



STATE BAR OF WISCONSIN

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REPORT OF THE WISCONSIN LAWYERS' FUND FOR CLIENT PROTECTION

FISCAL YEAR 2012 JULY 1, 2011 THROUGH JUNE 30, 2012

Attorney Lindsey D. Draper (2012), was appointed chairperson to serve until June 30, 2012. In addition to Attorney Draper, the other members serving on the committee in fiscal year 2012 were Mary Beth Growney-Selene (2013), Attorney Stephen D. Chiquoine (2013), Attorney David P. Kaiser (2014), Attorney Joseph P. Wright (2015), who also served as vice chair, and Melissa Godden (2016).

The committee met four times, August 2, 2011, November 9, 2011, December 12, 2011, and March 13, 2012, to consider claims filed and address other business.

CLAIMS SUMMARY

During fiscal year 2012, the committee acted upon a total of 62 claims. The claims included 49 new claims first presented in fiscal year 2012; seven claims deferred from fiscal year 2011; one claim that was reconsidered from fiscal year 2007; three claims that were reconsidered from fiscal year 2010; and two claims that were reconsidered from fiscal year 2011. The 62 claims were against 36 attorneys.

A total of 31 claims were approved in the following categories:

- Trust Account Conversion – three claims totaling \$98,900
- Unearned Advanced Fees – 24 claims totaling \$78,977.27
- Theft by Estate - three claims totaling \$285,253.32
- Misappropriation of Funds - one claim totaling \$290

The Fund approved claims against the following 16 individual attorneys:

- Fred L. Bardenwerper - two claims totaling \$2,000
- Mary K. Biester – one claim totaling \$78,000
- Bridget Eileen Boyle – one claim totaling \$5,000
- Ernesto Chavez – one claim totaling \$1,500
- Robert Paul D'Arruda – one claim totaling \$500

- Khaja M. Din – one claim totaling \$6,000
- Peter T. Elliott – one claim totaling \$131,101.19
- William J. Grogan – two claims totaling \$7,000
- Arik J. Guenter – one claim totaling \$3,227.27
- Donald A. Hahnfeld – one claim totaling \$14,400
- Mark R. Kramer – one claim totaling \$290
- William R. Lamb – three claims totaling \$5,500
- Christopher A. Mutschler - 11 claims totaling \$53,150
- John N. O'Brien – one claim totaling \$600
- Gerald D. Stange - two claims totaling \$154,152.13
- Sherman Hackbarth – one claim totaling \$1,000

Of the 62 claims considered, 25 were approved for payment in full, 6 were approved in part and denied in part, 28 were denied in full, and three were deferred for further consideration. As of the date of this report, 23 claims have been received for consideration in fiscal year 2013. In addition, the three deferred claims, totaling \$9,875 will again be considered in fiscal year 2013. A claim filed and approved in Fiscal Year 2010 was paid in Fiscal Year 2012 in the amount of \$1,050.

REVENUE

The Wisconsin Lawyers' Fund for Client Protection ended fiscal year 2012 with a balance of \$136,509.47. During fiscal year 2012, there was a Wisconsin Lawyers' Fund for Client Protection assessment of \$25 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 \$499,166. Interest on deposits totaled \$1,063.10. Restitution collected from attorneys totaled \$33,249.62. Total funds available to the committee for distribution during fiscal year 2012, therefore, were \$533,478.72.

EXPENSES

Of the 62 claims considered in the fiscal year, 31 were paid for a total amount of \$464,470.59, which includes the \$1,050 payment of the claim approved in Fiscal Year 2010. Administrative expenses were paid in the aggregate amount of \$58,297.60. Total disbursements made by the fund were thus \$522,768.19. As of the end of the fiscal year—June 30, 2012—the fund balance was \$136,509.47.

OTHER ACTION

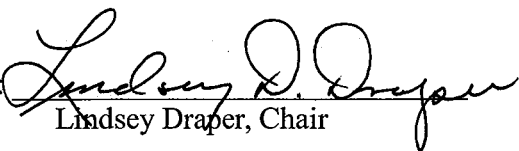
The Wisconsin Supreme Court established the Wisconsin Lawyers' Fund for Client Protection (WLFCP), formerly named the Clients' Security Fund, in 1981 to reimburse people who lost money through dishonest acts of Wisconsin attorneys. Claims include unearned retainer, theft from estate, misappropriation 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.

Chairperson Draper said, "The Client Protection Fund and the proceedings surrounding its administration illustrate parts of the best and worst in the profession. It is very difficult for the overwhelming number of attorneys who hold the trust of clients to be sacred to envision the betrayal reflected in thefts from clients and unlawful use of their funds. It is a strong statement of *why* the profession is allowed to police itself that attorneys provide the funds to make victimized clients whole. Whether it was as a result of trust account conversion, unearned advanced fees, thefts from estates, or the misappropriation of funds, in Fiscal Year 2012, the Client Protection Fund approved thirty-one claims for a total amount of \$463,420.59 against sixteen individual attorneys. The committee, using funds contributed by the vast majority of Wisconsin lawyers who uphold the oaths taken on admission to the profession, attempted to make whole the injuries caused by bad acts of a proportionally small number of attorneys.

"Among the members who contributed immeasurable wisdom and services to the Fund was Committee Vice-Chair Joseph Wright whose loss this year was intensely felt by not only the committee but by the profession and all those who had the good fortune to know him."

Respectfully submitted,

WISCONSIN LAWYERS' FUND FOR CLIENT PROTECTION

By: 
Lindsey Draper, Chair

Date: 8/20, 2012

Attachment 1 - Action on Claims

Attachment 2 - Financial Statements

Attachment 3 - Fiscal Year 2012 Claims by Attorney

Attachment 4 - Fiscal Year 2012 Claims by Type of Theft