



**STATE BAR OF WISCONSIN**

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**REPORT OF  
THE WISCONSIN LAWYERS' FUND FOR CLIENT PROTECTION**

**FISCAL YEAR 2010  
JULY 1, 2009 THROUGH JUNE 30, 2010**

Attorney Deborah M. Smith (member, 2011) was appointed chairperson to serve until June 30, 2010. In addition to Attorney Smith, the other members serving on the committee in fiscal year 2010 were Attorney Lindsey D. Draper (2012), who also served as vice chair, Attorney Wayne L. Maffei (2010), Dr. Steven Behar (2011), Mary Beth Growney-Selene (2013), Attorney Stephen D. Chiquoine (2013) and Attorney David P. Kaiser (2014).

The committee met three times, August 18, 2009, November 17, 2009, and May 11, 2010, to consider claims filed and address other business.

**CLAIMS SUMMARY**

During fiscal year 2010, the committee acted upon a total of 65 claims. The claims included 57 new claims first presented in fiscal year 2010; five claims deferred from fiscal year 2009; and three claims that were reconsidered in fiscal year 2010. The 65 claims were against 26 attorneys.

A total of 28 claims were approved in the following categories:

- Theft by Investment – four claims totaling \$245,792.14
- Trust Account Conversion – five claims totaling \$40,805.00
- Unearned Advanced Fees – 17 claims totaling \$73,400.00
- Theft by Estate - one claim totaling \$150,000.00
- Misappropriation of Funds - one claim totaling \$4,000.00

The Fund approved claims against the following 10 individual attorneys:

- Timothy T. Blank - one claim totaling \$2,000.00
- Joan Marie Boyd – one claim totaling \$8,100.00
- Peter T. Elliott – four claims totaling \$381,692.14
- Scott H. Fisher – one claim totaling \$500.00
- William T. Gilbert - one claim totaling \$14,100.00

- David A. Goluba - one claim totaling \$30,000.00
- Mark R. Kramer – five claims totaling \$14,805.00
- Christopher A. Mutschler - nine claims totaling \$50,450.00
- Godfrey Y. Muwonge – four claims totaling \$10,800.00
- Mark A. Phillips - one claim totaling \$1,050.00

Of the 65 claims considered, 20 were approved for payment in full, eight were approved in part and denied in part, 27 were denied in full, and eight were deferred for further consideration.

Of the 28 claims approved, two claims totaling \$8,750 were deferred for payment until Fiscal Year 2011 (July 1, 2010-June 30, 2011); one claim in the amount of \$2,000 was paid by the attorney to the client following the committee's actions; and one claimant did not return a signed subrogation agreement required for reimbursement of the approved \$1,050.

As of the date of this report, 35 claims have been received for consideration in fiscal year 2011. In addition, the eight deferred claims, totaling \$375,493.27 will again be considered in fiscal year 2011.

### **REVENUE**

The Wisconsin Lawyers' Fund for Client Protection ended fiscal year 2009 with a balance of \$216,923.57. During fiscal year 2010, there was a Wisconsin Lawyers' Fund for Client Protection assessment of \$16.00 per attorney per SCR 12.07(3) Certificate of sufficiency. "The committee shall determine the net value of the fund as of May 1 of each year. Whenever the value of the fund shall equal or exceed \$250,000, after deducting all claims which the committee has determined to pay and which are not disposed of at the date of valuation and all expenses properly chargeable against the fund, the committee shall file with the supreme court prior to May 31 of that year a certificate of sufficiency to that effect. When a certificate of sufficiency is filed with the Supreme Court, there shall be no annual assessment for the next fiscal year."

Total assessments collected amounted to \$311,320.00. Interest on deposits totaled \$826.27. Restitution collected from attorneys totaled \$15,300. Total funds available to the committee for distribution during fiscal year 2010, therefore, were \$327,446.27.

## **EXPENSES**

Of the 65 claims considered in the fiscal year, 24 were paid for a total amount of \$501,697.14. Administrative expenses were paid in the aggregate amount of \$47,984.56. Total disbursements made by the fund were thus \$549,681.70. As of the end of the fiscal year—June 30, 2010—the fund balance was (\$5,311.86).

## **OTHER ACTION**

The Wisconsin Supreme Court established the Wisconsin Lawyers' Fund for Client Protection (WLFCP), formerly named the Clients' Security Fund, in 1981 to reimburse people who lost money through dishonest acts of Wisconsin attorneys. Claims include unearned retainer, theft from estate, misappropriation of funds, conversion of trust account funds, and theft by investment. Claims for reimbursement and all proceedings of the committee are subject to [SCR 12.04-12](#). Reimbursement decisions are made at the discretion of the committee.

The WLFCP Committee updated its policy regarding the maximum per claim reimbursement. When the Fund was created in 1981, the maximum reimbursement was \$25,000. From January 1990 through June 1995 the maximum was \$35,000. From July 1995 through June 1996, it was raised to \$45,000. The previous maximum of \$75,000 was effective July 1, 1996, and had not been raised since. The WLFCP committee also passed the new maximum with a requirement that exceeding that maximum would take a unanimous vote of the committee members present.

The WLFCP Committee noted that the new maximum rate affects few claims. WLFCP Committee considered 27 claims at its August meeting. Three of those claims were for more than \$75,000 and two of those for more than \$150,000. However, these larger claims are often those that have had the greatest impact on the victim of the dishonest conduct of a lawyer. For example, there was a claim from a church in a central city neighborhood of Milwaukee that had provided ministry and services to the community since at least 1900. The church needed to sell a property so it could continue in existence and maintain its ministry. The attorney they hired to sell the property stole more than \$200,000 realized from the sale. Without the award of \$150,000, the church would have had to shut its doors, including its food pantry, clothing pantry, and soup kitchen.

The WLFCP experienced an even greater number and total amount of claims than the committee had anticipated. The committee continues with its commitment to paying claimants with substantiated

claims as promptly it can. The WLFCP Committee is also committed to finding new ways to seek restitution from lawyers against whom claims are paid.

Client protection funds around the country are experiencing increases in the numbers and sizes of claims,” notes committee chair Deb Smith. “As lawyers are under increasing economic pressure, some experience problems with substance abuse, depression, or generally become overwhelmed. Unfortunately, there are those who resort to stealing from clients and trust accounts. I think that explains, in part, what we’re seeing in the numbers and amounts of claims in Wisconsin. While we can feel some empathy for the plight of those affected lawyers, it is important that we call them on their dishonest conduct and do what we can to make their victims whole. We are a self-policing profession, and as such, we owe a special duty to clients and the public to maintain trust and confidence in lawyers. One important way we do this is by making amends for the bad deeds of a few.”

The WLFCP Committee faced an upturn in the number and dollar amount of claims in Fiscal Year 2010 and at its May 11, 2010 meeting the WLFCP Committee had to defer payment of two claims until Fiscal Year 2011.

Respectfully submitted,

WISCONSIN LAWYERS’ FUND FOR CLIENT PROTECTION

By: \_\_\_\_\_  
Deborah M. Smith, Chair

Date: \_\_\_\_\_, 2010

- Attachment 1 - Action on Claims
- Attachment 2 - Financial Statements
- Attachment 3 – Fiscal Year 2010 Claims by Attorney
- Attachment 4 – Fiscal Year 2010 Claims by Type of Theft