

**IN THE SUPREME COURT, STATE OF WYOMING**

**OCTOBER TERM, A.D. 1991**

**IN THE SUPREME COURT  
STATE OF WYOMING  
FILED**

**FEB 20 1992**

In the Matter of the Adoption of Rules of )  
Procedure for the Clients' Security Fund )  
of the State Bar of Wyoming )

JERRILL D. CARTER, CLERK  
*Judy Tackeco*  
by DEPUTY

**ORDER ADOPTING RULES OF PROCEDURE FOR THE CLIENTS' SECURITY FUND  
OF THE STATE BAR OF WYOMING**

The Wyoming State Bar having recommended to the court the adoption of Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming, attached hereto; and the court having examined the proposed Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming and deeming the adoption thereof to be advisable; it is therefore

**ORDERED** that Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming, attached hereto and adopted December 5, 1991, by the Wyoming State Bar, be, and they are hereby, adopted by the court to be effective 60 days after publication in the advance sheets of the Pacific Reporter; and it is further

**ORDERED** that the Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming attached hereto and adopted December 5, 1991, by the Wyoming State Bar shall be published in the advance sheets of the Pacific Reporter, the Wyoming Reporter and in Volume 2A, Wyoming Court Rules; and that the Rules of Procedure for the Clients' Security Fund of the State Bar of Wyoming shall thereupon be spread at length upon the journal of the court.

Dated this 20<sup>th</sup> day of February, 1992.

**BY THE COURT:**

*Walter Urbigkit*  
**WALTER URBIGKIT  
CHIEF JUSTICE**

**Rules of Procedure for  
the Clients' Security Fund  
of the State Bar of Wyoming**

**Adopted by the Wyoming State Bar: December 5, 1991**

**I. Definitions.**

For the purposes of these Rules of Procedure, the following definitions shall apply:

A. The "Committee" shall mean the Clients' Security Fund Committee.

B. "Dishonest conduct" means any of the following:

1. Wrongful acts committed by a lawyer in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value.

2. Refusal to refund unearned fees received in advance where the lawyer performed no services or such an insignificant portion of the service that the refusal to refund the unearned fees constitutes a wrongful taking or conversion of money.

3. A lawyer's act of intentional dishonesty or deceit which proximately leads to the loss of money or property.

C. The "Fund" shall mean the Clients' Security Fund of the State Bar of Wyoming.

D. A "lawyer" shall mean one who, at the time of the act complained of, was a member of the State Bar of Wyoming, was domiciled in Wyoming, and was actually engaged in the practice of law in Wyoming. The fact that the act complained of took place outside the State of Wyoming does not necessarily mean that the lawyer was not engaged in the practice of law in Wyoming.

E. "Reimbursable losses" are only those losses of money or other property of clients of lawyers which meet the following tests:

1. The defalcation which occasioned the loss occurred on or after September 1, 1966.

2. The loss was caused by the dishonest conduct of a lawyer acting as an attorney in the matter in which the loss arose.

3. The loss to be paid to any one client of any one lawyer shall not exceed five thousand dollars per year.

4. The lawyer shall have died or been subject to criminal or disciplinary proceedings, or have ceased to be a member of the Wyoming State Bar.

5. The following shall be excluded from "reimbursable losses":

(a) Losses of wives and other close relatives, partners, associates, and employees of lawyers causing the losses.

## **II. Application for Reimbursement.**

A. The committee shall prepare a form of application for reimbursement; in its discretion, the committee may waive a requirement that a claim be filed on such form.

B. The form shall require as minimum information:

1. The name and address of the lawyer.
2. The amount of the alleged loss.
3. The date or period of time during which the alleged loss was incurred.
4. The name and address of claimant.
5. The general statement of facts relative to the claim.
6. Verification by the claimant.

C. The form or application shall contain the following statement in bold type:

**"In establishing the Clients' Security Fund, the State Bar of Wyoming did not create, nor acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements of losses by the Clients' Security Fund shall be a matter of grace in the sole discretion of the committee administering the Fund and not as a matter of right. No client or member of the public shall have any right in the Clients' Security Fund as a third party beneficiary or otherwise."**

D. Applications shall be addressed to the Office of the Executive Director of the State Bar of Wyoming, and shall forthwith be transmitted by such office to the Chairman of the committee, with a copy being simultaneously transmitted to each member of the committee.

### **III. Processing Applications.**

A. A copy of the application, return receipt requested, shall be sent by registered or certified mail to the attorney allegedly causing the loss, along with written notice of that attorney's right to answer or respond to the claim in writing within a period of 20 days from the date of the notice and the right of the attorney, within the same 20 days to demand a hearing on the claim. The Chairman or the designated member of the committee shall cause each application to be sent to a member of the committee or other member of the State Bar of Wyoming for investigation and report. Wherever possible, the member to whom such claim is referred shall practice in the county wherein the alleged defalcating attorney practiced. From time to time, the designated member may request of the applicant further information with respect to the alleged claim. Such member shall be reimbursed for reasonable out-of-pocket expenses incurred in making such investigation.

B. When, in the opinion of the member to whom application had been referred the claim is clearly not for a reimbursable loss, no further investigation need be conducted, but a report with respect to such claim shall be made by the member to whom the client was referred, as hereafter specified.

C. A member to whom a report is referred for investigation shall conduct such investigation as seems necessary and desirable, in order to determine whether the same is for a reimbursable loss and in order to guide the committee in determining the extent, if any, to which the claim shall be reimbursed from the Fund. The Board of Commissioners of the State Bar shall allow such member to have access, during such investigation, to the Board of Commissioners' files and records, if any, pertaining to the alleged loss. Any information obtained by the member from the Board of Commissioners' files shall be used solely by and for the Clients' Security Fund Committee, but otherwise shall constitute confidential information.

D. Reports with respect to claims shall be submitted by the members to whom they have been referred for investigation to the Chairman of the committee by July first each year. The Chairman shall summarize each report in such detail as seems necessary and shall send to each member of the committee a copy of such summary wherever possible by August 1 in each year.

E. No claim with respect to which an inadequate opportunity for investigation has been afforded, need be considered by the committee for reimbursement in the year in which such claim is presented.

F. The committee will consider evidence presented by the claimant and by the attorney allegedly causing the loss. A hearing will be held only if requested by a member of the committee or by the attorney allegedly causing the loss or the attorney's personal representative. In the discretion of the committee, the hearing may be held before the full

committee or before the reporting member. The hearing may be held in person or by telephone. Absent a request for hearing under this rule, claims shall be processed on the basis of the information provided in writing by the claimant and the attorney allegedly causing the loss and on the report of the member who investigated the claim.

G. The committee, in its sole discretion, shall determine the amount of loss, if any, for which any client shall be reimbursed from the Fund. In making such determination, the committee shall consider, inter alia, the following:

1. The negligence, if any, of the client which contributed to the loss.
2. The comparative hardship the client has suffered by the loss.
3. The total amount of reimbursable losses of the client of any one lawyer or association of lawyers.
4. The total amount of reimbursable losses in previous years for which total reimbursement has not been made and the total assets of the Fund.
5. The committee may, in its sole discretion, allow further reimbursement in any year of a reimbursable loss allowed by it in prior years with respect to a loss which has not been fully reimbursed; provided such further reimbursement would not be inconsistent or in conflict with any previous determination with respect to such a loss.
6. No reimbursement shall be made to any client unless said reimbursement is approved by a majority vote of the committee at a duly held meeting at which a quorum is present.

#### **IV. Subrogation for Reimbursement Made.**

A. In the event reimbursement is made to a client, the Fund shall be subrogated in said amount and may bring such action as is deemed advisable by the committee against the lawyer, the lawyer's assets or estate, either in the name of the client or in the name of the State Bar of Wyoming.

B. The client shall be required to execute a subrogation agreement in said regard.

C. Upon commencement of an action by the State Bar of Wyoming, pursuant to its subrogation rights, it shall advise the reimbursed client at the last known address. The client may then join in such action to press a claim for the loss in excess of the amount of the above reimbursement.

**V. Meeting of the Committee.**

A. The committee shall meet each year at the time and place of the Annual Meeting of the State Bar, and from time to time upon call of the Chairman, provided the Chairman shall call a meeting at any reasonable time at the request of at least three members of the committee.

B. The Chairman shall give the members not less than 15 days written notice of the time and place of the annual meeting and shall give not less than five days written notice of each special meeting. Notice of any meeting may be waived by a member either before or after the meeting.

C. A quorum at any meeting of the committee shall be four members. No action shall be taken by the committee in the absence of a quorum; but at any such meeting, any issue may be considered by the members present without the taking of any action with respect thereto.

D. Written minutes of each meeting shall be prepared and permanently maintained.

E. The Chairman of the Committee shall be elected by a majority of the Board at each annual meeting; the term shall extend until the next annual meeting of the Board and until a successor is elected and qualified. Should a vacancy occur in the office of the Chairman, such vacancy shall be filled by like vote of the members at the Board meeting next following the occurrence of the vacancy.

**VI. General Purpose.**

A. In any given case, the committee may waive technical adherence to these Rules of Procedure in order to achieve the objectives of the State Bar of Wyoming as contained in its enabling resolution establishing the Fund adopted September, 1966.

**VII. General Provisions.**

A. With the exception of reports of the committee to the Board of Commissioners of the State Bar, or to the State Bar, no publicity shall be given to the Rules of Procedure, to applications for reimbursement, payments made by the committee or to any action of the committee without the expressed prior approval of the Board of Commissioners of the State Bar of Wyoming.

B. These rules may be changed at any time by a majority vote of the committee at a duly held meeting at which a quorum is present, and subject to the approval of the Board of Commissioners of the State Bar of Wyoming.

**These rules are hereby adopted by order of the Committee this December 5, 1991, and respectfully submitted to the Wyoming State Bar and Wyoming Supreme Court by:**

**Charles S. Chapin, Chairman  
Tony Lewis, Executive Secretary**

**WYOMING STATE BAR  
CLIENTS' SECURITY FUND**

**CLAIM FOR REIMBURSEMENT**

- I. Name of Claimant: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Home Telephone Number: \_\_\_\_\_  
Work Telephone Number: \_\_\_\_\_
- II. Name of Lawyer: \_\_\_\_\_  
Address of Lawyer: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_
- III. What is the amount of your alleged loss? \$ \_\_\_\_\_
- IV. During what period of time was this alleged loss incurred?  
(i.e. May - July, 1987) \_\_\_\_\_  
\_\_\_\_\_
- V. Please make a general statement of facts relative to the claim. Use extra paper if necessary and attach to this application.

VI. IN ESTABLISHING THE CLIENTS' SECURITY FUND, THE STATE BAR OF WYOMING DID NOT CREATE, NOR ACKNOWLEDGE ANY LEGAL RESPONSIBILITY FOR THE ACTS OF THE INDIVIDUAL LAWYERS IN THE PRACTICE OF LAW. ALL REIMBURSEMENT OF LOSSES OF THE CLIENTS' SECURITY FUND SHALL BE MATTER OF GRACE IN THE SOLE DISCRETION OF THE COMMITTEE ADMINISTERING THE FUND AND NOT A MATTER OF RIGHT. NO CLIENT OR MEMBER OF THE PUBLIC SHALL HAVE ANY RIGHT IN THE CLIENTS' SECURITY FUND AS A THIRD PARTY BENEFICIARY OR OTHERWISE.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
Signature of Claimant

I, \_\_\_\_\_, the claimant in this matter, swear that I have read the foregoing application, and the matters stated therein are true; and that as to matters alleged on information and belief, I believe the same to be true.

\_\_\_\_\_  
Signature of Claimant

Subscribed, sworn and acknowledged to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_.

\_\_\_\_\_  
Notary Public

**Return completed form to:**

**Wyoming State Bar, P.O. Box 109, Cheyenne, WY 82003-0109.**