

LOUISIANA
STATE BAR ASSOCIATION
CLIENT ASSISTANCE FUND

(Rules of Procedure
Governed by the
Client Assistance Fund Committee)

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LOUISIANA STATE BAR ASSOCIATION

RULES OF PROCEDURE

CLIENT ASSISTANCE FUND

I. History and Mission

The Client Assistance Fund Committee was created by the Louisiana State Bar Association House of Delegates in 1962 to aid those who have lost money or other property as the result of fraudulent or dishonest conduct of a lawyer in the course of his or her professional relationship with a client. The Committee was originally called The Client Security Fund Committee and later The Client Protection Fund Committee.

The mission of the Client Assistance Fund Committee shall be to protect the public and maintain the integrity of the legal profession by reimbursing, to the extent deemed appropriate, losses caused by the dishonest conduct of any licensed Louisiana lawyer practicing in this state.

In establishing the Client Assistance Fund, the Louisiana State Bar Association did not create nor acknowledge any legal responsibility for the acts of individual lawyers in the practice of law. All reimbursements or losses of the Client Assistance Fund shall be a matter of grace in the sole discretion of the Committee administering the Fund and not as a matter of right. The Fund is a fund of last resort and all other means available for reimbursement must be exhausted. No client or member of the public shall have any right in the Client Assistance Fund as a third party beneficiary or otherwise. The Committee does not consider or act on fee disputes. An attorney cannot charge for any services rendered in connection with a Client Assistance Fund application.

II. Definitions:

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

1. The "Applicant" shall mean the person who was a client of a Lawyer in connection with the "practice of law," as defined in La. R.S. 37:212.
2. The "Committee" shall mean the Client Assistance Fund Committee of the LSBA.
3. "Dishonest Conduct" shall mean any wrongful act or acts committed in Louisiana or with substantial connection to Louisiana by a Lawyer against or with respect to an Applicant in the manner of defalcation or embezzlement of money, or the wrongful taking or conversion of money, property, or other things of value. Dishonest Conduct does not include loss incurred or occasioned by mere negligence of a Lawyer not involving dishonesty.
4. The "Fund" shall mean the Client Assistance Fund of the LSBA.
5. "Investigating Member" shall mean a member of the Committee to whom the claim of an Applicant is referred for investigation and evaluation.

6. A “Lawyer” shall mean a person who was a member of the LSBA and was actually engaged in the practice of law in the State of Louisiana at the time of or within one year prior to the Dishonest Conduct.
7. “LSBA” shall mean the Louisiana State Bar Association.
8. “Panel” shall mean a group of Committee members as assigned by the Chair of the Committee, one of whom shall be an Investigating Member.
9. “Reimbursable Loss” is only a loss of money or other property of Applicant which meets the following tests:
 - a. Written application shall have been submitted by Applicant not later than five years after the date of the Dishonest Conduct. The Committee, in its discretion, may permit the late filing of claims upon a finding that enforcement of the five year limitation of this section will cause undue hardship or result in an injustice.
 - b. The loss was caused by the Dishonest Conduct of a Lawyer acting as a Lawyer in the matter in which the loss arose.
 - c. The Lawyer shall have died, been adjudicated a bankrupt, been adjudicated an incompetent, been disbarred, or suspended from the practice of law, voluntarily resigned from the practice of law, become a judgment debtor of the claimant, or shall have been adjudged guilty of a crime, which judgment or conviction shall have been predicated upon the Dishonest Conduct of the Lawyer, or the Client Assistance Fund Committee shall have by its investigation determined that the claim is an appropriate case for consideration because the loss was caused by the Dishonest Conduct of a Lawyer.

There shall be excluded from “Reimbursable Loss” the loss of a spouse, relatives, partners, associates and employees of the Lawyer causing the loss.

III. The Committee

1. The Committee shall be comprised of twenty five (25) members or less, all of whom shall be members of the LSBA in good standing. Members shall be appointed by the LSBA President for five-year terms:
 - a. Diversity of gender, race and geographic location among Committee members is an express goal.
 - b. The LSBA President may select a replacement to fill any unexpired term on the Committee if a vacancy occurs.
2. The LSBA President shall appoint a member of the Committee to serve as Committee Chair for a one (1) year term. The Chair shall preside over all Committee meetings. A Committee member may serve as Chair for more than one one-year term.
3. The Committee Chair shall select one or two members of the Committee to serve in the capacity of Vice-Chair for a one (1) year term. A Vice-Chair shall preside over any meetings at which the Chair is not present. A Committee member may serve as Vice-Chair for more than one one-year term.
4. The Committee Chair shall establish panels of Committee members to review claims and render written reports regarding pending claims. The Committee Chair shall designate a Panel Chair for each Panel established.
5. In the event that an individual ceases to be a member of the Committee for any reason, the individual shall, within thirty (30) days of membership termination, return to the

LSBA all written materials pertaining to any pending claim under investigation by the individual.

IV. Applications for Reimbursement

1. The Committee shall prepare a form of application for reimbursement; in its discretion, the Committee may waive the requirement that a claim be filed on such form.
2. The form shall require, as minimum information:
 - a. The name, address and telephone number of the Lawyer.
 - b. The amount of the alleged loss claimed.
 - c. The date or period of time during which the alleged loss was incurred.
 - d. The name, address and telephone number of the Applicant.
 - e. The general statement of facts relative to the claim and description of the Dishonest Conduct.
 - f. Verification by the Applicant.
3. The form of application shall contain the following statement in bold type:

“IN ESTABLISHING THE CLIENT ASSISTANCE FUND, THE LOUISIANA STATE BAR ASSOCIATION DID NOT CREATE NOR ACKNOWLEDGE ANY LEGAL RESPONSIBILITY FOR THE ACTS OF INDIVIDUAL LAWYERS IN THE PRACTICE OF LAW. ALL REIMBURSEMENTS OF LOSSES OF THE CLIENT ASSISTANCE FUND SHALL BE A MATTER OF GRACE IN THE SOLE DISCRETION OF THE COMMITTEE ADMINISTERING THE FUND AND NOT AS A MATTER OF RIGHT. THE FUND IS A FUND OF LAST RESORT AND ALL OTHER MEANS AVAILABLE FOR REIMBURSEMENT MUST BE EXHAUSTED. NO CLIENT OR MEMBER OF THE PUBLIC SHALL HAVE ANY RIGHT IN THE CLIENT ASSISTANCE FUND AS A THIRD PARTY BENEFICIARY OR OTHERWISE. THE COMMITTEE DOES NOT CONSIDER OR ACT ON FEE DISPUTES. AN ATTORNEY CANNOT CHARGE YOU FOR ANY SERVICES RENDERED IN CONNECTION WITH YOUR CLIENT ASSISTANCE FUND APPLICATION.”
4. Applications shall be addressed and delivered to the office of the LSBA.

V. Processing Applications

1. LSBA Professional Programs Counsel shall initially screen all applications to determine whether the claim meets the definition of a reimbursable loss under Section 2 Paragraph 9. Should the LSBA Professional Programs Counsel make the determination that the claim meets the definition of a reimbursable loss, the claim will be opened and assigned for investigation to a member of the Committee. Before the application is sent to the Committee member, the claimant must file a complaint with the Office of Disciplinary Counsel.
2. Except where Professional Programs Counsel has determined that the application may not constitute a reimbursable loss or where the Claimant has failed to file a complaint with the Office of Disciplinary Counsel, the Committee Chair, within thirty (30) days of receipt of an application by the LSBA, shall cause the application to be sent to a member of the Committee for investigation. A copy of the application shall be sent by certified

mail or delivered to the Lawyer who is claimed to have committed the Dishonest Conduct at the Lawyer's last known or LA Supreme Court Rule XIX address. The Investigating Member or Committee may request of the Claimant further information with respect to the claim. the Investigating Member shall be reimbursed for reasonable out-of-pocket expenses incurred by him or her, as the case may be, in making such investigation, in accordance with the guidelines of the LSBA.

3. When, in the opinion of the Investigating Member, it is determined that 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 Investigating Member to the Panel. The Panel's recommendation concerning the claim shall be furnished to the Committee in a written report for consideration.
4. An Investigating Member shall conduct such investigation as is deemed necessary and desirable in order for the Panel to make a recommendation regarding the claim.
5. Reports with respect to claims shall be submitted by the Investigating Member to the Panel. The Panel chair shall render a written report setting forth the Panel's recommendation and shall summarize each report in such detail as is deemed necessary or desirable and shall send to the office of the LSBA a copy of such summary with a recommendation regarding the claim.
6. The committee shall hold such meetings and conduct such investigation or review as are deemed necessary or desirable in order to determine whether the claim is for a Reimbursable Loss, and to guide the Committee in determining the extent, if any, to which the claim shall be reimbursed. After studying the summaries of claims to be processed, any Committee member may request that testimony be presented. Absent such recommendation or request, claims shall be processed on the basis of information contained in the report of the Panel assigned such claims. In all cases, the Lawyer charged with the Dishonest conduct or his or her personal representative shall be given an opportunity to be heard by the Panel if the Lawyer so requests.
7. Applications filed with the Committee shall be reported back to the Committee by the second full Committee meeting after the assignment date.
8. The Committee shall determine the amount of Reimbursable Loss, if any, for which any Applicant shall be reimbursed from the Fund.
In making such determination, the Panel and Committee may consider, inter alia, the following:
 - a. The negligence, if any, of the Applicant which contributed to the loss.
 - b. The comparative hardship of the Applicant suffered by the loss.
 - c. The total amount of Reimbursable Losses in previous years for which total reimbursement has not been made and the total assets of the Fund.
 - d. The total amount of Reimbursable Losses of the Applicant and other clients of any one Lawyer or association of Lawyers.
 - e. The Committee may, in its sole discretion, allow further reimbursement of a Reimbursable Loss allowed by it at a prior time 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.
 - f. No reimbursement shall be made to any Applicant, a summary of whose claim has not been submitted to the members in accordance with Paragraph V, Subparagraph 4, of these Rules of Procedure. No reimbursement shall be made to any Applicant

- unless said reimbursement is approved by a majority vote of the Committee at a duly held meeting at which a quorum is present.
- g. The loss to be paid to any one Applicant shall not exceed Twenty-Five Thousand (\$25,000) Dollars.
 9. Notice of the action taken by the Committee on any claim shall be transmitted by certified mail or delivered to all parties in interest by the Chair of the Committee.
 10. The Applicant or the Lawyer who is claimed to have committed Dishonest Conduct may request reconsideration within thirty (30) days of mailing of the letter advising the parties of the Committee's decision. If the Applicant or the Lawyer fails to make a timely request or the request for reconsideration is denied by the Committee, the decision of the Committee is final.

VI. Subrogation

In the event reimbursement is made to an Applicant, the Louisiana Client Assistance Foundation shall be subrogated in said amount and may bring such action as is deemed necessary or desirable against the Lawyer, his or her assets or estate, either in the name of the Applicant, or in the name of the Louisiana Client Assistance Foundation. The Applicant shall be required to execute a subrogation agreement in said regard. Upon commencement of an action by the Louisiana Client Assistance Foundation pursuant to its subrogation rights, it shall advise the reimbursed Applicant at his or her last known address. An Applicant may then join in such action to assert a claim for his or her loss in excess of the amount of the above reimbursement.

VII. Meetings of the Panels

1. Panels shall meet prior to the meetings of the full Committee to discuss all pending claims before the Panel and make appropriate recommendations to the full Committee.
2. Panel Chairs are responsible for setting meetings of the Panels prior to Committee meetings.
3. Panel meetings may be attended in person or by telephone conference.

VIII. Meetings of the Committee

1. The Committee shall meet from time to time upon call of the Chair.
2. The Chair shall give the members reasonable notice of the time and place of each meeting.
3. A quorum at any meeting of the Committee shall be one-third of the full Committee. No action may be taken by the Committee in the absence of a quorum.
4. Written minutes of each meeting shall be prepared and permanently maintained at the office of the LSBA.
5. A Committee member who fails to attend two (2) consecutive meetings either in person or by telephone may be suspended or removed from the Committee at the discretion of the Committee Chair.

IX. Conflict of Interest

1. A Committee member who has had a lawyer-client relationship or a financial relationship with an Applicant or Lawyer who is the subject of a claim shall not participate in the investigation or adjudication of a claim involving that Applicant or Lawyer.
2. A Committee member with a past or present relationship, other than as provided in Paragraph IX, Subparagraph 1 above, with an Applicant or the Lawyer whose alleged conduct is the subject of the claim, shall disclose the relationship to the Committee and, if the Committee deems appropriate, that Committee member shall not participate in any proceeding relating to such claim.

X. Confidentiality

Applications, proceedings, reports and all other information gathered in connection with applications for reimbursement, be it written or verbal, are confidential; however, this provision shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Committee shall authorize, in response to a subpoena from a court of competent jurisdiction, or through the release of information, including amount of payment, name of respondent and summary of rationale for payment, for publication in the Bar Journal or other LSBA publication.

XI. General Purpose

In any given case, the Committee may waive technical adherence to these Rules of Procedure in order to achieve the objectives of the LSBA as contained in the enabling Resolution establishing the Fund adopted May 25, 1961, as from time to time amended.

XII. Amendment of Rules

These Rules may be amended 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 Governors of the LSBA.

(Revised and Amended August 29, 1998, January 24, 2003, June 11, 2004, May 6, 2005, November 10, 2007, June 12, 2009, October 29, 2016, June 9, 2017)