

# Client Protection Fund Application Procedures

## Administration:

The Client Protection Fund is administered pursuant to Admission to Practice Rule 15 and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. The Fund is managed by Trustees comprised of the members of the Board of Governors of the WSBA. The Trustees appoint and oversee the Client Protection Fund Board comprised of 11 lawyers and two public members who administer the Fund. The WSBA Assistant General Counsel acts as staff liaison to the Trustees and Board.

## Application:

A client or a person in a fiduciary relationship with an LLP who files a grievance with the WSBA that alleges a dishonest taking of funds or property by a licensed legal profession (LLP)\*, may be provided with an application form to apply for a gift from the Fund. Applications must be made within three years from the date on which discovery of the loss was made or reasonably should have been made by the client. Applications may be obtained by contacting the WSBA at [questions@wsba.org](mailto:questions@wsba.org) or 800- 945-WSBA or 206-443-WSBA.

## Screening:

In order to be eligible for a gift, an applicant must show that he or she has suffered a loss of money or property through the dishonest acts of an LLP. Dishonesty includes, in addition to theft, embezzlement, and conversion, the refusal to return unearned fees as required by APR 15 or failure to account for money or property entrusted to an LLP as a result of or directly related to the LLP's practice of law. The loss must also be arisen out of a client-LLP relationship or a fiduciary relationship in a matter directly related to the LLP's practice of law.

One of the more difficult claim areas involves fees paid to an LLP for which no valuable service was performed. As a general rule, the Fund cannot resolve fee disputes between an LLP and a client. However, where it appears that there is a pattern of conduct that establishes that an LLP knew or should have known at the time the LLP accepted fees from a client that the LLP would be unable to perform the service for which he or she was employed, such conduct is dishonest within the context of the purposes of the Fund, and such applications will be considered. Similarly, if an LLP withdraws from representing a client or abandons a client's case without refunding unearned fees, the Board may conclude that the LLP has engaged in dishonest conduct. The Fund is also not available to resolve or compensate in matters of LLP malpractice or professional negligence and cannot award consequential damages.

## Investigation:

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

\*Licensed Legal Professional (LLP) = Attorneys, Limited Licensed Legal Technician (LLLT), and Limited Practice Officer (LPO).

Applicants must provide proof of payment and proof of a client-LLP or fiduciary relationship. Applicants may be required to show proof that they have made reasonable attempts to seek reimbursement from other sources before their application is considered.

### **Review:**

The Client Protection Fund Board reviews applications four times a year. The maximum gift amount on any one application is \$150,000. Any payments from the Fund are gifts and are at the sole discretion of the Trustees.

### **Attorney Fees:**

LLPs may not charge a fee for assisting with an application to the Fund, except with the consent and approval of the Trustees.

### **Assignment of Rights and Restitution:**

In exchange for a gift from the Fund, an applicant is required to sign a subrogation agreement for the amount of the gift. This means that when the Fund makes a gift to the applicant, the Fund has the right to attempt to collect the money from the LLP. In the event the client later gets reimbursed by the LLP or an insurance company, the client would repay the Fund.

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