

C L I E N T P R O T E C T I O N F U N D



Trustees' Annual Report: Fiscal Year 2018

LAWYERS' INDEMNITY FUND EST. 1960 • CLIENT PROTECTION FUND EST. 1994



WASHINGTON STATE BAR ASSOCIATION

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WASHINGTON STATE BAR ASSOCIATION
CLIENT PROTECTION FUND, FISCAL YEAR 2018

FY 2018 TRUSTEES	
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FY 2018 CLIENT PROTECTION BOARD	
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Tracy Flood	Port Orchard
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Carol Hunter	Spokane
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WSBA STAFF TO THE CLIENT PROTECTION BOARD	
Nicole Gustine	Assistant General Counsel; CPF Liaison/Secretary
Brenda Jackson	CPF Analyst

WASHINGTON STATE BAR ASSOCIATION
CLIENT PROTECTION FUND, FISCAL YEAR 2018

TABLE OF CONTENTS

I. HISTORY AND ESTABLISHMENT OF THE CLIENT PROTECTION FUND.....1

II. FUND PROCEDURES3

III. FINANCES6

IV. BOARD AND TRUSTEE MEETINGS7

V. APPLICATIONS AND PAYMENTS.....8

APPENDIX

FY 2018 Final Audited Income and Expense Report
and September 30, 2018, Fund Balance Sheet (audited) 25

I. HISTORY AND ESTABLISHMENT OF THE CLIENT PROTECTION FUND

Washington is fortunate to have a history of maintaining a stable, well-funded Client Protection Fund (CPF) that is strongly supported by the Washington Supreme Court and the Washington State Bar Association. Washington was one of the first states to establish what was then called a Lawyers' Indemnity Fund in 1960. Since that time, the lawyers of this state have compensated victims of the few dishonest lawyers who have misappropriated or failed to account for client funds or property.

The current CPF was established by the Washington Supreme Court in 1994 at the request of the WSBA by the adoption of [Rule 15](#) of the Admission to Practice Rules (APR), now called the Admission and Practice Rules. Prior to the adoption of that rule, the WSBA had voluntarily maintained a clients' security or indemnity fund out of the Bar's general fund. Similar funds are maintained in every jurisdiction in the United States, as well as Canada, Australia, New Zealand, and other countries.

The CPF helps accomplish important goals shared by our Court and WSBA members – client protection, public confidence in the administration of justice, and maintaining the integrity of the legal profession. Under APR 15, CPF payments are gifts, not entitlements. A \$30 annual assessment from lawyers licensed in Washington finances all CPF gifts; no public funds are involved. Currently, all WSBA members on active status, all lawyers with *pro hac vice* admissions, in-house counsel lawyers, house counsel, and foreign law consultants and Limited Licensed Legal Technicians (LLLTs), effective January 1, 2019, make these contributions. The following chart shows the experience of the past 10 years as the WSBA membership has increased.

Client Protection Fund Applications 2008-2018

Fiscal Year	# Of Lawyers	# Of Lawyers With Approved Applications	# Of Applications Received	# Of Applications Approved ¹	Gifts Approved
2009	27,819	13	80	33	\$449,050
2010	28,534	23	161	78	\$554,270
2011	28,676	15	179	72	\$1,002,683
2012	29,184	17	137	39	\$378,574
2013	29,682	18	130	45	\$423,508
2014	31,495	14	141	44	\$337,160
2015	31,335	20	79	59	\$495,218
2016	32,969	16	56	44	\$253,228
2017	33,357	19	72	47	\$439,273
2018	33,858 ¹	18	119	46	\$926,434

¹ Through December 31, 2018, the assessment was only paid by lawyers on Active status, *pro hac vice*, in-house counsel, house counsel, and foreign law consultants. Effective January 1, 2019, the assessment will also be paid by Limited Licensed Legal Technicians (LLLTs).

II. FUND PROCEDURES

The CPF is governed by [Admission and Practice Rule \(APR\) 15](#) and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. These can be found at:

http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaapr15

http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaapr15p

Administration: The members of the Board of Governors of the WSBA serve during their terms of office as Trustees for the CPF. The Trustees appoint and oversee the Board, comprised of 11 lawyers and 2 community representatives. This Board is authorized to consider all CPF claims, make CPF reports and recommendations to the Trustees, submit an annual report on Board activities to the Trustees, and make such other reports and publicize Board activities as the Court or the Trustees may deem advisable. Two WSBA staff members help Board members ensure the smooth functioning of the Board's work: WSBA Client Protection Fund Analyst Brenda Jackson performs a wide variety of tasks to help members of the public and the Board in the processing and analyzing of CPF claims. WSBA Assistant General Counsel Nicole Gustine acts as WSBA staff liaison to the Board, provides legal advice to the Board and also serves as Secretary to the Board.

Application: Anyone who files a grievance with the WSBA that alleges a dishonest taking of, or failure to account for, funds or property by a Washington member, in connection with that member's practice of law, can receive an application form for the CPF. An applicant to the Fund must also file a disciplinary grievance against the member with the Office of Disciplinary Counsel, unless the member is disbarred or deceased. Because most applications involve members who are the subject of disciplinary grievances and proceedings, action on Fund applications normally awaits resolution of the disciplinary process.² This means that some applicants wait years for the discipline process to be complete before the Board reviews their application.

Eligibility: In order to be eligible for payment, an applicant must show by a clear preponderance of the evidence that he or she has suffered a loss of money or property through the dishonest acts of, or failure to account by, a Washington member. Dishonesty includes, in addition to theft, embezzlement, and conversion, the refusal to return unearned fees as required by Rule 1.16 of the Rules of Professional Conduct.

² Fund Rule 6(h). In addition, 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 Client Protection Fund concerning applications pending before it. Such information is to be treated as confidential by the Board and Trustees.

The Fund is not available to compensate for member malpractice or professional negligence. It also cannot compensate for loan, investment, or other business transactions unrelated to the member's practice of law.

When an application is received, it is initially reviewed to determine whether it appears eligible for recovery from the Fund. If the application is ineligible on its face, the applicant is advised of the reasons for its ineligibility. If the application passes the initial intake process and appears potentially eligible for payment, Fund staff investigates the application. When the application is ripe for consideration by the Board, a report and recommendation is prepared by Fund staff.

Board and Trustee Review: On applications for less than \$25,000, or where the recommendation for payment is less than \$25,000, the Board's decision is final. Board recommendations on applications where the applicant seeks more than \$25,000, or where the Board recommends payment of more than \$25,000, are reviewed by the Trustees.

The maximum gift amount is \$150,000. There is no limit on the aggregate amount that may be paid on claims regarding a single member. Any payments from the Fund are gifts and are at the sole discretion of the Fund Board and Trustees.

Legal Fees: Members 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: As part of accepting a gift from the Fund, applicants are required to sign a subrogation agreement for the amount of the gift. The Fund attempts to recover its payments from the members or former members on whose behalf gifts are made, when possible; however, recovery is generally successful only when it is a condition of a criminal sentencing, or when a member petitions for reinstatement to the Bar after disbarment³. To date, the Fund (and its predecessors) has recovered approximately \$409,637.

Difficult Claims: One of the more difficult claim areas for the Board and Trustees involves fees paid to a member for which questionable service was performed. The Board is not in a position to evaluate the quality of services provided, or to determine whether the fee charged was reasonable, therefore, an application can generally be denied as a fee dispute. (The denial may also include other bases, such as malpractice or negligence.) 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, or the lawyer simply performs no service of value to the client, and does not return unearned fees, the Board has concluded that such conduct may be either dishonesty or failure to account within the context

³ Admission to Practice Rule 25.1(d) 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, or a payment agreement has been reached.

of the purposes of the Fund, and will consider such applications. Similarly, if a member withdraws from representing a client or abandons a client's case without refunding any unearned fee, the Board may conclude that the lawyer has engaged in dishonest conduct or has failed to account for client funds.

Another difficult claim area concerns loans or investments made to or through members. In instances where there is an existing client/LLP relationship through which the member learns of his or her client's financial information, persuades the client to loan money or to invest with the member without complying with the disclosure and other requirements of RPC 1.8,⁴ and does not return the client's funds as agreed, the Board may consider that a dishonest act for purposes of the Fund.

⁴ In relevant part, RPC 1.8 provides:

- (a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:
 - (1) the transaction and terms on which the member acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
 - (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and
 - (3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.
- (b) A member shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

III. FINANCES

The Fund is financed by an assessment as described above. 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. The Fund is self-sustaining; administrative costs of the Fund, such as Board expenses and Bar staff support, are paid from the Fund.

	Fund beginning balance ⁵	Fund revenues received	Board expenses and overhead ⁶	Restitution received	Gifts recognized for payment
FY 2012 Pending applications at start of fiscal year: \$2,421,848	\$261,318	\$893,487	\$27,654	\$5,942	\$326,800
FY 2013 Pending applications at start of fiscal year: \$1,615,062	\$791,399	\$914,547	\$72,430	\$10,674	\$416,870
FY 2014 Pending applications at start of fiscal year: \$1,814,266	\$1,213,602	\$949,965	\$70,196	\$3,668	\$339,161
FY 2015 Pending applications at start of fiscal year: \$1,229,864	\$1,746,010	\$990,037	\$90,315	\$3,703	\$490,357
FY 2016 Pending applications at start of fiscal year: \$13,203,653	\$2,144,289	\$1,001,198	\$129,553	\$2,970	\$371,452 ⁷
FY 2017 Pending applications at start of fiscal year: \$1,463,914	\$2,646,222	\$1,024,954	\$113,672	\$3,709	\$318,584
FY 2018 Pending application at start of fiscal year: \$2,045,175	\$3,242,299	\$1,040,498	\$166,969	\$28,255	\$917,051 ⁸

⁵ It is important for the Fund to maintain a sufficient balance to meet anticipated future needs. It is impossible to predict from year to year how many meritorious claims will be made by injured applicants.

⁶ Board expenses and overhead include WSBA staff time to administer the Fund, including processing of applications, helping members of the public, investigating claims, and making recommendations to the Board. Expenses and overhead have increased since 2012 as more resources have been allocated to eliminate backlogs, update systems, and improve processes, which have resulted in claims being resolved more efficiently and expeditiously.

⁷ The amount of gifts recognized in the FY 2016 financial statements are overstated by \$115,000 due to a duplicate recording of approved gifts. This was corrected in 2017 and explains the substantial difference between the amounts listed for FY 2016 and FY 2017 under this column as compared with the "Gifts Approved" column on page 2.

⁸ The amount of gifts recognized in the FY 2018 financial statements are understated by \$9,383 due to CPF gifts that were never claimed and have expired in FY 2018.

IV. BOARD AND TRUSTEE MEETINGS AND ACTIVITIES

Board: The Client Protection Board met four times this past fiscal year: November 6, 2017; February 5, 2018; May 7, 2018; and August 6, 2018. The Board considered 79 applications to the Fund involving 39 lawyers, and approved 46 applications involving 18 lawyers.

Fund Trustees: The Trustees reviewed the Board's recommendations on applications for more than \$25,000, or for payment of more than \$25,000, and approved the 2018 Annual Report for submission to the Supreme Court pursuant to APR 15(g).

Other Activities: On September 6, 2018, the Supreme Court ordered that effective in WSBA 2019 license year, LLLTs be required to pay a \$30 assessment to the CPF and LPOs shall not be required to pay a CPF assessment.

Public Information: The Client Protection Fund maintains a website at <http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Client-Protection-Fund> that provides information about the Fund, its procedures, and an application form that can be downloaded. The Fund information is also available in Spanish, but applications and materials must be submitted in English.

V. APPLICATIONS AND PAYMENTS

At the beginning of FY 2018, there were 58 pending applications to the Fund. During FY 2018, 119 additional applications were received. The Board and Trustees acted on 79 applications concerning 39 lawyers and approved 46 applications concerning 18 lawyers. The total amount in approved payments is \$926,434. A summary of Board and Trustee actions is shown below:

Applications Pending as of October 1, 2017	58⁹
Applications Received During FY 2018	119
Applications Acted Upon by Board and Trustees	79
Applications Carried Over to FY 2019	98

Applications Approved for Payment in FY 2018	46
Applications approved for payment arose from the lawyer's dishonest acts such as theft or conversion, failure to return or account for unearned legal fees, and investments or loans with lawyers.	

Applications Denied in FY 2018	33
Applications were denied for reasons such as fee disputes, no evidence of dishonesty, alleged malpractice, restitution already paid in full, no attorney client relationship, and other reasons.	

⁹ Applications received or pending are still in investigation, not yet ripe, or temporarily stayed. All approved applications receive initial payments of up to \$5,000, with the balance reserved for possible proration against 75% of the Fund balance at fiscal year-end.

APPROVED APPLICATIONS

ATTORNEY	Number of Applications Approved	Dollar Amount of Applications Approved	Page Number
Bergstedt, A. Spencer, WSBA #19825	2	\$4,453	10
Chafetz, Nicole, WSBA #20761	2	\$12,000	11
Crowley, John, WSBA #19868	16	\$186,250	12-15
Davis, Erica, WSBA #30035	1	\$600	16
Elkin, Craig, WSBA #14608	1	\$4,666	16
Funchess, Amy, WSBA #37436	1	\$125	16
Harrison, Mitch, WSBA #43040	3	\$23,500	17
Holcomb, James, WBSA #1695	1	\$122,521	18
Johnson, Holly, WSBA #32784	1	\$150,000	18
Love, Zenovia, WSBA #45989	2	\$9,914	19
Morris, Ernest, WSBA #32201	2	1,900	19
Morriss, Roy Earl, WSBA # 34969	5	\$6,500	20
Neal, Christopher, WSBA #33339	4	\$379,879	21-22
Noonan, Catherine, WSBA #30765	1	\$8,523	23
Nourse, Brent, WSBA #32790	1	\$7,716	23
Reed, David, WSBA #24663	1	\$5,000	23
Walberg, Lorn, WSBA #32730	1	\$2,500	24
Wylie, Nathaniel, WSBA #29238	1	\$387	24
	TOTAL:	\$926,434	

The following summarizes the gifts and recommendations made by the Board:

Bergstedt, A. Spencer, #19825 – SUSPENDED

Applicant 16-044 – Decision: \$1,300 Approved

In December 2015, Applicant hired Bergstedt to represent her in a bankruptcy proceeding, paying \$1,500. Bergstedt did not deposit the funds into his trust account. Thereafter, Applicant made repeated unsuccessful attempts to contact Bergstedt. Bergstedt responded to Applicant's inquiries once, stating that he was working on the case, but in reality he never filed the bankruptcy. Applicant requested a refund, with no return response. Bergstedt was ordered to make restitution payments but discontinued doing so after paying only \$200. The Board approved payment of \$1,300.

Applicant 18-026 – Decision: \$3,153 Approved

In June 2014, Applicant hired Bergstedt to represent him in a bankruptcy and in adversarial proceedings, paying a flat fee of \$3,500 and a \$350 filing fee, which Bergstedt did not deposit into his trust account. In July 2015, Bergstedt filed the bankruptcy petition and applied for an installment plan for the bankruptcy filing fee. Bergstedt paid the initial installment of the payment plan when he filed the petition and the other installment payments were returned because of insufficient funds. Applicant paid the remainder of the filing fee and the insufficient fund fee himself. Thereafter, it became difficult for Applicant to contact Bergstedt. In October 2015, Applicant terminated Bergstedt's representation and hired new counsel. In January 2016, the bankruptcy judge ordered Bergstedt to disgorge all attorney fees, filing fee and insufficient fund transaction fee and to send the funds to Applicant's new counsel. Bergstedt only sent Applicant \$400 of the attorney fees, and a refund for the filing fee and insufficient fund fee. The Board approved payment of \$3,153.

Chafetz, Nicole, #20761 – RESIGNED IN LIEU OF DISCIPLINE**Applicant 18-046 – Decision: \$4,000 Approved**

In April 2017, Applicant hired Chafetz to represent him in a Child Protective Services (CPS) allegation, paying \$4,000. Applicant met with Chafetz one time and had a couple of telephone conversations. In August 2017, Chafetz abandoned her law firm and legal practice, Chafetz never performed any work on Applicant's matter and never returned the unearned fees. The Board approved payment of \$4,000.

Applicant 18-047 – Decision: \$8,000 Approved

In July 2016, Applicant hired Chafetz to represent her in a family law matter, paying \$8,000. That same month, Applicant filed a temporary protection order that Chafetz was supposed to extend. In September 2016, Chafetz failed to appear at the hearing to extend the protection order. As a result, Applicant lost custody of her children. In February 2017, Chafetz felt bad for her prior conduct and agreed to represent Applicant in a Child Protection Service (CPS) and dependency case. In February 2017, Chafetz became a law firm partner. In April 2017, Chafetz gave Applicant's case to a new associate in the firm and that associate discovered that no work had ever been performed. In August 2017, Chafetz abandoned her law firm and legal practice. The law firm stepped in on a pro bono basis. The Board approved payment of \$8,000.

Crowley, John, #19868 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 15-026 – Decision: \$2,750 Approved

In May 2012, Applicant hired Crowley to represent him in resolving a criminal matter prior to an arrest warrant being issued. Applicant paid Crowley \$5,500. Crowley was difficult to contact and made no efforts to resolve the matter. A warrant was eventually issued for Applicant's arrest, but Crowley did not inform Applicant. Without Applicant's knowledge Crowley requested a hearing to quash the warrant, but then failed to appear at the hearing. Applicant terminated Crowley's representation and Crowley's office returned half of the unearned \$5,500 fee. The Board approved payment of \$2,750.

Applicant 18-001 – Decision: \$9,500 Approved

In September 2016, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$9,500. Crowley met with Applicant in jail twice, and appeared in court three times, but was otherwise unavailable, difficult to reach, sent substitutes to court appearances, or made multiple continuance requests. Applicant discovered that a warrant for his arrest was issued because Crowley failed to appear at a court date. Crowley performed minimal work of no value to the client. The Board approved payment of \$9,500.

Applicant 18-004 – Decision: \$3,000 Approved

In August 2015, Applicant hired Crowley to represent her in a criminal matter. Applicant paid Crowley \$4,000, but only has proof of \$3,000 in payment. Thereafter, it became difficult for Applicant to communicate with Crowley. Crowley sent Applicant a letter regarding a Declaration in Support of Motion to Withdraw Guilty Plea. Crowley instructed Applicant to review, sign and return the declaration to him, which she did. Crowley never filed the Motion to Withdraw Guilty Plea he prepared, and there is no evidence he performed any other useful legal services. Applicant made several attempts to contact Crowley for a refund, with no return response. The Board approved payment of \$3,000.

Applicant 18-009 – Decision: \$15,000 Approved

In March 2017, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$15,000. Applicant met with Crowley only one time. Crowley missed three of Applicant's court dates. Applicant sent Crowley a termination letter and requested a refund, with no return response. Crowley did not perform any work in Applicant's case and never returned the unearned fee. The Board approved payment of \$15,000.

Crowley, John *(continued)*

Applicant 18-029 – Decision: \$23,500 Approved

In September 2014, Applicant hired Crowley to represent him on two criminal matters paying a flat fee of \$23,500. Thereafter, Crowley failed to perform the initial work on the case and became difficult to contact. Crowley also failed to appear at meetings, court hearings, and often sent substitute counsel to court dates. Applicant expressed that he did not approve of substitute counsel, but Crowley continued to send others on his behalf. In May 2016, Applicant sent a letter to Crowley to terminate his representation and to request a refund of the unearned fees. Crowley did not respond. Applicant hired new counsel who discovered that Applicant's client file was incomplete and that Crowley did not perform substantive work. The Fund Board approved payment of \$23,500.

Applicant 18-030 – Decision: \$6,500 Approved

In June 2016, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$6,500. Applicant made repeated unsuccessful attempts to get in contact with Crowley. Crowley filed nothing of value in Applicant's matter other than a Notice of Appeal. Crowley failed to respond to the Court, and Applicant's case was dismissed for abandonment. Crowley never returned the unearned fee. The Board approved payment of \$6,500.

Applicant 18-032 – Decision: \$15,000 Approved

In September 2014, Applicant hired the Crowley Law Firm to represent him on an appeal of a criminal matter, paying \$15,000. Applicant was incarcerated and alleged that Crowley only came to meet with him one time. Applicant later had a few phone calls with Crowley that lasted only a few minutes. Thereafter, Crowley became difficult for Applicant's family to contact and he failed to show up for visits to meet with Applicant. Applicant did not know the status of his case and later learned that Crowley never filed the appeal. The Fund approved payment of \$15,000.

Applicant 18-033 – Decision: \$20,000 Approved

In October 2016, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$20,000. A year later Applicant contacted Crowley, because he received a court Summons. Crowley and Applicant met to discuss the summons. Crowley told Applicant he would not be present in court and instructed Applicant to plead not guilty. Applicant contacted Crowley after court, and Crowley told him he would get back to him. That was Applicant's last communications with Crowley. Applicant obtained a public defender because Crowley was unreliable. He learned from the Public Defender's office that Crowley resigned in lieu of discipline. The Board approved payment of \$20,000.

Crowley, John *(continued)*

Applicant 18-037 – Decision: \$30,000 Approved

In February 2017, Applicant hired Crowley to represent him in a criminal matter, paying him a total of \$31,000. Crowley appeared in court late at the first hearing and appeared by phone at a few other non-substantive court dates. Thereafter, it became difficult for Applicant to contact Crowley. Crowley had a court date scheduled for August 9, 2017, but cancelled. At the rescheduled court date of October 2, 2017, Applicant was informed by the court that Crowley had resigned in lieu of discipline. The Board approved payment of \$30,000.

Applicant 18-038 – Decision: \$15,000 Approved

In June 2015, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$10,000 for pre-trial work and \$15,000 for trial services. During Crowley's representation, it was often difficult to reach him. Crowley did not inform Applicant of important matters relating to his case, and procrastinated on conveying a plea bargain offer. Eventually, Applicant hired new counsel and sent Crowley a letter to terminate his representation. Applicant requested that a refund of \$15,000 be sent to his new counsel, since the matter did not go to trial. Applicant never received a refund. The Board approved payment of \$15,000.

Applicant 18-052 – Decision: \$9,500 Approved

In August 2017, Applicant's father hired Crowley to represent her in a criminal matter. Applicant's father paid Crowley \$9,500. Crowley visited Applicant in jail once, and promised to work on seeking her pre-trial release to a treatment facility. Crowley did not appear for the court date, but rather sent a substitute. Applicant's Public Defender was present and informed the court that Crowley had filed for a substitution of counsel hours prior. After repeated failed attempts to reach Crowley, Applicant sent an email terminating representation and requesting a refund. Crowley did not perform any work and did not return the unearned fee. The Board approved payment of \$9,500.

Applicant 18-053 – Decision: \$7,500 Approved

In June 2017, Applicant hired Crowley to represent her in a potential criminal matter, paying \$7,500. In the following week, it became difficult to contact Crowley, resulting in Applicant hiring a new lawyer. Applicant contacted Crowley from a different phone line and he answered. Applicant told Crowley she had a new lawyer, terminated his representation, and requested a refund. Crowley stated that he had already spoken to the new lawyer and would issue a refund. Crowley never sent the refund. The Board approved payment of \$7,500.

Crowley, John *(continued)*

Applicant 18-057 – Decision: \$9,500 Approved

In May 2016, Applicant hired Crowley to represent her in a criminal matter paying \$9,500. Thereafter and throughout the course of the representation months would go by with no contact with Crowley. In September 2016, Applicant was arrested and Crowley sent substitute counsel to appear at Applicant’s bail hearing. Crowley became unreachable again. In March 2017, Applicant terminated Crowley’s representation and requested a refund. Crowley reassured Applicant that he would take care of her and she stayed. In September 2017, Applicant was informed that Crowley had resigned in lieu of discipline. Applicant hired new counsel who discovered that Crowley did not perform any work of value and what substantive work had been done was done by Applicant herself. The Board approved payment of \$9,500.

Applicant 18-067 – Decision: \$1,000 Approved

In August 2017, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley \$1,000. Thereafter, Applicant made repeated unsuccessful attempts to get in contact with Crowley. Crowley never worked on the case, never communicated with Applicant after taking his money, and never returned the unearned fee. The Board approved payment of \$1,000.

Applicant 18-071 – Decision: \$3,500 Approved

In August 2017, Applicant hired Crowley to represent him in a criminal matter. Applicant paid Crowley a fee of \$3,500. After accepting the fee and cashing the check, Crowley told Applicant that he could not represent him, and referred him to another attorney. Crowley told Applicant that he would send Applicant’s new attorney a check for the \$3,500 fee. Crowley never did so. Applicant made repeated unsuccessful attempts to get in contact with Crowley. Crowley never returned the unearned fee. The Board approved payment of \$3,500.

Applicant 18-076 – Decision: \$15,000 Approved

In August 2016, Applicant hired Crowley to represent him in an alleged assault matter, prior to charges being filed. Crowley met with Applicant and his parents one time, and advised them of the possibilities if Applicant were charged with a crime. Borrowing funds from his grandmother, Applicant and paid Crowley \$15,000 and signed a fee agreement. After the initial meeting, Applicant never saw Crowley again. Applicant made repeated unsuccessful attempts to get in contact with Crowley. Applicant sent Crowley a certified letter requesting a refund, but the letter was “returned to sender.” Crowley did nothing to earn the fee, and never returned the unearned fee. The Board approved payment of \$15,000.

Davis, Erica, #30035 –SUSPENDED**Applicant 17-056 – Decision: \$600 Approved**

In December 2015, Applicant hired Davis to prepare dissolution documents, paying \$600. Applicant later met with Davis to sign the documents and paid an additional \$315 to cover filing fees. Davis never filed the paperwork. Applicant attempted to recover her documents and filing fee from Davis, but never received a response. Applicant had to start over with the help of a courthouse facilitator. The Board approved payment of \$600.

Elkin, Craig, #14608 – ACTIVE**Applicant 17-052 – Decision: \$4,665.50 Approved**

In 2014, Applicant hired Elkins to represent him in filing a wrongful foreclosure lawsuit against Bank of America, paying \$7,000. Elkins closed his practice having performed no work on Applicant's case. Applicant and Elkins entered a settlement under which Elkins agreed to pay Applicant \$3,500. Elkins failed to comply. Applicant then obtained a small claims court judgement for \$3,531.46 against Elkins. Elkins never paid the judgment. Applicant hired a lawyer on a contingent basis to recover the judgment award. Applicant will recover \$2,334.50 after deducting his new lawyer's fee. The Board approved payment of \$4,665.50.

Funchess, Amy, #37436 – RESIGNED IN LIEU OF DISCIPLINE**Applicant 17-054 – Decision: \$125.00 Approved**

During the period of July 2012 to October 2013, Applicant hired Funchess to represent him on various debt collection matters paying different flat fees payments for those services. Funchess performed minimal work and obtained minimal to no results. In October 2012, Applicant paid Funchess an advance fee of \$125 to pay a third party to investigate a bank account for collection purposes. Funchess deposited the funds into her general account, used the funds for other purposes, and never had the bank account investigated. The Board approved payment of \$125.

Harrison, Mitch, #43040 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 17-021 – Decision: \$8,000 Approved

In March 2015, Applicant hired Harrison to represent him in a criminal matter, paying a flat fee of \$8,000. Applicant contacted Harrison by phone and email to check to progress of his matter, and Harrison informed Applicant that he was working on it. Thereafter, Harrison ceased communication with Applicant. Applicant made an attempt to contact Harrison to inform him of the new trial date, with no return response. In June 2016, Applicant sent Harrison a termination letter requesting a refund of the \$8,000 unearned fee. Harrison failed to respond to the request. The Board approved payment of \$8,000.

Applicant 17-038 – Decision: \$5,500 Approved

In November 2014, Applicant hired Harrison to represent him in a number of legal matters relating to a criminal conviction, paying a flat fee of \$5,500. Harrison scheduled a hearing, which he later failed to appear, resulting in a default order. Harrison performed no work of value on behalf of his client, which caused more harm to Applicant. Harrison failed to adequately communicate with Applicant, missed crucial deadlines; and did not read, amend, and assess the quality of the motion to reconsider prior to submission as requested by Applicant. The Board approved payment of \$5,500.

Applicant 17-064 – Decision: \$10,000 Approved

In June 2015, Applicant hired Harrison to represent him in filing a personal restraint petition (PRP) in a criminal conviction and prison sentence. Applicant paid Harrison \$10,000. Harrison filed the PRP with the Washington Court of Appeals, but did not pay the filing fee or file a fee waiver. The court clerk gave Harrison a deadline to pay the filing fee or file a statement of finances. Harrison failed to respond. The court also notified Harrison of errors in the PRP he filed, and gave him a deadline to make corrections to avoid a motion to dismiss. Again, Harrison failed to respond or file a corrected PRP. Later, the court notified Harrison of the date for a hearing on the motion for dismissal, but Harrison did not respond. Applicant's PRP was dismissed as abandoned. The court then notified Harrison of a deadline to file a motion to modify the court's decision. Once again, Harrison failed to respond or file a motion to modify and the court terminated appellate review. Harrison's limited work on the PRP was of no value to Applicant. The Board approved payment of \$10,000.

Holcomb, James, #1695 – DECEASED

Applicant 17-065 – Decision: \$122,521.39 Approved

In 2010, while suspended from practice, Holcomb agreed to assist Applicant in obtaining private disability insurance policy benefits. No fee agreement was signed. Within days of submitting the claims, Holcomb received notice from the insurance company that benefits would be paid on Applicant's claim. The insurer sent Holcomb two checks representing Applicant's disability benefits. Holcomb retained 20% of the checks for legal fees, which amounted to \$122,521.39. Holcomb later claimed that the 20% was his contingent fee, even though he was suspended from practicing law, he had no written contingent fee agreement with Applicant for the claims, and appeared to have performed little to no work of value. Applicant filed a civil suit against Holcomb for return of the fees. The court found that there was no enforceable fee agreement and that Applicant was entitled to summary judgment awarding him all of the contingent fees previously paid to Holcomb, *i.e.*, \$122,521.39. Holcomb appealed the judgment to the Washington Court of Appeals, but died before he filed an opening brief. He did not return the fees, and the appeal was abandoned. The Board approved payment of \$122,521.39

Johnson, Holly, #32784 – RESIGNED IN LIEU OF DISCIPLINE

Applicant 18-018 – Decision \$150,000 Approved

In 2014, Applicant hired Johnson to serve as an escrow in a business transaction between Applicant and an Investor, paying a \$500 fee. Under the agreement Applicant was to deposit \$430,000 in escrow while the Investor obtained \$3,885,000 from a third-party investor to fund the making of a movie. Once the escrow transaction was complete, Johnson was to release the escrow funds, including the \$3,885,000 to Applicant. In June 2015, Applicant deposited the \$430,000 in a Chase Bank account that Applicant believed to be an escrow account, but it was Johnson's business account. Johnson converted almost all of the \$430,000. The Investor was unable to obtain the \$3,885,000 from the third-party investor. Applicant hired counsel to demand his \$430,000 back from Johnson after she failed to return it. Johnson spoke with Applicant's attorney several times, but never returned the funds. When the Office of Disciplinary Counsel investigated the matter, Johnson denied that she had ever received funds from Applicant, which was false. In September 2017, Johnson agreed to pay restitution in the amount of \$430,000 in her resignation form. Johnson never made a payment. The Board approved payment of \$150,000.

Love, Zenovia, #45989 – DISBARRED**Applicant 18-035 – Decision: \$8,414.07 Approved**

In July 2015, Applicant hired Love to represent her in a personal injury matter on a contingent fee basis. Love obtained a settlement in the amount of \$25,000. After depositing the funds in to her trust account, Love paid some bill, but never distributed the balance of the proceeds to Applicant. Love performed the work of obtaining the settlement earning \$8,325, and paid \$8,260.93 in medical bills. This leaves a balance of \$8,414.07 that Love converted for her own use. The Board approved payment of \$8,414.07

Applicant 18-063 – Decision: \$1,500 Approved

In June 2017, Applicant hired Love to represent her in a family law matter, paying \$1,500. Love assisted Applicant in completing the necessary paperwork and met her at the courthouse for an ex parte hearing, but did not enter the courtroom. Applicant appeared without counsel and was informed that Love was disbarred. Applicant hired new counsel, who sent Love a letter requesting a refund of the \$1,500 fee. A refund was never issued. In taking on Applicant's case, new counsel discovered that Love performed minimal work and does not believe Love advanced the client's case or that any work of value was performed. The Board approved payment of \$1,500.

Morris, Ernest, #32201 – DISBARRED**Applicant 17-006 – Decision: \$1,500 Approved**

In May 2014, Applicant hired Morris to represent her minor child in a federal lawsuit for an assault by a school district employee, paying a flat fee of \$1,500. Applicant attempted to contact Morris to check on the status of the case, with no return response. Morris never filed the lawsuit and never returned the unearned fee. The Board approved payment of \$1,500.

Applicant 17-024 – Decision: \$ 400 Approved

In June 2015, Applicant hired Morris to represent her in a student conduct matter, paying a flat fee of \$400. Thereafter, Applicant received no further communication from Morris despite repeated attempts to check the status of the case. Court records revealed that though Morris prepared and filed the petition, he did not serve the petition and the matter was dismissed for his failure to take any further action. Morris failed to perform any work of value to the client and in his disbarment proceeding was ordered to pay restitution to the Applicant in the amount of \$400. The Board approved payment of \$400.

Morriss, Roy Earl, #34969 – RESIGNED IN LIEU OF DISCIPLINE**Applicant 15-056 – Decision: \$1,000 Approved**

In February 2015, Applicant hired Morriss to write letters to Snohomish County government officials and to assist a homeowners' group concerned about the Pilchuck River erosion. Applicant paid Morriss an advance fee of \$1,000. Thereafter, Applicant made repeated unsuccessful attempts to contact Morriss. In April 2015, Applicant sent Morriss a termination letter and requested a refund, with no return response. Morriss never wrote the letter to the government officials and never returned the unearned fee. The Board approved payment of \$1,000.

Applicant 16-021 – Decision: \$2,000 Approved

April 2012, Applicant hired Morriss to help resolve a property dispute with her neighbor, paying an advance fee of \$2,000. Morriss drafted and submitted a letter to Applicant's neighbor. In the months that followed, Applicant tried to contact Morriss to get an update on her case. Morriss eventually managed to respond to each of the emails from Applicant. But when Applicant asked for an accounting, Morriss failed to provide such information despite saying he would "get to work on that," or "the information and funds you request are now in the mail." Morriss never sent Applicant an accounting of the fees or a refund. The Board approved payment of \$2,000.

Applicant 17-063 – Decision: \$1,000 Approved

In October 2014, Applicants hired Morriss to represent them in a real property matter, paying \$1,000. When the Applicants tried to contact Morriss, they received no return response. Morriss did not perform any work. The Applicants had to hire a new lawyer who also tried to communicate with Morriss to terminate his representation and to request a refund of the \$1,000 fee. Morriss did not respond to the Applicants' new lawyer and did not issue a refund. The Board approved payment of \$1,000.

Applicant 17-066 – Decision: \$2,000 Approved

In January 2015, Applicant hired Morriss to represent her in a real property litigation matter against her neighbor, paying \$2,000. Thereafter, it became difficult for Applicant to communicate with Morriss. Morriss never filed the lawsuit, did not perform any work and has not returned the unearned fees. The Board approved payment of \$2,000.

Applicant 18-007 – Decision: \$500.00 Approved

In February 2015, Applicants hired Morriss to write a letter to their neighbor regarding a property boundary dispute, paying \$500. Thereafter, the Applicants tried to reach Morriss by phone with no return response. Morriss never wrote the letter and never refunded the unearned fee. The Board approved payment of \$500.

Neal, Christopher, #33339 – DISBARRED**Applicant 16-037 – Decision: \$142,600.14 Approved**

In March 2011, Applicant hired Neal to assist in selling an auto business and real estate property. There was no fee agreement and no fee was paid. A Power of Attorney (POA) granted Neal the authority to execute documents relating to the sale of the business, but Applicant never signed it (Neal appears to have forged Applicant's signature on the document). No POA was prepared or signed for the sale of the real property. Neal used the POA to effectuate the sale of both the business and the real property. The property was sold for \$400,000, with the terms including a promissory note for \$395,000 payable in monthly installments. At the same time, the business was sold for \$100,000. The terms of that sale involved a \$14,583.05 down payment, with five additional payments of \$14,583.05 to be made. Neal never informed Applicant of the sales or the terms of the sales. Neal instructed Applicant to forward monthly payments received from the buyers to him to pay "legal fees" and "debts" supposedly associated with the auto business. In all, Neal received \$142,600.14 in payments, which he converted for his own use. The Board approved payment of \$142,600.14.

Applicant 17-053 – Decision: \$150,000 Approved

In 2014, Applicant hired Neal to prepare and file income tax returns for the years 2007 to 2014. Applicant paid Neal \$2,000. When Applicant met with Neal to sign the returns he was told that he owed \$65,000 in back taxes. Neal told Applicant to make payment by cashier's check payable to "Columbia Consulting" and that he would transmit the payment from that account to the IRS. Applicant followed Neal's instruction. Neal deposited funds in a business account at Bank of America. Later, Neal told Applicant that he owed \$27,815 for 2015 taxes. Applicant again gave Neal a cashier's check payable to "Columbia Consulting." Later, Neal told Applicant that he owed \$430,000 in back taxes for 2010, 2011, 2012 and 2013. Applicant decided to pay \$170,000 (the amount owed excluding interest and penalties), once again paying by cashier's check payable to Columbia Consulting. Neal never made any payments to the IRS on behalf of Applicant and converted the funds for personal use. Applicant repeatedly visited Neal's office, but he was never there. By 2016 Applicant received notice from the IRS that he owed over \$305,000 in back taxes. Restitution of \$262,815 was ordered. The Board approved payment of \$150,000.

Neal, Christopher *(continued)*

Applicant 17-058 – Decision: \$65,708 Approved

Applicant hired Neal to prepare and file his personal and corporate taxes for the years 2013 and 2014. After completing the 2013 return, Neal told Applicant that he had a \$61,924 overpayment. He suggested that Applicant leave those funds with Neal for payment of the following year's taxes. Applicant did so. Applicant later found out that Neal inserted his office address in place of Applicant's home address on the return. Applicant received a \$3,784 refund for that year. Applicant hired Neal to prepare his 2015 taxes, which Neal never filed. Later that year, Applicant learned that Neal was being investigated for misappropriating client funds. In September 2017, the Benton County Prosecutor charged Neal with theft of \$65,708 of Applicant's funds. The Board approved payment of \$65,708.

Applicant 18-023 – Decision: \$21,571 Approved

In 2013, Applicant hired Neal to assist him with business and tax matters. Neal prepared and filed tax returns for the years 2009 to 2012. For 2013 taxes, Neal told Applicant to write a check payable to Christopher Neal Law and/or Columbia Consulting so that Neal could then forward tax payment to the IRS. Applicant wrote a check for \$6,256 payable to "Law Office of Chris Neal" for his 2013 taxes. He wrote another check payable to Neal for \$5,293 for his 2014 taxes, and yet another for \$8,532 for his 2015 taxes. Neal never filed the 2013, 2014 and 2015 tax returns, although he did prepare them. Neal did not pay the amounts owed by Applicant to the IRS; instead he converted those funds for his own use. Applicant also paid Neal \$440 to prepare and file his 2013 return, \$550 for his 2014 return and \$500 for his 2015 return. Since these returns were never filed, these fees were unearned. The Board approved payment of \$21,571.

Noonan, Catherine, #30765 – DISBARRED**Applicant 17-036 – Decision: \$8,522.88 Approved**

In January 2012, Applicant hired Noonan to represent him in a personal injury matter. Noonan obtained a settlement in the amount of \$29,000, out of which she earned a total of \$10,703.67 in fees and expenses. \$9,773.45 was disbursed to Applicant. Noonan converted the remaining funds for her own use and never paid the related medical bills. Restitution in the amount of \$8,522.88 was ordered, but Noonan never paid the restitution. The Board approved payment of \$8,522.88.

Nourse, Brent, #32790 – RESIGNED IN LIEU OF DISCIPLINE**Applicant 18-028 – Decision: \$7,716 Approved**

In April 2014, Applicants hired Nourse to represent them in a dispute with a building contractor, paying a total of \$25,716. During the representation, Nourse lied to the Applicants repeatedly, by falsely stating that he filed their lawsuit, attended mediation in the case which was unsuccessful, and that two subsequent mediations were cancelled at the last minute. He prepared two documents falsely representing that an arbitrator had entered an award in the Applicants' favor. One of the documents stated they had been awarded \$2,250,000. Nourse assured the Applicants that they would get the award when a judge approved it. He then created a fake judge's order stating that "judgement shall be entered in favor of Plaintiff's [sic] . . . in the amount of \$2,250,000 with interest bearing 12% per annum." In April 2017, the Applicants contacted another lawyer in Nourse's law firm, and learned that Nourse had left the firm. The lawyer discovered that Nourse had defrauded the Applicants. In November 2017, the Applicants hired new counsel and sued Nourse and his law partners and obtained a settlement. To reimburse the Applicants for the fees they had to pay new counsel to recover the fees that Nourse dishonestly took from them, the Board approved payment of \$7,716.

Reed, David, #24663 – DISABILITY INACTIVE**Applicant 17-069 – Decision: \$5,000 Approved**

In April 2010, Applicant hired Reed to represent him in a personal injury matter on a one-third contingent fee agreement basis. In July 2014, Reed obtained a settlement in the amount of \$32,500. Reed paid Applicant the proceeds of the settlement, but held onto \$5,000 to see if he could get the medical bills reduced. Thereafter, it became difficult for Applicant to communicate with Reed. Reed never paid the medical expenses, and never disbursed the \$5,000 to Applicant. The Board approved payment of \$5,000.

Walberg, Lorn, #32730 – DISBARRED**Applicant 17-007 – Decision: \$2,500 Approved**

In June 2015, Applicant hired Walberg to represent her in a housing dispute concerning her home paying a \$2,500 “non-contingent retainer,” and signed a fee agreement. Applicant attempted to contact Walberg regarding moving forward with the lawsuit, with no return response. After four months of attempting to contact Walberg, Applicant requested a refund, still with no return response. Walberg never returned the unearned fee. The Board approved payment of \$2,500.

Wylie, Nathaniel, #29238 – DECEASED**Applicant 17-047 – Decision: \$386.80 Approved**

In July 2016, Applicant hired Wylie to represent him in a criminal matter, paying a flat fee of \$20,000, plus \$1,000 for investigation costs. Wylie passed away in the midst of working on the case. Applicant provided billing statements from the investigation costs, showing that costs totaled \$613.20. However, there were no billing statements to establish what portion of fees Wylie earned prior to his death. The Board approved payment of \$386.80.

APPENDIX – Fund Balance Sheet

Statement of Financial Position

ASSETS	Audited As of September 30, 2018
Wells Fargo Checking Account	\$798,155
Accrued Interest Receivable	-
Wells Fargo Money Market	3,286,476
Wells Fargo Investments	-
Morgan Stanley Money Market	104,080
TOTAL ASSETS	\$4,188,711
LIABILITIES AND NET ASSETS	
Approved gifts to injured clients payable	802,490
Liability to WSBA general fund	155,395
Net Assets	3,227,988
TOTAL LIABILITIES AND NET ASSETS	\$4,188,711

Statement of Activities

REVENUE	Audited As of September 30, 2018
Restitution	\$28,255
Member Assessment	995,336
Interest	45,162
TOTAL REVENUE	\$1,068,753
EXPENSES	
Gifts to Injured Clients	\$917,051
CPF Board	1,740
Misc.	(957)
Indirect (overhead)	165,229
TOTAL EXPENSE	\$1,083,063
Net Income (Expense)	\$(14,310)

Statement of Changes in Net Assets

Balance at September 30, 2017	\$3,242,299
Net Income for the 12 months end September 30, 2018	(14,310)
Balance at September 30, 2018	\$3,227,988