could not reach Clark. He then called the Thurston County clerk and was told the complaint had never been filed. He also checked in Pierce County and was told the same thing. The Office of Disciplinary Counsel also checked in King County and the federal court, and nothing was filed. The hearing officer ordered \$500 restitution to Applicant, and the Committee approved a gift from the Fund in that amount.

STEVEN COBB (Bar No. 21926; Edmonds; Disbarred)

Application 02-03 Action: Pay \$638.75

Applicants bought a house and property in Bothell which suffered damage from a landslide in 1996. They hired Cobb to pursue claims of nondisclosure against the sellers and the real estate agent on an hourly fee basis. They paid total fees of \$6,338.75.

Between 1996 and 2001, Cobb represented to the Applicants that he was actively working on their case. His billings show time spent on investigation, negotiation and legal research. He told them that he filed a complaint in King County Superior Court, was conducting formal discovery, and that a trial date was set. However, no complaint was ever filed.

In 2001, the Applicants contacted another lawyer for a “second opinion” on their case. He contacted Cobb who said a complaint had been filed. He agreed to provide a copy of the Applicants’ file. When the second lawyer received nothing from Cobb, he made further inquiries and learned that no case had been filed. Applicants recovered \$5,700 from Cobb, and the Committee approved payment to them of \$638.75.

Application 03-15 Action: Pay \$1,272.66

Applicant hired Cobb in 1998 to represent her in a claim against the real estate broker who sold her her home. She paid fees to Cobb totaling \$1,272.66.

Over the next 4 years, Cobb told Applicant that the defendant was continually delaying the matter, but that he had filed a complaint in Snohomish County Superior Court. In Spring 2001 Cobb told Applicant that a hearing date was set, but that he expected that the defendant would not appear and that a judgment would be taken by default. He subsequently told Applicant that a default judgment was entered.

Applicant requested copies of correspondence and pleadings from Cobb, but she never received anything. In February 2002 Applicant went to Cobb’s office. The only documents Cobb could produce were ones Applicant had given to him. He told her he had misplaced her paperwork and that he would obtain copies from the court. Several weeks later, Cobb

mailed Applicant a copy of a complaint and default judgment from Snohomish County Superior Court.

In fact, Cobb never filed any action in Snohomish County, and the complaint and judgment he gave Applicant were false. Cobb stipulated that the judgment has a forged signature of a superior court judge. The Committee approved payment to Applicant of \$1,272.66.

Application 03-57

Action: Pay \$3,282.32

Applicant hired Cobb in January 2001 to represent Applicant's daughter regarding a judgment obtained against her by her former landlords that she learned of when her credit rating "tanked." Cobb recommended seeking to set aside the default judgment on a theory that the daughter had been improperly served with the complaint. Applicant paid fees to Cobb totaling \$3,282.32.

Cobb's billings to Applicant show time spent on negotiations, research, and drafting pleadings. He sent Applicant draft pleadings and a copy of a letter he allegedly sent to the landlord.

In December 2001 Cobb told Applicant that a hearing had been held in King County Superior Court, that the landlord company had failed to appear, and that the judgment had been vacated. He said that the credit agency would be notified.

Applicant says that frequent checks with the credit agency showed no change. Cobb said he would "push the court" to expedite the correction. Finally, after being unable to contact Cobb, Applicant had someone check with the court clerk, and he learned that nothing had ever been filed by Cobb. Cobb never responded to any of Applicant's attempts to reach him. The Committee approved payment to Applicant of \$3,282.32.

CLAYTON C. COCHRAN (Bar No. 23102; Vancouver; Disbarred)

The Committee previously approved 17 applications regarding Cochran totaling \$15,730.

Application 03-51

Action: Pay \$900

Applicant paid Cochran \$900 on October 21, 1999 for representation in a divorce and child custody proceeding filed by her husband. Applicant says that after some initial conversations with Cochran about child visitation, she had difficulty reaching him. She says her last conversation "was not a good one."

"I let him know of my disappointment with his services and that I would like a new attorney. He said that he had already filed paperwork for me and he was doing all he could with his busy schedule and that we would talk more

after the weekend.”

Applicant called Cochran’s office the next week and was told "he packed in the middle of the night and they didn’t know where he was or how to get ahold of him.” She then contacted the court clerk’s and learned that Cochran had never filed anything on her behalf. The Committee approved payment to Applicant of \$900.

TERRY L. DEGLOW (Bar No. 13357; Spokane; Disbarred)

Application 03-26 Action: Pay \$2,454

Applicant hired Deglow in August 1994 to probate his brother’s estate. Applicant was the executor and heir. Deglow had been representing the brother in bankruptcy at the time of his death, and there were also some remaining bankruptcy matters to be resolved.

According to the hearing officer’s findings, there was no written fee agreement, and Deglow never had a complete discussion with Applicant regarding his fees. Applicant surrendered a \$5,000 life insurance policy to Deglow to pay the estate costs and debts.

Deglow filed for probate in 1994 in Spokane County Superior Court. According to the hearing officer’s findings, Deglow did no work on the estate between April 1995 and 2000. According to Applicant, whenever he talked to Deglow about the estate, he would put things off. Applicant paid delinquent real estate taxes on his brother’s property, and paid the burial expenses. Deglow reimbursed him approximately \$1,600 from the estate funds.

By early 2000, Applicant had difficulty reaching Deglow. On July 10, 2000 the Supreme Court suspended Deglow pending disciplinary proceedings in another matter. On July 14, 2000, Deglow wrote Applicant a letter saying that he paid \$940.26 to the Department of Social and Health Services to pay the brother’s back-due child support debt. The letter said that Deglow had closed his law practice for personal and family medical reasons. He did not advise Applicant that he was suspended.

After receiving that letter, Applicant hired a new lawyer to complete the probate. Applicant wrote Deglow on August 5 to requested an accounting for the proceeds of the \$5,000 life insurance policy. Deglow did not respond to that letter, nor to subsequent attempts by both Applicant and the new lawyer to reach him. Deglow never provided any accounting for the funds paid to him by Applicant. The Supreme Court ordered that Deglow pay restitution to Applicant or the Lawyers’ Fund for Client Protection of \$2,454. The Committee approved a gift from the Fund in that amount.

KARL W. FERRIER (Bar No. 25217; Ocean Park; Suspended)

Application 02-31 Action: Pay \$750

Applicants hired Ferrier on April 28, 2000 to sue a real estate agent over lack of disclosure. The written fee agreement provided for fees at \$120 per hour and an advance fee deposit of \$750 to be deposited into Ferrier's trust account. They paid Ferrier \$750 that day. Ferrier did not deposit the \$750 into his trust account and instead deposited it into a personal account and converted it to his own use.

Over the next 6 months, the Applicants called Ferrier repeatedly but he never returned their calls. They finally reached him in late 2000 and he told them he had received documents he had requested from the real estate company. After that, the Applicants could not reach Ferrier again until late 2001. He said he had lost papers they had given to him and asked them to fax him copies.

On January 10, 2002 Applicants wrote a certified letter to Ferrier requesting copies of all correspondence he had initiated with the real estate company or agent. They followed that up with a second letter. Ferrier never responded to the Applicants' requests, never filed a law suit on behalf of them, and never accounted for or returned any of the \$750 they paid to him.

The hearing officer found in the disciplinary proceeding that Ferrier had perpetrated theft by embezzlement of the Applicants' funds, and ordered restitution of \$750. The Committee approved a gift from the Fund in that amount.

Application 02-36

Action: Pay \$2,000

Applicant hired Ferrier on November 9, 2001 to represent him in a law suit with the U. S. Department of the Interior. The written fee agreement provided for fees at \$125 per hour and an advance fee deposit of \$1,000 to be deposited into Ferrier's trust account. Applicant paid Ferrier \$1,000 that day. Ferrier did not deposit the \$1,000 into his trust account and instead deposited it into a personal account and converted it to his own use.

Applicant had a phone conversation with Ferrier in February 2001, and after that could not contact him. He sent letters and left phone messages, but got no response. On April 30, 2001 Applicant wrote Ferrier that he would file his complaint pro se, and on May 1 he wrote Ferrier asking for an accounting, which he followed up with a second request on June 25, 2001. In July 2001 Applicant hired a new lawyer who wrote Ferrier on July 19 requesting an accounting and return of all of Applicant's funds remaining in Ferrier's trust account. He sent a second letter on August 15. Ferrier did not respond, provided no accounting, and returned none of Applicant's fee.

The hearing officer ordered restitution of \$2,000 and the Committee approved a gift from the Fund in that amount.

Application 03-95**Action: Pay \$1,500**

Applicant, who resides in Florida, hired Ferrier on March 22, 2001 to file a law suit on a promissory note. The fee agreement provided for fees at \$125 per hour and an advance fee deposit of \$1,500 to be deposited into Ferrier's trust account. Applicant paid Ferrier \$1,500 that day. Ferrier did not deposit the \$1,500 into his trust account and instead deposited it into a personal account and converted it to his own use.

Ferrier filed a complaint in the Pacific County Superior Court on May 25, 2001, and had it served on the defendant. However, Ferrier did not file the affidavit of service with the court. The defendant did not answer the complaint. In July and August 2001 Applicant spoke with Ferrier by phone, and Ferrier told him that he had not had time to get a default order. After August 2, 2001 Applicant could not reach Ferrier.

In November 2001 Applicant hired a new lawyer who called Ferrier and told him she had been hired to represent Applicant. She sent Ferrier a substitution of attorney form. Ferrier told her that he had the affidavit of service in his file, and she asked him to send it to her with the signed substitution of counsel. Ferrier did not respond to that letter or return or file the documents with the court.

Because it had been more than 90 days since the complaint had been filed and Ferrier never filed the affidavit of service, Applicant had to refile and serve a new complaint. The hearing officer ordered restitution and the Committee approved payment to Applicant of \$1,500.

Application 03-50**Action: Pay \$665**

Applicants paid Ferrier \$665 on September 6, 2002 to file an adverse possession action in Pacific County. Applicants called Ferrier's office once a week from October to December 2002 and got no response. Ferrier never filed an adverse possession action, never accounted for the Applicants' funds, and never returned any unearned fees. The Committee approved payment to Applicants of \$665.

Application 02-42**Action: Pay \$900**

Applicant hired Ferrier on September 8, 1999 to file a law suit against a roofing company. The fee agreement provided for fees at \$100 per hour and an advance fee deposit of \$1,000 to be deposited Ferrier's trust account. Applicant paid Ferrier \$900 that day. Ferrier did not deposit the \$900 into his trust account and instead deposited it into a personal account and converted it to his own use.

Ferrier filed a complaint; the defendants appeared, and served interrogatories and requests for production of documents. When Ferrier did not respond, the defendant filed a

motion to compel and the court granted the motion and awarded \$400 in sanctions against Ferrier. Ferrier then responded to the discovery requests, but he did not pay the sanctions.

Defendants' counsel tried to contact Ferrier to discuss settlement. Ferrier did not respond. Defendants noted depositions of Applicant but Ferrier did not advise the Applicant of this or of the offer to discuss settlement. Applicant did not appear for deposition, and defendants' counsel filed a motion for sanctions for failure to appear. Ferrier did not advise Applicant of this motion. A hearing was held on the motion for sanctions, at which time the defendant's lawyer advised the court that he had been unable to contact Ferrier for several months. The judge continued the hearing and directed that notice be sent directly to Applicant. Applicant appeared in court and said she had also been unable to contact Ferrier. At the conclusion of the hearing, the judge imposed sanctions of \$2,000 against Ferrier. Ferrier did not pay the sanctions. Applicant then hired new counsel. Ferrier never accounted for any of the funds paid to him by Applicant. The hearing officer ordered restitution of \$900 and the Committee approved payment of that amount to Applicant.

C. ALAN GRIDER (Bar No. 16927; Clarkston; Disbarred)

The Committee previously approved 5 applications regarding Grider totaling \$130,028.35.

Application 02-45 Action: Pay \$8,945.51

Grider was hired to probate an estate in 1997. He filed a petition for probate in Asotin County on June 18, 1997. Applicant was appointed the personal representative. The only asset of the estate was a condemned house in Asotin, which was sold for \$15,000.

Two creditor's claims were filed against the estate. One was for \$7,945.05 was filed by a funeral home. Grider had previously written a letter to the funeral home "assuring" payment of their bill. The other was from DSHS for \$51,525.67. On October 8, 1998 an order was entered approving sale of the house for \$15,000 and payment of the following costs and expenses:

Costs of sale	1,809.69
Attorney fees	2,000.00
Costs advanced	320.87
Personal representative	1,000.00
Funeral expenses	7,945.51
DSHS	1,923.93
TOTAL	\$15,000.00

On May 12, 1999 Grider paid \$1,923.93 to DSHS. Neither the funeral home nor the personal representative was paid. (Applicant learned that the funeral home had not been paid in May 2002 when she received a collection notice for \$12,000, including accrued interest). Therefore, Grider failed to account for \$8,945.51.

The Committee approved payment of \$7945.51 to the funeral home and \$1,000 to Applicant as personal representative of the estate.

RICARDO GUARNERO (Bar No. 18922; Seattle; Suspended)

Application 03-93

Action: Pay \$1,650

Applicant hired Guarnero on November 14, 2000 to represent her in a dispute with her former employer, the U. S. Postal Service (USPS). Their fee agreement provided for an hourly fee of \$125. She gave him a check for \$300 on November 17, 2000. Applicant says that Guarnero would never call her, and that when she called him, all he would tell her was that he could not get any response from the USPS. She says that she had at least two other meetings with Guarnero. In June 2001 she took him records he requested; and in January 2002 she met with him again and she says that they went over the same records. On April 24, 2002 Guarnero billed her for an additional \$345.69, which she paid.

Applicant says that in November 2002 Guarnero told her that if he could not resolve the claim with USPS, she would have to file a law suit in Federal Court. He told her that she would need to pay him \$1,650 to begin a law suit. She paid him that amount on October 2, 2002 and he sent her an invoice dated November 6, 2002 showing that payment.

In February 2003 Applicant asked Guarnero why he could not get any response from the USPS. He said he would send them a demand letter. He sent her a copy of a letter dated February 11, 2003 to the USPS, setting a deadline for response of February 21, 2003, or a law suit would be filed. After February 21, Applicant attempted to reach Guarnero to find out whether he had gotten a response. When she reached him, he would just say he was working on her case. After getting no satisfactory response, Applicant discharged him by letter dated 5/7/03. In that letter she requests return of "my filing fees of \$1,650 that I have paid you in full to file in court which you have not done." She got no response.

The Committee approved payment to Applicant of \$1,650, the amount Guarnero charged her for a Federal law suit that he never prepared.

ROSALYNN D. GUILLEN (Bar No. 22872; Seattle; Disbarred)

Application 03-20

Action: Pay \$2,000

Applicant hired Guillen on December 15, 1997 to apply for a resident visa. He paid Guillen \$800 for legal fees, and he also gave Guillen 3 money orders for \$400 each payable to the INS. The \$1,200 was to be paid to INS for 3 purposes: \$130 was to apply for adjusted status; \$1,000 for a penalty to adjust status (for being in the US unlawfully); and \$70 for an employment application.

On March 4, 1998 Guillen wrote to Applicant that his application had been placed on a waiting list for 46 months, but that this could change and Guillen would keep him informed every 3 months. On November 5, 1998 Guillen wrote Applicant that he should be eligible to receive his resident status in approximately 1 year and 2 months. She said she would write again in 6 months.

Applicant heard nothing further from Guillen. He tried to contact her, usually without success, and when he did talk to her, she told him he was still on the waiting list. Eventually, she closed her office and Applicant could not contact her. He contacted the WSBA who were able to communicate with Guillen. She said she thought she had given Applicant's file to another lawyer, but when the WSBA called that lawyer, he had no knowledge of the file.

In 2000 Applicant hired a new attorney who tried without success to reach Guillen to obtain Applicant's file. He then filed a Freedom of Information Act request to obtain Applicant's records from the INS. In October 2001 he was told INS had no record of an application to adjust status ever being filed on behalf of Applicant. There is no evidence that the \$1,200 was ever paid to the INS and no accounting for what happened to the money orders.

TRENIDAD HERNANDEZ (Bar No. 25849; Federal Way and Yakima; Suspended)

Application 02-33 Action: Pay \$250

Applicant had a friend who was charged with a criminal drug offense in Yakima Superior Court. Hernandez agreed to represent the friend. Applicant paid Hernandez \$250 on April 26, 2002 to represent her friend. The receipt, dated April 26, 2002 (more than a month after Hernandez was suspended) states "initial interview – nonrefundable." Applicant says that before Hernandez met with the client, he wanted an additional \$500. Applicant called the WSBA, and found out that Hernandez had been suspended March 7, 2002. The Committee approved payment of \$250 to Applicant.

Application 02-32 Action: Pay \$242

Applicant had 2 pending criminal charges in Yakima County Superior Court. According to Applicant, in April 2002 Hernandez agreed to represent him for \$300 cash and various items of personal property. Applicant paid \$242 of the agreed \$300 cash. Applicant became angry with, and contacted the WSBA and learned that Hernandez was suspended at the time he agreed to represent Applicant. The Committee approved payment of \$242.

Application 03-55 Action: Pay \$400

Applicant hired Hernandez to seek an expungement of a criminal conviction record. He says Hernandez agreed to do it for \$500. Applicant paid \$400. Due to illness, he let time pass. Later, he could not contact Hernandez, so called the WSBA and learned that he was suspended from practice. Hernandez never performed any services for Applicant, and never returned the unearned fee. The Committee approved payment of \$400.

Application 02-05 Action: Pay \$150

Applicant paid Hernandez \$150 on November 28, 2001 to review some documents. After that he was unable to reach Hernandez. On December 22, 2001, Applicant filed a grievance with the WSBA. On December 24, Hernandez called and arranged to meet with Applicant. He returned Applicant's documents, but Applicant says when he asked for return of the \$150, "Mr. Hernandez responded with a laugh and no response to my request was given." The Committee approved payment of \$150.

MICKIE JARVILL (Bar No. 14049; Coupeville; Disbarred)

The Committee and Trustees previously approved 2 applications regarding Jarvill totaling \$60,000. Jarvill and her husband were actively involved in a land development project at Smokey Point. Allegedly they became deeply indebted, by one report to \$2.5 million. Jarvill's husband was also a lawyer admitted to practice in Oregon. Last year, they each pleaded guilty to conspiracy to commit wire and mail fraud, and were sentenced to 5 years in prison. They admitted to defrauding about 30 people through their law office and investment businesses.

Application 03-21 Action: Pay \$50,000

Applicant was divorced in 1987 and acquired a 49 acre farm in Arlington. She sold 29 acres to her daughter and son-in-law on a deed of trust for \$200,000. Jarvill handled the sale for the daughter and son-in-law.

In 1989, Applicant sold the remaining 20 acres on a deed of trust for \$300,000. Jarvill handled the sale and Applicant netted approximately \$216,000. Jarvill advised Applicant to invest these funds with her in her land development project. Applicant said, "She assured me that I need not worry about safety since the land was so safe even her in-laws were invested." (The Fund previously paid \$30,000 to one of Jarvill's cousins for the fraud Jarvill committed on her family estate). Applicant gave Jarvill \$200,000.

In 1994, Applicant's daughter and son-in-law wanted to reduce the interest rate they were paying to Applicant. She consulted Jarvill who advised against it. Jarvill wrote a letter to her daughter and son-in-law saying it was not in Applicant's best interest. They then refinanced the property and paid Applicant approximately \$150,000. On Jarvill's recommendation, Applicant also gave these funds to Jarvill to invest.

In 1998 Jarvill wrote Applicant's will and was named personal representative. Applicant paid \$500 for the will.

Applicant received regular payments of about \$3,400 from the Jarvills on her "investment" until January 1999, when the full investment was due to be paid back pursuant to Jarvills' promissory note. Applicant says that after that, she was "given the run around as to why the payments stopped." Applicant and her son-in-law met with the Jarvills who said they needed a 6-month extension. They agreed to increase the interest to 15% and to pay \$4,000 per month. At one point, they gave Applicant a check for \$17,000 that was returned for insufficient funds. No further payments were made.

In a signed statement Applicant gave to the Snohomish County Sheriff's Office, she wrote, "Mickey became instrumental in all of [my] decisions and became [my] confidante in all matters – both legal and financial. Mickey and Mike would take [me] out to dinner on a regular basis and became [my] main advisor in all matters after [my] divorce."

After criminal charges were filed against the Jarvills, Applicant learned that the development that Jarvill had advised Applicant to invest in in 1989 and 1994 had been in bankruptcy since 1993.

The Committee recommended and the Trustees approved payment to Applicant of the Fund maximum gift of \$50,000.

PAUL H. KING (Bar No. 7370; Seattle; Suspended)

Application 02-46

Action: Pay \$1,318

Applicants hired King in May 1998 to represent them in a wage claim against their former employer on a 40% contingent fee basis. The claim was mediated on October 1, 1999 and the employer offered to settle for \$14,000, which Applicants told King they agreed to. Without his clients' knowledge or consent, King wrote to employer's counsel and demanded settlement of \$17,500. A few days later, King's office advised employer's counsel that they would settle for the \$14,000 offer.

On October 8, 1999 employer's counsel wrote to King confirming the \$14,000 settlement and enclosing a settlement agreement. That same day, after advising them of the settlement agreement, King advised Applicants to proceed to trial. They say that they told King to accept the settlement and that if he did anything else, it would be without their consent and permission. They left with a copy of the settlement agreement.

On October 13, King faxed employer's counsel that Applicants wanted to proceed to trial. King did not advise his clients that he had done this. However, on October 15, Applicants delivered a signed settlement agreement to employer's counsel. King then demanded that

Applicants change their fee agreement with him, to pay King 50% of the total settlement. They refused.

On October 20, King's office received the \$14,000 settlement. He advised Applicants that he would hold the settlement funds in trust until the "fee dispute" was resolved. He sent them a disbursement statement on October 27, 1999 showing payment to himself of \$7,000 as fees; payment to Applicants of approximately \$3,500; and showing that the balance would be held in trust as disputed attorney fees.

On November 5, Applicants signed an agreement to pay King \$6,918 in fees plus \$788 in costs. They received \$6,293. They say they did so because they needed the funds King was withholding from them.

King stipulated that the fee he was entitled to be paid from the settlement funds was 40% (\$5,600) instead of the 50% he charged (\$6,918). He stipulated to pay the difference (\$1,318) to Applicants. On September 4, 2002 the WSBA received a check on behalf of King made payable to Applicants in the amount of \$1,318. It was unsigned. King has never paid the restitution. The Committee approved payment of \$1,318 to Applicants, and will pursue restitution from King.

RICHARD KYAW (Bar No. 21312; Tacoma; Disbarred)

Application 03-48 Action: Pay \$750

Applicant hired Kyaw to represent him on criminal charges for \$5,000, with an additional \$5,000 if the case went to trial. Kyaw told him he would need an additional \$2,500 to hire a detective to investigate the possibility of an alibi. Applicant paid Kyaw \$2,500 on January 11, 2002. Applicant and his wife met with the detective for about 15 minutes.

Kyaw told Applicant that the detective's fee would not require the full \$2,500, and that Kyaw would use \$750 toward the \$1,500 cost of hiring a psychosexual evaluation. Applicant paid \$750, but Kyaw never paid the other half of the bill.

After that, Applicant could not reach Kyaw, and Kyaw failed to appear in court. The Committee approved payment of \$750 to Applicant.

Application 03-56 Action: Pay \$200

Applicants hired Kyaw to represent them in bankruptcy. On May 10, 2000 he filed a Chapter 13 petition. On April 15, 2002 Kyaw filed a motion to convert the proceeding to Chapter 7, which was granted. On April 17, 2002 an order was entered requiring the Applicants to file post conversion schedules, which were incomplete or missing. When they were not filed, an order to show cause for failure to file the schedules was entered for

hearing to be held on June 10, 2002. The schedules were not filed and no one appeared at the show cause hearing. On July 29, 2002 the Chapter 7 petition was dismissed.

According to Applicants, Kyaw was aware that the husband was hospitalized and could not appear at the show cause hearing. Applicants say that when they met with Kyaw, he had not prepared necessary papers for their signatures. After the dismissal was entered. Kyaw told them that he could have it vacated if they paid him an additional \$200. They mailed him a check in that amount on October 16, 2002 and heard nothing further. The court docket shows that no further action was taken in court after the dismissal. The Committee approved payment of \$200.

Application 03-70 Action: Pay \$500

Kyaw filed a Chapter 13 bankruptcy proceeding for Applicant in 2001. On January 25, 2003 she paid him an additional \$500 to convert the proceeding to a Chapter 7. The bankruptcy court docket shows an entry on February 27, 2003 “Amendment to Petition filed by Richard Kyaw . . . NO INDICATION AS TO WHAT IS AMENDED – NUMEROUS ATTEMPTS TO CONTACT ATTORNEY – NO RESPONSE” (emphasis in original). The next entry is a motion to dismiss the Chapter 13 proceeding. At that point, Applicant hired a new lawyer who filed a motion to convert to Chapter 7. Kyaw never refunded the \$500 or accounted for it. The Committee approved payment of \$500 to Applicant.

Application 03-75 Action: Pay \$700

On June 20, 2002 Applicant paid Kyaw \$700 (\$500 as fee and \$200 for costs) to file bankruptcy. Kyaw told her the “target” filing date would be July 15, 2002. When she had not heard from him by the end of October, Applicant left a message for Kyaw to call. He called her in early November and told her he had attempted to electronically file her petition, but just found that it had not gone through. He said they would have to refile and that she would have to appear in court.

On December 2, 2002 Applicant called Kyaw and left several messages. When she got no response, she went to his office on January 4, 2003. The receptionist told her that Kyaw no longer worked there, but picked up mail occasionally. Applicant left a note asking him to call, and in early February he called and apologized, saying there had been deaths in his family. He told Applicant he would soon file her bankruptcy. That was the last she ever heard from him. Kyaw never returned any of her fees nor accounted for her funds. Applicant subsequently filed a Chapter 7 petition pro se. The Committee approved payment of \$700 to applicant.

Application 03-97 Action: Pay \$5,150

Applicant hired Kyaw to represent her on criminal charges in Pierce County Superior Court. Applicant says that Kyaw told her he would charge \$2,500, but if the case went to trial it would be \$5,000 or \$6,000. She paid \$2,500 on Oct. 24, 2002.

On November 8, 2002 Kyaw told Applicant he needed \$1,000 to hire an investigator, which she paid. Kyaw later told her he would do the investigation himself and keep the \$1,000, but later he told her he had hired an investigator that had cost him \$1,200. Applicant says that none of the witnesses she had identified were contacted by either Kyaw or an investigator. After Applicant's new lawyer took over the case and got Applicant's file from Kyaw, he found no evidence that any investigation had been done or that an investigator had been hired.

Trial was set for January 5, 2003, and Applicant paid Kyaw an additional \$3,000. The trial was continued, and Applicant says that Kyaw repeatedly pressured her to accept a plea bargain, which she refused, stating that she was innocent of the charges.

Kyaw demanded an additional \$4,150 to take the matter to trial, which Applicant paid on January 21, 2003. She says she reminded him that no one had spoken to any witnesses, and "He had no answer, but did say things were just fine."

The case was set for trial March 13, 2003, and Kyaw did not appear. A continuance was ordered, and Applicant obtained a new lawyer to take over the case. Kyaw gave him Applicant's file but said he had no money to pay his fee. There was nothing in the file except notes from Applicant's initial interview with Kyaw and discovery given to Kyaw by the prosecutor after he filed a notice of appearance. The discovery appeared unopened. Although Kyaw had several meetings with Applicant and appeared in court for hearings, there was no evidence that Kyaw did any work on her case after the January 21 payment of \$4,150. The Committee recommended payment to Applicant of \$5,150 which included the funds paid to be used to hire an investigator.

Application 03-100

Action: Pay \$3,500

Applicant hired Kyaw in April 2000 to file a legal malpractice law suit against another lawyer on a 1/3 contingent fee basis. He paid Kyaw \$2,000 on April 7, 2000 for advanced costs. On January 6, 2001 Kyaw asked Applicant to come to his office to sign the complaint he had drafted. Applicant paid an additional \$1,500 for advanced costs at that time.

Applicant says that after that, for the next 2 years when he called Kyaw he was told the case was filed and waiting for a court date. On January 20, 2003, Applicant's son-in-law (a lawyer in another state) investigated and found that the complaint had never been filed, and that Kyaw was disbarred. By that time, the statute of limitations had run on the claim for malpractice. The Committee approved payment to Applicant of \$3,500.

ROBERT H. LEWIS (Bar No. 23635; Tacoma; Disbarred)

Application 01-57 Action: Pay \$800

Applicant hired Lewis to represent her on a criminal charge. She paid him \$800 on June 19, 2001. Arraignment was set for June 29, but Lewis failed to appear. On July 3, Applicant wrote to Lewis discharging him as her lawyer and requesting refund of her \$800. On July 12, Lewis wrote Applicant that “due to a personal crisis involving ongoing treatments for the next six months I will be unable to continue to represent you.” The letter has a hand written note at the bottom that reads, “I will be forward to you a complete refund as soon as possible” [sic]. She received no refund. The Committee approved payment of \$800.

Application 01-59 Action: Pay \$500

Applicant was referred to Lewis in April 2001 for representation in her divorce, by her previous lawyer who was leaving the country. That lawyer paid Lewis \$212, and Applicant paid him an additional \$500. Lewis did nothing for Applicant, and eventually the first lawyer returned to the country took over Applicant’s case again. The Committee approved payment of \$500.

Application 01-69 Action: Pay \$600

Applicant paid Lewis \$600 on April 27, 2001 for representation on a DUI charge. Their fee agreement provided that Applicant was to pay an additional \$200 within 30 days. According to Applicant, Lewis did nothing on his case. He was unable to reach Lewis, and finally discharged him. Lewis agreed to repay Applicant the \$600. On June 20 Lewis wrote to Applicant enclosing a check for \$50 and stating “I will continue to make payments until the agreed upon amount is paid.” Applicant returned the check to Lewis, saying that he had never accepted a “partial payment” plan, and asking for refund of the full \$600 by the end of July. He received no response from Lewis. The Committee approved payment of \$600.

Application 01-70 Action: Pay \$375

Applicant paid Lewis \$375 on April 25, 2001 for representation in an uncontested divorce. He says he heard nothing further after he paid Lewis. Another lawyer took over his case after Lewis disappeared, and the only things in Applicant’s file were his name, address and phone number. The Committee approved payment of \$375.

Application 03-29 Action: Pay \$2,814

Applicant originally hired a lawyer in March 2000 for representation in claims arising from an automobile accident. That lawyer settled the property damage claim, but referred the completion of the medical claim to Lewis. On May 11, 2001 an insurance company issued a check payable to Applicant and Lewis in the amount of \$4,152. Applicant was incarcerated in a work release facility at the time, so Lewis took the check to her and obtained her endorsement. He told her he would deposit the check into his trust account, and pay her the funds less his fees (25%). Lewis gave Applicant a total of \$100 paid into her personal account at the Department of Corrections. He also agreed to pay two bills she owed.

When she did not receive her funds, Applicant contacted Lewis who promised to send the funds to her parents. On June 9, 2001 Lewis gave Applicant a promissory note agreeing to pay her ½ of her funds by June 13, 2001. He did not do so, and the WSBA audit of his trust account showed that by June 30, 2001 Lewis had insufficient funds in his trust account to pay Applicant. Lewis never paid Applicant the balance of her funds, nor did he pay her bills. The Committee approved payment of \$2,814.

ROBERT C. LYONS (Bar No. 22275; Tacoma; Disbarred)

Application 01-61 Action: Pay \$2,000

Lyons represented Applicant in three separate matters, and Lyons entered into some loan transactions with her as well. Another lawyer had sued Applicant for \$35,000 in legal fees Applicant allegedly owed him from previous matters. On October 16, 2000 she paid Lyons \$2,000, and he gave her a receipt acknowledging payment for representing her in this matter. The case was set for mandatory arbitration on October 21, 2000. A week prior to the arbitration hearing Lyons told Applicant he had filed a notice of appearance and had the hearing continued. Applicant met with Lyons on October 21 and learned that this was false. As a result, a default judgment for \$35,000 was entered against her. Applicant says that Lyons said he would negotiate a settlement and pay her for her loss.

Investigation disclosed that Applicant told the plaintiff that she was represented by Lyons, but that when the plaintiff's lawyer contacted Lyons, he said he did not represent her. The Committee approved payment of \$2,000 to Applicant. The Committee found the loan transactions to be outside of the attorney/client relationship and not compensable from the Fund.

Application 01-48 Action: Pay \$1,000

Applicant hired Lyons on November 30, 2000 for representation in a child support proceeding. She paid him \$1,000. Lyons said he would be in contact with her, and she never heard from him again. She tried to contact him at his office and was told he no

longer worked there. A child support hearing was set in April, and Lyons failed to appear. Lyons never represented Applicant, and never returned her \$1,000. The Committee approved payment of \$1,000 to Applicant.

Application 01-64 Action: Pay \$750

Applicant hired Lyons in December 1999 for a dissolution modification. She paid him \$750 on December 10, 1999. Applicant says that she would call Lyons and “for awhile he made a lot of excuses. But after that he was hard to get in contact with. I noticed a big change in his behavior when I finally saw him. He did nothing for my case. I just wasted \$750.00.” The Committee approved payment of \$750 to Applicant.

Application 03-81 Action: Pay \$551

Applicant employed Lyons in 1996 for representation in a marriage dissolution. The matter went to trial before a jury, and a decree of dissolution was entered August 8, 1997. Among other things, it provided for a division of property between the spouses, and for the husband to pay Applicant’s attorney’s fees by a joint check payable to Applicant and Lyons. It further provided that if Applicant had paid her fees in full, Lyons was to endorse the check to Applicant.

Applicant’s husband sent a check for \$2,500, made payable to Lyons only, on April 30, 1999. Lyons cashed the check and paid none of the proceeds to Applicant.

Lyons sent Applicant a billing on March 5, 1999 showing a balance due of \$2,950. Applicant paid him \$1,001. Therefore, the Committee concluded that when the former husband paid Lyons \$2,500, Lyons was entitled to payment of \$1,949, and should have paid the balance of \$551 to Applicant. The Committee approved payment in that amount.

BRENDA J. MEANS (Bar No. 26180; Mill Creek; Disbarred)

Application 03-06 Action: Pay \$2,500

Applicant hired Means on June 12, 2002 to represent her in a divorce. She paid Means \$2,500. Applicant says weeks went by and she didn’t hear from Means. She then contacted the WSBA and learned that Means was suspended for not paying her annual license fee. Applicant last met with Means on July 17, 2002, two days after she was suspended, at which time Means told her she had mailed the pleadings to her. Applicant never received anything from Means. On July 26, 2002 Applicant wrote Means requesting return of papers she had given Means, and a refund of the \$2,500. Means did not respond. The Committee approved payment of \$2,500.

Application 02-50**Action: Pay \$1,000**

Applicants had legal guardianship of their 2 grandchildren, and they hired Means to commence an adoption proceeding. Means agreed to take the case for a flat fee of \$1,000, which Applicants paid on May 7, 2002. After that meeting with Means, they only heard from her one time when she called to tell them that they would have to pay an additional \$600 guardian ad litem fee, and also that she was having difficulty getting papers from the Department of Social and Health Services. Applicants contacted DSHS, got the papers, and delivered them to Means' office. After that, they heard nothing further from Means and could not reach her. Finally, Applicants contacted the WSBA and learned that Means was suspended from practice. They then contacted the court clerk and learned that no petition for adoption was filed. The Committee approved payment of \$1,000.

Application 03-02**Action: Pay \$2,500**

Applicant paid Means \$2,500 on April 18, 2002 to seek a change of custody of his children from his ex-wife to him. Applicant says that between April 18 and June 5, he gathered records, statements from friends, and other materials and delivered them to Means' office. He says that he generally could not reach Means or get any acknowledgement from her that she had reviewed the documents. He says, "on two occasions when we contacted her she assured us everything was ok, then we wouldn't hear from her for several weeks."

Applicant says he contacted Means on July 18, 2002 (she had been suspended July 15) and arranged to meet with her on July 22. He says that just before the appointment, Means cancelled the meeting and said they would have to reschedule. Applicant then contacted the WSBA and learned that Means was suspended.

Applicant asked Means to return his file and refund the fee. She returned the file, but did not refund the fee or provide any accounting. A review of the court docket shows that no petition for modification of custody was ever filed. The Committee approved payment of \$2,500.

Application 02-41**Action: Pay \$1,520.10**

On February 24, 2001 Applicant paid Means \$2,500 for a child custody modification proceeding. On March 13, 2001 Means filed a Petition for Modification, and Motion for Show Cause. A show cause hearing was set for March 27. Applicant and his former wife appeared at the show cause hearing, but Means did not. The hearing was continued, and costs of \$100 were assessed against Applicant. Means called later that day and apologized to Applicant. He told her she was discharged, and he requested a refund. On April 17, Means sent Applicant a check for \$1,520.10. When he tried to cash it, he was told there were insufficient funds. During the disciplinary investigation Means was

deposed, and she agreed to make the check good. She never did so. On June 26, 2002 Applicant obtained a Small Claims Court judgment against Means for \$1,605.01. He has not recovered anything on the judgment. The Committee approved payment of \$1,520.10.

DOUGLAS M. O'COYNE Sr. (Bar No. 15689; Spokane; Deceased)

Application 03-45 Action: Pay \$1,000

Applicant hired O'Coynе to organize his business as a limited liability corporation (LLC). He paid him \$1,000 on February 28, 2001 with a check drawn on his business account. There was no written fee agreement. O'Coynе never gave Applicant any paperwork, and when Applicant asked about delays, he was given reasons why the work was not done. He says that by the beginning of 2002, O'Coynе's secretary told Applicant that O'Coynе was ill. That was the last he heard from O'Coynе or his office. The Committee approved payment of \$1,000.

Application 03-13 Action: Pay \$1,500

Applicant paid O'Coynе \$1,500 on May 15, 2001 for representation regarding unpaid income taxes in Oregon. According to a letter from the Oregon Department of Revenue, O'Coynе wrote to them that he was representing Applicant. They said that they could not disclose any information to O'Coynе because he was not admitted to practice in Oregon.

Applicant says that O'Coynе did not inform him of his illness, and he was difficult to contact. Apparently other than the one letter, O'Coynе performed no services for Applicant. The Committee approved payment of \$1,500.

Application 03-11 Action: Pay \$500

Applicant paid O'Coynе \$500 to represent him before the IRS. Applicant says that he did not hear again from O'Coynе until he was contacted by a lawyer appointed by the chairperson of the Disciplinary Board to take custody of O'Coynе's files after he abandoned his practice. He had to hire a new lawyer to commence the representation from scratch. The Committee approved payment of \$500.

Application 03-10 Action: Pay \$1,500

Applicant and her husband hired O'Coynе for representation before the IRS. They paid him \$1,500 in 2 payments dated September 28 and October 26, 2001. Applicant says they never received any billings or accountings from O'Coynе, and that he became ill shortly after they hired him. Apparently he did nothing on their case. The Committee approved

payment of \$1,500.

Application 03-08

Action: Pay \$700

Applicants paid O’Coynе \$700 to represent them in a foreclosure of their home. O’Coynе was to file a petition for bankruptcy which would have stayed the foreclosure. He did not do so, and the house was foreclosed upon. The Committee approved payment of \$700.

Application 03-62

Action: Pay \$2,200

Applicants are owners of two businesses. They hired O’Coynе in February 2001 to represent one of the businesses regarding a dispute with the Department of Labor and Industries. Applicants also had a separate dispute with their business partner in their other business. They made a payment of \$2,200 on August 1, 2001 to O’Coynе in anticipation of further legal actions regarding the partnership dispute. That payment was made from the checking account of the second business.

Applicants say their last meeting with O’Coynе was in November 2001 when they discussed the partnership dispute matter and O’Coynе told them to “put together what we had” and make another appointment. Applicants say that when they next tried to reach O’Coynе in June 2002 his phone was disconnected and they could not reach him. They reached his assistant and learned O’Coynе was ill. They asked O’Coynе to return their funds, but he did not respond. The Committee approved payment of \$2,200.

STEPHEN L. PALMBERG (Bar No. 3178; Grand Coulee; Disbarred)

The Committee previously approved 4 applications totaling \$6,300. Palmberg was suspended for nonpayment of his license fee in July 2001, but continued to take on new clients after his suspension.

Application 03-05

Action: Pay \$1,350

Applicant paid Palmberg \$1,350 on July 11, 2001 (two weeks before he was suspended) for representation in Colville Tribal Court to defend against a civil claim. He says after he paid Palmberg, he was unable to reach him by phone or at his office. On the day the matter was set for hearing, Palmberg failed to appear. Palmberg refused to return the fee or his file, and would not answer his door. The Committee approved payment of \$1,350.

Application 03-37

Action: Pay \$755

Applicant hired Palmberg to file for dissolution of marriage. He paid him \$700 in cash on

March 9, 2000. The receipt states, "\$650 retainer, \$50 to be applied to filing fee." Applicant received a phone call from Palmberg's secretary saying that Palmberg needed an additional \$55 for processing fees. Applicant sent him a check for \$55 on August 8, 2000. Palmberg prepared draft pleadings that Applicant edited and returned to Palmberg.

Several months passed when Applicant received a phone call from Palmberg's secretary to tell him she was no longer working for Palmberg because she was tired of him not showing up for work or court. Applicant tried to call Palmberg but could never reach him. Palmberg never filed the dissolution petition, did not give Applicant copies, and never returned any of the funds paid to him by Applicant. The Committee approved payment of \$755.

JEFFREY B. RANES (Bar No. 7732; Montesano; Disbarred)

The Committee previously approved 5 applications concerning Ranes totaling \$2,720.

Application 02-47 Action: Pay \$1,430

Applicant hired Ranes in 1997, for representation in a marriage dissolution. The dissolution was granted on October 18, 1999. The issue in the dissolution was division of real property. Among other things, the parties owned a 10-acre parcel of land. Ranes was also representing Applicant in a lawsuit filed by the Department of Fish and Wildlife (DFW), which was trying to collect restitution owed in a criminal case against Davis.

Applicant's ex-wife wanted to sell the 10-acre parcel and divide the proceeds. Applicant's portion of the proceeds would be paid to DFW for restitution. Ranes entered an objection on behalf of Applicant, but on October 30, 2000 an order was entered that Applicant's share of the proceeds would be paid to the State of Washington.

Applicant then hired Ranes to file an appeal. Ranes required a fee of \$1,500. Applicant paid a total of \$1,430. He says that throughout this period he had difficulty reaching Ranes. He says that when he did speak to Ranes, Ranes told him that the judge had not yet signed the final order on the property distribution, and therefore the 30-day period in which to file a notice of appeal had not yet begun. He says that in June, Ranes told him they would be "scheduled for court in 2-3 weeks." Then in August 2001 he contacted the WSBA and learned that Ranes had been suspended from practice on July 23, 2001. He then learned that the judge had signed the property order on October 30, 2000 and the period to file an appeal had expired. The Committee approved payment to Applicant of \$1,430.

GLENN E. REED (Bar No. 5328; Mount Vernon; Disbarred)

Application 03-07 Action: Pay \$3,000

Applicant hired Reed in 2000 for representation on a claim arising out of an auto accident. Reed was to receive \$500 as his fee. He negotiated a settlement for \$3,500 in June 2001. The insurance company sent Reed the settlement agreement and check dated June 28, 2001. The check was made payable to Applicant and Reed. Applicant signed the agreement and endorsed the check. Reed was to deposit the check into his IOLTA trust account and pay Applicant's medical bills, with any remaining balance to be paid to Applicant.

According to his stipulation to disbarment, Reed deposited the check in his IOLTA account, but he used the money for his own purposes and did not pay Applicant's bills. Applicant continued to receive bills over the next year, and when he would ask Reed, Reed falsely told him he had not received the final bills. Eventually, Reed stopped returning Applicant's calls.

Finally on July 25, 2002 Applicant left a message that if he did not hear back from Reed, he would file a complaint with the WSBA. Reed called Applicant the next day and left a message that he had "screwed up big time" and taken Applicant's money. Reed never paid any of the settlement funds to Applicant or his creditors. He was ordered to make restitution to Applicant of \$3,500, and to reimburse the Lawyers' Fund for Client Protection to the extent it paid on any claims. The Committee approved payment of \$3,000, which is the amount Applicant was entitled to under the fee agreement with Reed.

CHARLES E. ROBBINS (Bar No. 3976; Puyallup; Disbarred)

Application 03-47 Action: Pay \$3,700

Applicant hired Robbins to defend his son against a charge of vehicular homicide in Yakima County Superior Court. The son had been driving a car that ran into a plank fence. The passenger was killed, and the son was seriously injured. He was hospitalized at Harborview Hospital in Seattle.

Between August 13 and September 25, 2002, Applicant paid Robbins a total of \$3,700. Robbins assured him that he could get the charges reduced so that his son would spend a minimum time in jail. Applicant says that other than getting the case continued, Robbins did nothing to represent his son. Ultimately, the court appointed a public defender to represent the son. The Committee approved payment of \$3,700.

LOIS M. WOOD (Bar No. 17878; Pasco; Suspended)

Application 03-25 Action: Pay \$500

Applicant hired Wood on behalf of Applicant's husband, who was in prison. Wood was to

file a motion for discretionary review in the State Supreme Court from denial of a personal restraint petition. On August 3, 2000 Applicant paid \$500 attorney's fee and \$250 filing fee to Wood.

Wood did not file the motion for discretionary review by the August 19, 2000 deadline. After Applicant tried to get a copy of the motion, Wood told her that she had filed it but the Supreme Court had lost it. She said she would refile it with a motion for extension of time. Applicant paid Wood an additional \$250 to refile the motion. Wood still did not file the motion.

Applicant learned from the court that the motion was never filed. She attempted to contact Wood and finally reached her in November 2000. Wood said she was trying to find out why the court had not received the motion and she would call Applicant back. Applicant heard nothing further from Wood.

Applicant then contacted another lawyer who contacted Wood. She gave him a copy of a motion she had prepared. The new lawyer reviewed and edited it, and presented it to Applicant for signature. He filed it with the court with a \$250 filing fee and a motion for extension of time. The filing fee was returned with the advice that no filing fee was required. The motion for extension of time was denied.

Wood never gave Applicant an accounting or any refund. During the WSBA investigation, Wood initially denied that she had ever been hired by Applicant to file a motion, and denied receiving any funds. Later, however, Wood admitted that she had been paid by Applicant, but said that she had been experiencing serious personal and emotional problems. In her stipulation to discipline, Wood agreed to pay Applicant \$1,000 plus interest commencing February 1, 2001. No payments have been made. The Committee approved payment of \$500, and denied the balance of the application as a fee dispute.