

**ANNUAL REPORT
OF THE
MINNESOTA
CLIENT SECURITY BOARD**

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DIRECTOR
1500 Landmark Towers
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**JULIE E. BENNETT
ASSISTANT DIRECTOR**

July 2007

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I. YEAR IN REVIEW

Rule 1.10, Minnesota Rules of the Client Security Board (MRCSB), provides:

At least once a year and at such other times as the Supreme Court may order, the Board shall file with the Court a written report reviewing in detail the administration of the fund, its operation, its assets and liabilities.

This twentieth annual report of the Minnesota Client Security Board covers the Board's fiscal year, FY2007, which began July 1, 2006, and ended on June 30, 2007.

Highlights.

On July 1, 2007, the Client Security Board will celebrate its 20th year of operation. Articles highlighting this significant event and the importance of the Client Security Board's work were written by Board Member Harriet Sims and Assistant Director Julie E. Bennett. The articles appeared in the Minnesota State Bar Association's Public Law News and the Minnesota Lawyer. (*See Appendix 5, A. 9-12.*)

In April 2006, Martin A. Cole took over as Director of the Client Security Board and in July 2006, Julie E. Bennett became Assistant Director of the Client Security Board.

Ms. Bennett traveled to Denver, Colorado in September 2006 to attend a conference organized by the National Client Protection Organization. Attendance at the conference allowed interaction with similar organizations throughout the United States.

Statistics. The Client Security Board paid two (2) claims this year, in the total amount of \$135,417.08 (*see Appendix 1, A. 1-2*).¹ Although this fiscal year had

¹ Claims were paid against the following attorneys in the following amounts:

M. Samuel Vaught	1 claim	67,117.41
Donald Wheat	1 claim	68,299.67

one of the lowest numbers of claims which were paid, the claims which were paid represented substantial amounts.

Twenty-four (24) new claims were filed this past year. Seventeen (17) claims were carried-over from the previous year. As noted, two (2) claims were approved for payment, eighteen (18) claims were denied and one (1) was withdrawn. At the end of June 2007, twenty (20) claims against twenty-one (21) different lawyers remain pending before the Board. In some instances related disciplinary or civil proceedings are pending, completion of which the Board is awaiting prior to being able to resolve the claim. Overall, after twenty years of paying claims, the Board has now paid \$5,697,329.91 on 439 claims against 123 lawyers (*see* Appendix 4, A. 5-8).

II. THE CLIENT SECURITY BOARD AND ITS PROCEDURES

Board Members. As of June 30, 2007, the following individuals served on the Board (*see* Appendix 3; A. 4):

<u>Name</u>	<u>City</u>	<u>Term Expires</u>
Michael T. Rengel, Chair	Fergus Falls	June 30, 2007 (second term)
Gary G. Fuchs	Eagan	June 30, 2008 (second term)
Robert T. Lund	Bloomington	June 30, 2009 (second term)
Richard A. Nethercut	Harmony	June 30, 2009 (first term)
Bonnie R. Russ	St. Paul	June 30, 2007 (first term)
Sally D. Sawyer	Minneapolis	June 30, 2008 (second term)
Harriet J. Sims	Minneapolis	June 30, 2008 (first term)

Michael Rengel, an attorney in private practice in Fergus Falls, served as the Board's Chair for the past year. Mr. Rengel has now completed his second term and will be leaving the Board. His thoughtful and thorough understanding of the purposes of client protection funds has made him a strong advocate for the victims of lawyer dishonesty. His patience in conducting the Board meetings allowed members to express their opinions and concerns without hesitation and which enhanced consensus among the Board members. Mr. Rengel's successor to the

Board, Timothy M. O'Brien of Minneapolis, was nominated by the Minnesota State Bar Association (MSBA) and the Court approved his appointment. Bonnie Russ was recently appointed to a second term.

Richard A. Nethercut, who is an attorney in private practice, joined the Board this year. Mr. Nethercut has quickly acclimated himself to the Board and has been an excellent addition.

The MSBA nominates three of the five attorney members; currently Mr. Rengel, Ms. Sims and Mr. Nethercut. Ms. Sawyer and Ms. Russ are the Board's public members. As noted, Timothy M. O'Brien was recently nominated for a three-year term on the Board to replace Mr. Rengel.

The Board's Liaison Justice from the Supreme Court remains Justice Helen Meyer. She is also the liaison to the Lawyers Professional Responsibility Board, the first time a justice has acted as liaison to both Boards simultaneously.

Funding and Budget Procedures. All active lawyers in Minnesota pay \$12 per year to support the Fund.² In 1998, the Supreme Court recommended parameters for the fund of \$1.5-million and \$2.5-million, with the Board to report to the Court if the fund drops below or exceeds these figures. Despite comparatively large payouts over the past three years, the Board projects fiscal year-end balances of \$2.8-million in June 2007 and \$2.9-million at the end of June 2008, slightly above the Court's parameters. This has been reported to the Court. At the present time, the Board has not recommended any change in the Board's annual assessment.

The Board does not handle any funds directly nor the investment of the Fund. The assessment is collected through the Office of Attorney Registration and placed into a segregated fund within the State Treasury. This past year the assessment generated approximately \$258,000. The Board also received

² Rule 2, Rules of the Supreme Court on Lawyer Registration.

approximately \$128,000 in interest income and approximately \$73,600 in restitution payments from lawyers on whose behalf claims have been paid.

With the current assessment, the Board anticipates total income from all sources this coming year of approximately \$469,000. The Board has budgeted \$362,439 in total expenditures for next year, based upon the information presently available to the Board concerning pending claims or known potential claims, with \$300,000 directly budgeted for claims' payment next year. Just over \$58,000 has been budgeted for all non-claim expenses, including staff services, supplies, additional regular enhancements to the Board's computer database and attendance by two people at national conferences. In most years, the Board has in fact been able to spend less than budgeted for all non-claim payment items in its budget.

Administration. The Office of Lawyers Professional Responsibility (OLPR) provides staff services to the Client Security Board. As noted earlier, Martin Cole became Director of the OLPR and the Client Security Board in April 2006. Mr. Cole had served as Assistant Director to the Client Security Board since its creation in 1986. Assistant Director, Julie E. Bennett, now handles the day-to-day operations. Tricia Jorgensen is the Board's paralegal, handling much of the direct contact with claimants while investigating claims.

Following each meeting, the Board issues a press release pursuant to the Board's policy. The Board posts its press releases on the Board's website as well, in the hopes that the public better will be able to obtain information about the Board's activities. The site also contains answers to frequently asked questions (FAQ), the Board's rules, claim form, staff directory, copies of the current and past annual reports and an updated list of attorneys against whom claims have been paid,

similar to that at Appendix 4 (A. 5-8). The site also has links to articles written about the Client Security Board.³

The Minnesota Attorney General provides legal services to the Client Security Board in enforcing its subrogation rights against attorneys on whose behalf the Board has paid claims, or against any third persons from whom payments may be legally obtained. Assistant Attorney General, Paige Fitzgerald, acts as the Board's attorney. Long time Legal Assistant, Laura Kelly, recently left the Attorney General's office, but Ms. Fitzgerald will continue to provide outstanding representation for the Board. The Board pays no attorney's fees for this representation, but is responsible for direct costs of collection efforts and litigation. The Attorney General also assists the Board in being listed as a victim in criminal restitution orders where appropriate.

Ms. Fitzgerald represented the Board in pursuing a real estate transfer which was believed to be fraudulent. The Board and another plaintiff sued a relative of an attorney alleging that the attorney transferred real property to the relative in an effort to avoid paying the money owed to the plaintiffs. The parties were to reach a settlement. As a result of Ms. Fitzgerald's efforts on behalf of the Board, the Board received a restitution payment of \$34,200.00. While the attorney, on whose behalf the money was paid, still has an outstanding restitution balance, this payment represents a significant portion of the monies owed.

Also as a part of the collection process, the Board may forward matters to the Minnesota Department of Revenue (MDOR), which has a division created to assist government agencies in their collection work. Although the Attorney General continues to handle most matters for the Board that are contested, or that appear capable of prompt resolution, other matters are now referred to MDOR to pursue.

³ The Client Security Board website address is: www.courts.state.mn.us/csb/csb.html.

Claims Procedure. Claims are initiated by submitting the claim to the Director's Office on forms approved by the Board. Claimants are provided the forms and a brochure to help explain the process. The claim form, and copies of the Board's rules are also available via the Board's website.

The respondent attorney is provided an opportunity to respond in writing, although frequently no response is received. The Board also has access to all lawyer disciplinary files, from which considerable information can be obtained.

The rules provide that claimants are expected to pursue reasonably available civil remedies. In order to avoid hardship and provide prompt claim resolution and payment, the Board occasionally exercises its discretion by waiving this requirement when it is already known that the Attorney General will be pursuing litigation against the attorney under the Board's subrogation rights.

In most cases, attorney disciplinary proceedings will have been completed before any Client Security payment is made. The Board generally relies upon findings made in related lawyer disciplinary action concerning misappropriation, or in related civil or criminal cases whenever possible. The Board has no aggregate limits on the amount that may be paid on a lawyer's behalf. The maximum payment per claim is \$150,000, one of the highest limits in the country. It appears to remain a sufficient maximum amount at this time.

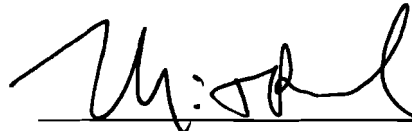
If a claim is denied, the claimant and respondent are notified in writing of the Board's determination and reasoning. The claimant has the right to request reconsideration and a discretionary meeting with the Board, so that all claimants have a full opportunity to present the merits of their claim.

III. GOALS AND OBJECTIVES

No major funding issues are anticipated this coming year. The Board has experienced members who continue to provide sound leadership. The Fund's principal goal, as always, is to provide as close to 100 percent payment to 100 percent of the valid claims, subject to the Board's maximum payment of \$150,000. Prompt resolution of claims following disciplinary or criminal proceedings is the other major goal for the Board every year.

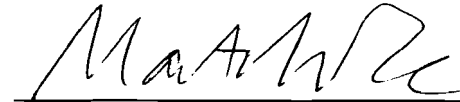
Respectfully submitted,

Dated: July 9, 2007.



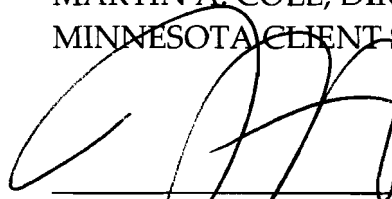
MICHAEL T. RENGEL, CHAIR
MINNESOTA CLIENT SECURITY BOARD

Dated: July 6, 2007.



MARTIN A. COLE, DIRECTOR
MINNESOTA CLIENT SECURITY BOARD

Dated: July 6, 2007.

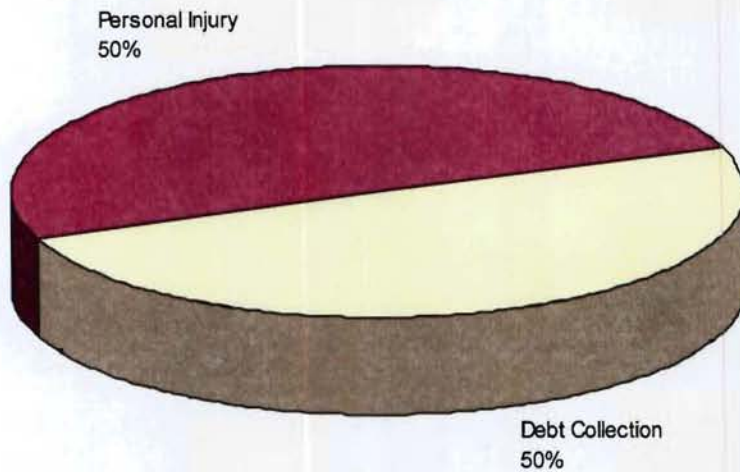


JULIE E. BENNETT, ASSISTANT DIRECTOR
MINNESOTA CLIENT SECURITY BOARD

**Awards of Reimbursement - July 1, 2006
through June 30, 2007**

**This table summarizes, by area of law, all claims for reimbursement
approved by the Board during fiscal year 2007.**

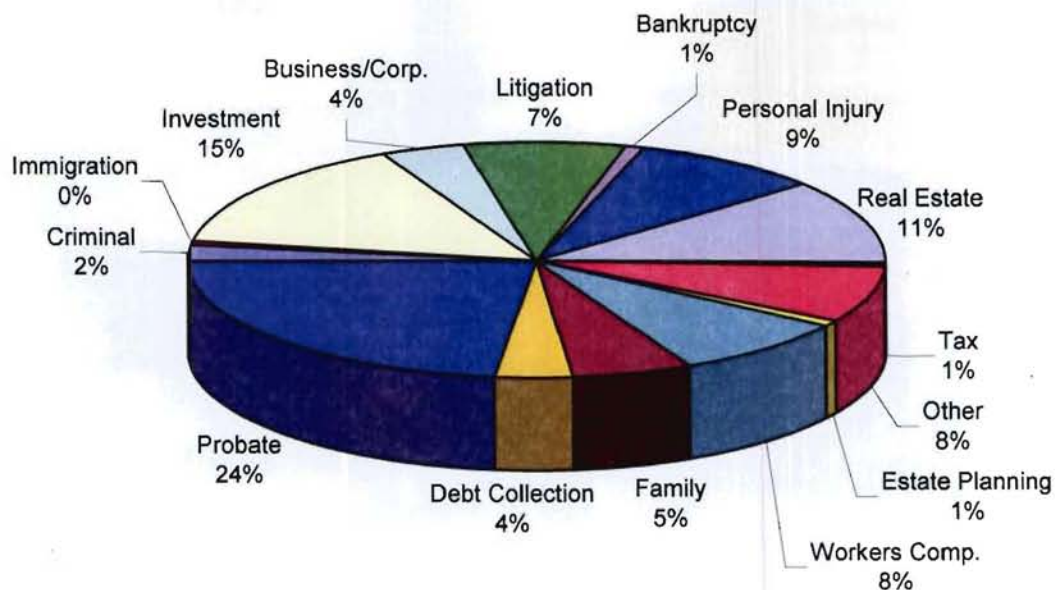
Area of Law	Number of Awards	Amount of Awards
Debt Collection	1	\$67,117.41
Personal Injury	1	\$68,299.67
Total	2	\$135,417.08



**Awards of Reimbursement - July 1, 1987
through June 30, 2007**

**This table summarizes, by area of law, all claims for reimbursement
approved by the Board since 1987.**

Area of Law	Number of Awards	Amount of Awards
Bankruptcy	19	\$52,483.30
Business/Corporation	12	\$225,607.40
Criminal	27	\$134,318.69
Debt Collection	35	\$216,187.46
Estate Planning	2	\$49,409.03
Family	62	\$313,148.61
Immigration	12	\$18,800.00
Investment	15	\$854,609.47
Litigation	42	\$420,784.34
Other	63	\$440,535.65
Personal Injury	32	\$502,396.05
Probate	51	\$1,309,940.09
Real Estate	39	\$647,782.84
Tax	10	\$46,212.28
Workers Comp	18	\$465,114.70
Total	439	\$5,697,329.91



CLIENT SECURITY FUND FINANCIAL HISTORY

Fiscal Year	Contribution by Bar	Investment Income	Restitution	Number of Claims Paid	Amt. Paid to Claimants	Other Expenses	Balance Year End
1992	\$ 328,954	\$ 52,748	\$ 14,302	28	\$ 150,180	\$ 30,490	\$ 938,893
1993	\$ 353,560	\$ 49,156	\$ 12,104	16	\$ 200,681	\$ 33,170	\$1,119,862
1994	\$ 369,320	\$ 47,244	\$ 9,830	24	\$ 123,600	\$ 24,538	\$1,398,118
1995	\$ 349,424	\$ 85,075	\$ 37,075	14	\$ 62,421	\$ 25,471	\$1,781,800
1996	\$ 368,450	\$ 82,630	\$ 31,361	22	\$ 705,524	\$ 35,427	\$1,523,290
1997	\$ 375,730	\$ 94,547	\$ 23,797	12	\$ 103,073	\$ 27,207	\$1,887,084
1998	\$ 255,762	\$ 119,276	\$ 25,217	35	\$ 341,984	\$ 40,481	\$1,904,874
1999	\$ 325,207	\$ 118,078	\$ 200,416	42	\$ 413,231	\$ 35,575	\$2,099,769
2000	\$ 328,746	\$ 121,970	\$ 45,783	23	\$ 481,187	\$ 50,814	\$2,064,267
2001	\$ 333,805	\$ 134,507	\$ 80,028	14	\$ 99,073	\$ 61,436	\$2,452,098
2002	\$ 342,067	\$ 89,230	\$ 75,961	38	\$ 330,117	\$ 58,390	\$2,570,849
2003	\$ 322,891	\$ 61,824	\$ 22,994	27	\$ 140,272	\$ 35,028	\$2,803,258
2004	\$ 252,034	\$ 32,351	\$ 87,177	31	\$ 759,150	\$ 68,486	\$2,347,184
2005	\$ 253,728	\$ 53,390	\$ 31,018	7	\$ 195,025	\$ 37,885	\$2,452,410
2006	\$ 255,894	\$ 110,597	\$ 87,217	17	\$ 234,848	\$ 44,375	\$2,626,895
2007*	\$258,093	\$ 128,014	\$ 73,688	2	\$ 163,466	\$ 52,279	\$2,870,945

Minnesota Client Security Board Members 1987-2007

BOARD MEMBERS

*Sister Mary Madonna Ashton	St. Paul	1992-1998
Bailey W. Blethen	Mankato	1991-1997
Daniel L. Bowles	Edina	1994-2000
*Sandra Brown	Minnetonka	1990-1996
Kim Buechel Mesun	St. Paul	1993-1999
Richard I. Diamond	Minnetonka	1997-2003
Gary G. Fuchs	Eagan	2002-2008
Gilbert W. Harries	Duluth	1987-1991
*Jean L. King	St. Paul	1987-1992
Timothy J. Kuntz	South St. Paul	1996-2002
Earle F. Kyle IV	Minneapolis	1993-1996
Robert T. Lund	Bloomington	2003-2009
Richard A. Nethercut	Harmony	2006-2009
*Beverly K. McKinnell	St. Paul	1996-2002
Melvin I. Orenstein	Minneapolis	1987-1993
*Constance S. Otis	St. Paul	1987-1990
*Judith A. Pinke	Minneapolis	1998-2004
Michael T. Rengel	Fergus Falls	2001-2007
*Bonnie R. Russ	St. Paul	2004 -
Daniel L. Rust	Crookston	1995-2001
Warren R. Sagstuen	Minneapolis	2000
*Sally D. Sawyer	Minneapolis	2002-2008
Ronald B. Sieloff	St. Paul	1987-1994
Harriet J. Sims	Minneapolis	2005-2008
James B. Vessey	Minneapolis	1987-1993
Nancy L. Vollertsen	Rochester	1987-1995
John S. Watson	Minneapolis	2000-2006
Margaret L. Westin	Minneapolis	1999-2005

*Public Members

2007 CSB Claims Paid by Attorney

Respondent	Number of Claims	Total Amount of Claims Paid	Disciplinary Action	City
Anderson, Arne D.	4	\$4,950.00	Suspended	Duluth
Anderson, Harold W. E.	2	\$39,258.97	Disbarred	Grand Forks
Andrew, John M.	2	\$100,000.00	Disbarred	Shoreview
Barta, Loren M.	3	\$8,947.93	Suspended	Prior Lake
Batdorf, Richard K.	1	\$50,000.00	Disbarred	Minneapolis
Benson, John T.	1	\$50,000.00	Disbarred	St. Paul
Bieter, Thomas	2	\$1,500.00	Disability/Inactive	Duluth
Brehmer, David L.	7	\$7,656.25	Disbarred	Bloomington
Brudvig, Thomas M.	4	\$3,374.00	Suspended	Roseville
Campbell, Dyan L.	5	\$2,953.53	Suspended	North St. Paul
Carpenter, Gregory A.	1	\$1,000.00	Suspended	Minneapolis
Chacon, Jeanne T.	1	\$700.00	Disbarred	Shakopee
Cohen, Sr., Edward M.	1	\$2,245.83	Disbarred	St. Louis Park
Coleman, Richard J.	1	\$1,000.00	Public Reprimand/Probation	West St. Paul
Crissey, Heidi	1	\$3,000.00	Suspended	Stillwater
Danna, Anthony A.	3	\$81,625.00	Disbarred	St. Paul
Davis, Daniel A.	3	\$44,486.66	Disbarred	Edina
Day, Richard G.	2	\$1,000.00	Suspended	Edina
DeRycke, Eric A. L.	1	\$2,000.00	Disbarred	Lake Benton
Douglas, Bruce C.	11	\$225,309.60	None	Edina
Dovolis, Helen A.	16	\$78,317.19	Disbarred	Minneapolis
Dygert, Robert W.	3	\$70,491.00	Disbarred	Minneapolis
Erickson, Bruce E.	2	\$1,995.00	Suspended	Winona
Feldman, John H.	2	\$12,954.00	Disbarred	Minneapolis
Flanagan, John J.	6	\$113,626.59	Disbarred	St. Paul
Flodine, Michael T.	1	\$3,000.00	Suspended	St. Paul
French, Rodney M.	6	\$4,062.50	Suspended	Minneapolis
Getty, Paris DonRay	5	\$24,278.00	Disbarred	St. Paul
Goldstein, Robert Mark	4	\$11,173.40	Disbarred	St. Paul
Gomsrud, Richard G.	1	\$700.00	Suspended	St. Paul

CSB Claims Paid Per Attorney Cont'd.

Respondent	Number of Claims	Total Amount of Claims Paid	Disciplinary Action	City
Graham, Timothy E.	3	\$6,257.98	Disbarred	Rochester
Grzybek, John E.	1	\$750.00	Disbarred	St. Paul
Gurstel, Norman K.	33	\$147,270.05	Disbarred	Edina
Hanvik, James T.	1	\$264.00	Suspended	Minneapolis
Harp, Reynaud L.	2	\$3,702.00	Disbarred	St. Paul
Heikens, Steven G.	2	\$12,800.00	Suspended	Minneapolis
Heikkila, Neil D.	2	\$90,916.82	Disbarred	Hopkins
Hendricksen, Harald F.	2	\$17,875.00	Suspended	Annandale
Henke, David E.	1	\$1,000.00	Suspended	Spring Lake Park
Hollender, R. Fred	1	\$2,227.74	None	Minneapolis
Hoover, Michael J.	1	\$1,500.00	Disability/Inactive	Minneapolis
Isaacs, Clark F.	1	\$535.78	Disbarred	St. Paul
Jellinger, Richard	1	\$1,000.00	Disbarment (stayed) Suspended	Anoka
Johnson, Richard W.	2	\$9,362.00	Disbarred	Red Wing
Johnson, Ronald J.	1	\$7,196.71	Disbarred	Hopkins
Kadinger, George M.	2	\$1,500.00	Suspended	St. Paul
Kaszynski, William P.	1	\$550.00	Disbarred	St. Paul
Kinnunen, Steven J.	1	\$500.00	Suspended	Minneapolis
Klane, Murray R.	1	\$94,647.88	Disbarred	Minnetonka
LaChapelle, Arthur W.	2	\$18,400.00	Disbarred	St. Paul
Ladd, William L.	13	\$49,542.60	Disbarred	Minneapolis
Larsen, Dean D.	1	\$40,000.00	Disbarred	Eden Prairie
Leino, Stanley J.	6	\$9,921.06	Suspended	Scandia
Levenstein, Eli C.	1	\$368.00	Suspended	Minneapolis
Logan, Diana S.	3	\$560.00	Suspended	Minneapolis
Magadance, Pamela M.	1	\$585.00		St. Paul
Maresh, Thomas F.	1	\$6,500.00	Disbarred	Eden Prairie
Marshall, Gary L.	7	\$24,170.00	Disbarred	Hoffman
McCarthy, Justin H.	2	\$58,679.24	Disbarred	St. Louis Park
McCormick, David L.	2	\$11,500.00	Suspended	Minneapolis
McGrath, F. Patrick	1	\$1,128.00	Suspended	St. Paul
McNabb, Gerald	13	\$147,866.06	Disbarred	St. Paul

CSB Claims Paid Per Attorney Cont'd.

Respondent	Number of Claims	Total Amount of Claims Paid	Disciplinary Action	City
Merlin, Carol Sue	1	\$500.00	Suspended	Minneapolis
Meshbeshier, Richard M.	2	\$5,500.00	None	Minnetonka
Moe, Carlton E.	1	\$89,325.52	Disbarred	West St. Paul
Morgeson, Sr., Dennis John	8	\$547,922.67	Disability	Edina
Mortensen, William C.	2	\$7,764.00	Disability/Inactive	St. Louis Park
Mose, William G.	2	\$400.00	Suspended	Bloomington
Mulvahill, James P.	1	\$15,000.00	Disbarred	Wayzata
Murphy, Gerald W.	9	\$4,980.99	Disbarred	Duluth
Nelson, John A.	3	\$245,024.03	Disbarred	Willmar
Olsen, Lawrence E.	1	\$50,000.00	Disbarred	Bloomington
Orlins, Peter I.	11	\$419,843.39	Disbarred	Richfield
Ornstein, Mitchell R.	1	\$919.75	Suspended	Minneapolis
Ostfield, Benjamin J.	3	\$15,297.72	Disbarred	Minneapolis
Ostroot, Timothy V.	1	\$1,200.00	Disbarred	Champlin
Palm, Dennis Lee	2	\$4,080.00	Disability/Inactive	Little Canada
Pang, Gary Y.	3	\$6,323.00	Disbarred	Minneapolis
Pearson, Kenneth R.	2	\$39,000.00	Disbarred	Golden Valley
Pegg, J. C.	1	\$2,500.00	Reprimanded	Owatonna
Pierce, Brian T.	1	\$2,500.00	Disbarred	Lakefield
Ploetz, John W.	2	\$108,494.71	Disbarred	St. Paul
Plowman, George E.	4	\$81,144.77	Disbarred	Prior Lake
Polt, Thomas M.	3	\$17,082.02	Disbarred	Eyota
Pucel, Cherylyn T.	1	\$3,500.00	Suspended	Minneapolis
Pyles, David A.	1	\$16,450.00	Suspended	Bloomington
Ramler, George C.	1	\$1,500.00	Disbarred	Chanhassen
Randall, Michael H.	2	\$4,708.00	Disbarred	Brooklyn Center
Redburn, David Timothy	1	\$1,100.00	Suspended	Brooklyn Park
Rhodes, Julia Satterlee	2	\$3,250.00	Suspended	Hopkins
Rondestvedt, Stephen J.	23	\$841,339.46	Disbarred	Minneapolis
Rothstein, Morry N.	3	\$7,500.00	Disbarred	Minneapolis
Ruttger III, Max J.	1	\$25,678.15	Disbarred	Brainerd

CSB Claims Paid Per Attorney Cont'd.

Respondent	Number of Claims	Total Amount of Claims Paid	Disciplinary Action	City
Samborski, Steve C.	23	\$231,829.50	Disbarred	Minnetonka
Sampson, Mark A.	20	\$404,742.04	Disbarred	Fridley
Schmitt, Martha G.	1	\$14,624.62	Suspended	Minneapolis
Scott, John O.	2	\$57,821.34	None	Perham
Seiler, Victor P.	1	\$2,810.77	None	Minneapolis
Sheffey, Ralph E.	1	\$5,000.00	Suspended	Rochester
Simonet, William B.	5	\$50,411.56	Disbarred	Stillwater
Simonson, Paul L.	1	\$2,360.23	Disbarred	Minneapolis
Singer, Michael G.	1	\$63,000.00	Suspended	Minneapolis
Skonnord, James T.	5	\$2,349.26	Suspended	St. Paul
Smith, Glenn L.	3	\$139,391.05	Disbarred	Edina
Soderberg, James W.	1	\$557.87	Suspended	Winona
Soronow, Steven F.	18	\$28,180.00	Suspended	Minneapolis
Soronow, Steven F. and Weber, Deborah A.	1	\$1,300		Minneapolis
Stockman, William L.	1	\$25,000.00	Disbarred	Duluth
Strid, Dennis W.	1	\$1,197.00	Suspended	Minneapolis
Sullivan, Kevin P.	1	\$200.00	Suspended	Elk River
Swerine, Brian A.	8	\$23,645.40	Disbarred	Brainerd
Thompson, Joel R.	2	\$6,160.00	Suspended	Detroit Lakes
Ulstad, Bjorn	1	\$2,500.00	None	St. Paul
Vaught, Samuel M.	2	\$85,685.71	Suspended	St. Paul
Verbrick, Michael D.	1	\$2,000.00	Disability	St. Paul
Vinitsky, Richard S.	2	\$20,000.00	Disability	St. Paul
Walker Jr., Samuel	5	\$19,945.00	Disbarred	St. Paul
Weems, Mark T.	7	\$70,901.64	Disbarred	Shoreview
Wheat, Donald A.	4	\$106,141.37	Disbarred	Eagan
White, Thomas Joseph	2	\$13,400.00	Disbarred	Minneapolis
Wyant, Bruce P.			Disbarred	<i>see Morgeson</i>
Wylde, John R.	1	\$3,775.00	None	Minneapolis
Total Respondents 123	439	\$5,697,329.91		

The Client Security Board: Why Do We Care?

By: Harriet Sims, Supervising Attorney, Appeals and Legal Services Division, Minnesota Department of Revenue

What is the Connection Between the Client Security Board and the Public Law Section?

The members of the Client Security Board (CSB) are appointed to three year terms by the Minnesota Supreme Court. The Board consists of five attorney members and two public (non attorney) members. Three of the attorney members are nominated by the Minnesota State Bar Association (MSBA). Since 1993, based on a recommendation of an MSBA-appointed committee created to review Client Security Fund issues, one of the attorney members nominated by the MSBA has been a member of the Public Law Section (PLS).

The current Board members are:

Michael T. Rengel – Chair (MSBA nominee)
Gary G. Fuchs
Robert T. Lund
Richard A. Nethercut (MSBA nominee)
Bonnie R. Russ (Public member)
Sally DeLaitre Sawyer (Public member)
Harriet J. Sims (MSBA nominee, PLS member)

PLS members who have served on the CSB in the past are:

Kim Mesun	1993-1999
Margaret Westin	1999-2005
Warren Sagstuen	2000
Harriet Sims	2005 to present

What are the Client Security Fund and the Client Security Board?

The Client Security Fund was created nearly 20 years ago in response to a situation involving a lawyer in private practice who stole client funds. The Fund was established to reimburse clients who are the victims of unscrupulous lawyers. Clients often have no other recourse or have been only partially compensated. In 1987 all attorneys practicing in Minnesota were assessed \$100 to repay the over \$430,000 stolen by one attorney. The Fund remains solvent through a portion of attorney registration fees. The exact amount that goes to the CSB has varied over the years. Currently \$12 of every attorney's registration fee goes to the Client Security Fund. The Fund's current resources are slightly over 2.5 million dollars. During the year ended June 30, 2006 the Fund paid out \$220,223.03 in claims against 16 attorneys. Since its inception in 1987 through June 30, 2006 the Fund has paid \$5,561,912.83 in 437 claims against 123 attorneys. While this seems like a lot of money, it is important to note that over half of that amount related to eleven attorneys.

The Client Security Board (CSB) meets approximately 4 times a year to review claims filed by clients and determine which claims should be paid and the amount paid. There is a \$150,000 limit per claim but no limit per attorney. Therefore some attorneys have had multiple claims filed against them. Claims must relate in some way to theft or dishonest conduct by a Minnesota

licensed attorney which results in a loss to the client. The matter must arise out of the attorney-client or fiduciary relationship. Decisions of the CSB are discretionary and there is no appeal for denied claims, although claimants may ask for reconsideration.

The CSB uses the administrative services of the Office of Lawyers Professional Responsibility to receive, investigate and handle claims filed with the Client Security Fund. Martin A. Cole is Director. The Director is appointed by the Supreme Court and serves at its pleasure. Julie Bennett is the Assistant Director. The Minnesota Attorney General's Office provides legal services to the CSB in enforcing subrogation rights against attorneys on whose behalf the CSB has paid claims or against third parties. The Board is billed for direct costs of collection efforts and litigation expenses. Some claims against attorneys may also be referred to the Minnesota Department of Revenue's Collection Division which has the authority to collect non tax debts for other agencies.

Why Should Public Attorneys Care About the Dishonest Conduct of Private Attorneys?

The cynical answer is that part of our fees goes to fund payments to clients who have suffered losses due to the dishonest conduct of lawyers, a "follow the money" argument. Nearly twenty years ago when lawyers were assessed that first \$100, some public lawyers argued that because we do not have access to client funds we should not have to pay for thievery by lawyers in private practice. That argument did not prevail for good reasons. We are all attorneys, we all took the same oath, and we are bound by the same ethical principles as attorneys in private practice. There is a collective responsibility. The same duty to uphold the profession that comes with the privilege of practicing law falls equally on our shoulders regardless of whether we are personally in a position to stumble. It is also important that the legal profession in Minnesota remain as self-regulating as possible.

I consider membership on the CSB a way to give back to the profession by performing a public service. It is both a duty and a privilege. Serving on the CSB is also pretty interesting; one sees the seamy side of the profession. But it is also gratifying to know that lawyers in Minnesota can at least do something to clean up our own messes. The CSB rules state that the claim must arise "out of and during the course of a lawyer-client relationship of a matter in this state, or a fiduciary relationship between the lawyer and the claimant which arose out of a lawyer-client relationship in this state." CSB Rule 3.02.b. The Board has at times wrestled with whether the client's loss arose out of an attorney client relationship or whether acts committed in another state by an attorney licensed in Minnesota could form the basis of a claim, especially if the only relationship to Minnesota is the license. As law practices become more multijurisdictional this issue is bound to come up more and more.

Another issue that the CSB considers with some frequency is whether the loss is due to malpractice or a fee dispute. The

Fund does not compensate losses in those circumstances. In some cases clients file claims because they are not happy with the result. More troubling for the Board are situations where it is difficult to tell if the attorney's neglect of a case amounts to keeping a fee and then doing very little which is of value for the client. Is the neglect so egregious as to be considered theft of the client's money or simply a fee dispute? Or is it a case of malpractice to be dealt with in another arena? These and other interesting issues are part of the work of the CSB.

This past June I had the opportunity to attend the 22nd ABA National Forum on Client Protection in Vancouver B.C., Canada on behalf of the CSB. This gave me a chance to see how other states and provinces struggle with similar issues. I was glad to

see that Minnesota stacks up quite well against the other jurisdictions. Some states have smaller or larger funds, higher or lower caps or have different funding mechanisms but we all deal with the same issues.

For more information about the Client Security Board, including a complete history of all claims paid, Client Security Board Rules, annual reports and other information, visit their website at: <http://www.courts.state.mn.us/csb/csb.html>.

The Client Security Fund: Celebrating 20 Years of Client Protection

by
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On July 1, 2007, the Client Security Fund and its administering body, the Client Security Board, will celebrate their 20th year of operation.

The Minnesota Supreme Court created the fund and board in response to the highly publicized theft of client funds by St. Paul attorney John Flanagan.

Looking at the potential claims created by Flanagan's misconduct, the Minnesota State Bar Association petitioned the Supreme Court to establish a fund. Part of the MSBA's impetus for petitioning the court was the realization that the bar association's small fund, which was funded through voluntary contributions by MSBA members, was not adequate to handle the type of losses created by Flanagan. The Flanagan case was followed closely in time by the equally high-profile case of Fridley lawyer Mark Sampson.Ftn 1

The purpose of the fund is to compensate clients who have suffered a loss due to the intentional actions of their lawyers. Claims are submitted for determination to the board, which consists of five attorney members and two public members.Ftn 2 The members of the board are volunteers appointed by the Supreme Court.

In considering whether a claim is payable, the board looks at whether the attorney is licensed in Minnesota, whether there was a loss and whether that loss is caused by the dishonest conduct of the attorney in a lawyer-client relationship. The fund will not compensate if a matter is strictly a dispute over attorney fees or if the issue is purely malpractice.

If the respondent has disciplinary and/or criminal proceedings pending, the board almost always will wait until the completion of those proceedings to determine whether or not a claim is payable. If the board determines a claim is payable, it will also determine the amount to be paid. Currently the fund has a maximum payout of \$150,000 per claim.Ftn 3

As the fund approaches its 20th anniversary, it has paid 438 claims against 123 attorneys for a total of \$5,630,212.50. The good news for our profession is that a relatively small percentage of the attorneys licensed in Minnesota are responsible for the type of client losses for which the fund reimburses. Payments made to clients of former attorneys

Stephen Rondestvedt, Dennis Morgeson, Sr., Bruce P. Wyant, Peter Orlins, Mark Sampson, John Nelson, Steve Samborski, Bruce Douglas, Gerald McNabb, Glenn Smith and Norman Gurstel account for \$3,211,146.80, which is more than half of the payments made by the fund.^{Ftn 4} Many of the attorneys listed were also criminally prosecuted and served prison time for their misdeeds.

The work of the board does not end with the payment of claims. The board also actively pursues restitution for the claims paid. The board, through representation by the Attorney General's Office, advocates for inclusion in criminal restitution orders, actively pursues civil remedies and negotiates payment plans. Through these efforts, the board has successfully recovered \$844,211.58. In fiscal year 2006, the board recovered \$86,852.66.

Approximately 30 attorneys have reimbursed the fund for the full amounts the board paid out on claims against them, and several others are actively making payments according to a payment plan.

While it is unfortunate that the Client Security Fund has to exist, it is an important cog in the lawyer discipline and public protection system. The ability to help victims of attorney theft not only helps the claimant but also helps erase the stain on our profession by demonstrating that we do not approve of lawyer theft.

¹ The fund paid out more than \$500,000 in response to Flanagan's and Sampson's thievery.

² Current Board members are Michael T. Rengel, Chair; Gary G. Fuchs, Robert T. Lund, Richard Nethercut, Bonnie R. Russ, Sally DeLaitre Sawyer and Harriet Sims. Russ and Sawyer serve as public members.

³ Originally the fund had a cap of \$50,000 per claim, which was raised to \$100,000 in 1993. The current cap of \$150,000 has been in place since 2001.

⁴ All of the attorneys but Morgeson and Douglas were disbarred. Morgeson was transferred to disability status and Douglas died prior to the completion of the disciplinary proceedings.