

# Lawyers' Fund for Client Protection

## *2013 Annual Report*

The Maine Lawyers' Fund for Client Protection (Fund) was created by an Order of the Maine Supreme Judicial Court, dated July 1, 1997. The purpose of the Fund is to promote public confidence in the administration of justice and the integrity of the legal profession, by reimbursing clients who suffer losses caused by an attorney's dishonest conduct. The Fund was not designed to address losses caused by legal malpractice and no amounts are payable to clients for such activity.

### **Trustees**

The Fund is administered by a Board of seven trustees, appointed by the Maine Supreme Judicial Court to determine the eligibility of claims filed with the Fund and to manage the Fund's assets. Trustees are appointed to three year terms and may serve no more than two consecutive terms. Trustees serve as volunteers and serve without compensation but are reimbursed for their actual and necessary expenses incurred in the discharge of their duties. The Trustees for the calendar year 2013 were:

#### **Officers**

Paul H. Sighinolfi, Esq., Chair  
Raymond J. Cota, Treasurer  
Martha C. Gaythwaite, Esq., Secretary

#### **Trustees**

Meris J. Bickford, Esq.  
Jared S. des Rosiers, Esq.  
Jeffrey W. Porter  
Honorable Warren M. Silver, Court Liaison

### **Staff**

The Fund retains the Board of Overseers of the Bar for its administrative, financial, and case investigation functions.

### **Claim Intake and Evaluation**

A claimant seeking reimbursement from the Fund must complete a claim form for reimbursement. Upon receipt, the office of Bar Counsel of the Board of Overseers of the Bar will initiate investigation of the alleged loss, prepare a record, and submit a report and recommendation to the Trustees for consideration. The claimant has the duty to supply relevant evidence to support the claim.

### **Trustee Review**

When the record is complete, the claim is determined on the basis of all available evidence. Notice is given to the claimant and the lawyer of the determination of the Board of Trustees and the reasons therefore. The approval or denial of a claim requires the affirmative votes of at least four trustees. Reimbursement from the Fund is a matter of grace. No person has the right to reimbursement from the Fund whether as claimant, third-party beneficiary or otherwise. The decisions and actions of the Board of Trustees are not reviewable on any ground in any court or other tribunal.

## Claims Received and Processed

In 2013, twelve new claims for reimbursement were received by the Fund. The Trustees held four meetings over the course of the year and considered eight claims involving six attorneys. Of those, five claims involving four attorneys were found to be eligible for reimbursement, two claims were withdrawn as a result of settlement, and one claim was denied. At the close of the calendar year, four claims remained pending.

Below is a breakdown of claims paid.

### 2013 Claim Activity

Case Number	Attorney	Total Claims	Approved Payment	Area of Law
LFCP-13-124	Carolyn M. Asquith	1	\$1,500	General Practice
LFCP-13-010/13-230	Charles R. Bean	2	\$2,700	Bankruptcy Law
LFCP-13-094	Philip L. Ingeneri	1	\$1,000	Wills/Estates/Probate
LFCP-13-217	Jay H. Otis	1	\$4,206	Family Law

**Total: \$9,406**

Since its inception in 1997, the Fund has approved claims totaling \$357,315. Ultimately, the Trustees have awarded \$329,450 to 90 claimants.<sup>1</sup>

## Finances

The Fund is supported by an annual assessment against all Maine judges and attorneys. In FY-2013, the Fund collected \$90,220 in assessments and generated \$17,137 from investments.

The Fund's accounts were audited by Runyon, Kersteen & Ouellette of South Portland, Maine. The fund balance on June 30, 2013 was \$1,278,169.

## Rule Amendments

The Trustees submitted a proposed amendment to the Maine Supreme Judicial Court that would allow the Fund, upon order from the court, to pay for the necessary reasonable expenses and fees, not to exceed \$10,000, for Receiver services. The proposed amendment remained pending with the court at the end of the year. In June of 2013 the Court approved the Fund's recommendation to increase the rates available to pay claims of clients harmed by the conduct of dishonest clients to \$50,000 per individual claim and \$100,000 per lawyer claim.

<sup>1</sup> By Court rule, the maximum amount of reimbursement to a claimant is capped from both an individual claimant and attorney perspective. If the Fund receives claims in aggregate of those limits, reimbursement of claims are made on a pro-rated basis.

## **Conclusion**

This report confirms the fact that the overwhelming majority of Maine attorneys observe the high standards of integrity when entrusted with client monies or property. However, the dishonest acts of a few can affect the public's image and confidence in the legal profession as a whole. The Lawyer's Fund for Client Protection seeks to restore public confidence in the legal profession by reimbursing clients for losses sustained as a result of the dishonest conduct of their attorneys.

Paul H. Sighinolfi, Esq.  
Fund Chair