

# Lawyers Fund Application Procedures

## Administration:

The Lawyers' Fund for Client Protection is administered pursuant to Admission to Practice Rule 15 and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. The 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 Board comprised of 11 lawyers and two nonlawyers who administer the Fund. The WSBA General Counsel acts as staff liaison to the Trustees and Board.

## 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. Applications may be obtained below, or by contacting the WSBA at [questions@wsba.org](mailto:questions@wsba.org) or 800-945-WSBA or 206-443-WSBA.

## Screening:

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 Office of 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 APR 15.

One of the more difficult claim areas involves fees paid to a lawyer for which no valuable service was performed. As a general rule, the Fund cannot resolve fee disputes between lawyers and clients. 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, such conduct is dishonest within the context of the purposes of the Fund, and such applications will be considered. Similarly, if a lawyer withdraws from representing a client or abandons a client's case without refunding unearned fees, the Board may conclude that the lawyer has engaged in dishonest conduct. The Fund is also not available to resolve or compensate in matters of lawyer malpractice or professional negligence.

## **Investigation:**

If the application appears eligible for payment, the Office of General Counsel investigates the application. In addition to filing an application to the Fund, applicants must also file a grievance with the Office of Disciplinary Counsel, and action on Fund applications normally awaits resolution of the disciplinary process. Finally, a report and recommendation are prepared for the Board.

## **Review:**

On applications for \$25,000 or less with recommendation for payment of not more than \$25,000, the Board's decision is final. Recommendations on applications for more than \$25,000, or for payment of more than \$25,000, are reviewed by the Trustees. Payments regarding any one application are limited to a maximum of \$75,000. Any payments from the Fund are gifts and are at the sole discretion of the Trustees.

## **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. This means that when the Fund makes a gift to the applicant, the Fund has the right to attempt to collect the money from the lawyer. In the event the client later gets reimbursed by the lawyer or an insurance company, the client would repay the Fund.

The Fund attempts to recover its payments from the lawyers or former lawyers on whose behalf gifts are made. As a practical matter, however, recovery is generally made only when it is a condition of a criminal sentencing, or when a lawyer petitions for reinstatement to the Bar after disbarment. For the most recent figures on funds recovered by the Fund, please see the most recent Annual Report.