

Client Security Fund

2009 Grants Hit Record Number

Every year Texas lawyers donate a portion of their dues to make grants from the Client Security Fund to clients who have been harmed by their lawyers' dishonest conduct. Lawyer dues are paid into the General Fund of the Bar, which then makes an annual appropriation to the Fund. This year, a total of \$701,451.10 was approved for payout to clients. This is an all-time record for the Fund.

To be eligible to apply to the Fund, an applicant must first file a grievance against his or her lawyer. The grievance must result in a disciplinary sanction against the lawyer. This requirement is waived if the lawyer is already disbarred, resigned, or deceased.

Applications must be filed within 18 months of the date of the final disciplinary judgment. Where an applicant is exempt from having to file a grievance, he or she must apply within four years of the loss or discovery of the loss.

The Fund makes maximum grants of \$30,000 per application. Many whose applications are approved had paid an advance fee for services which were not rendered. In this scenario, the services must be wholly unrendered; no grant may be based on malpractice.

Others experience theft by their lawyers of settlement funds or other monies entrusted to the lawyers. To support all applications, the applicant must provide proof that the lawyer committed dishonest conduct, be it an unrefunded advance fee or stolen funds.

STATE BAR OF TEXAS CLIENT SECURITY FUND

FISCAL YEAR	AMOUNT APPROVED
2009	\$701,451
2008	\$435,146
2007	\$465,971
2006	\$450,081
2005	\$379,950
2004	\$250,938
2003	\$672,108
2002	\$430,616
2001	\$489,190
2000	\$434,511

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\$1MM Additional Appropriated for '09/'10

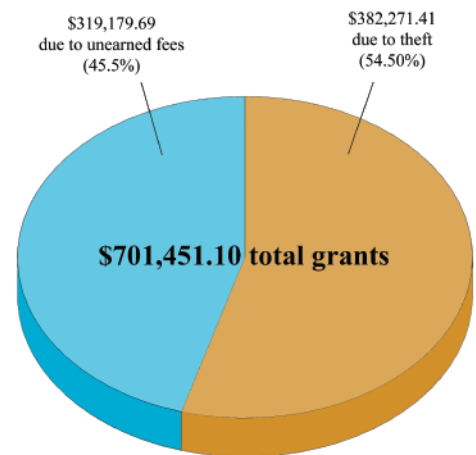
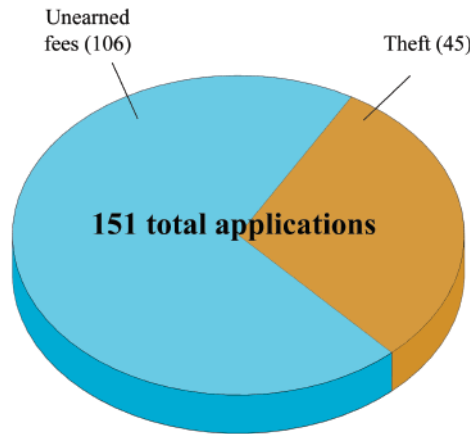
In a decision announced in April of this year, the Board of Directors of the State Bar of Texas appropriated an additional one million dollars to the Client Security Fund. In addition to this \$1 million special funding, an annual appropriation of \$300,000 was also approved.

According to the Fund's rules in the Board's policy manual, any monies over \$3 million in the Fund corpus may be spent in grants to clients harmed by lawyers' dishonest conduct. As of June 30, 2009, the Fund had a balance of \$ 4,228,131.

Interest and restitution are also added to the amount available for payment. This means that in '09/'10, all of the following amounts constitute spendable funds: the \$300,000 appropriation, interest, restitution and any portion of the \$1 million special appropriation above the \$3 million limit on the corpus.

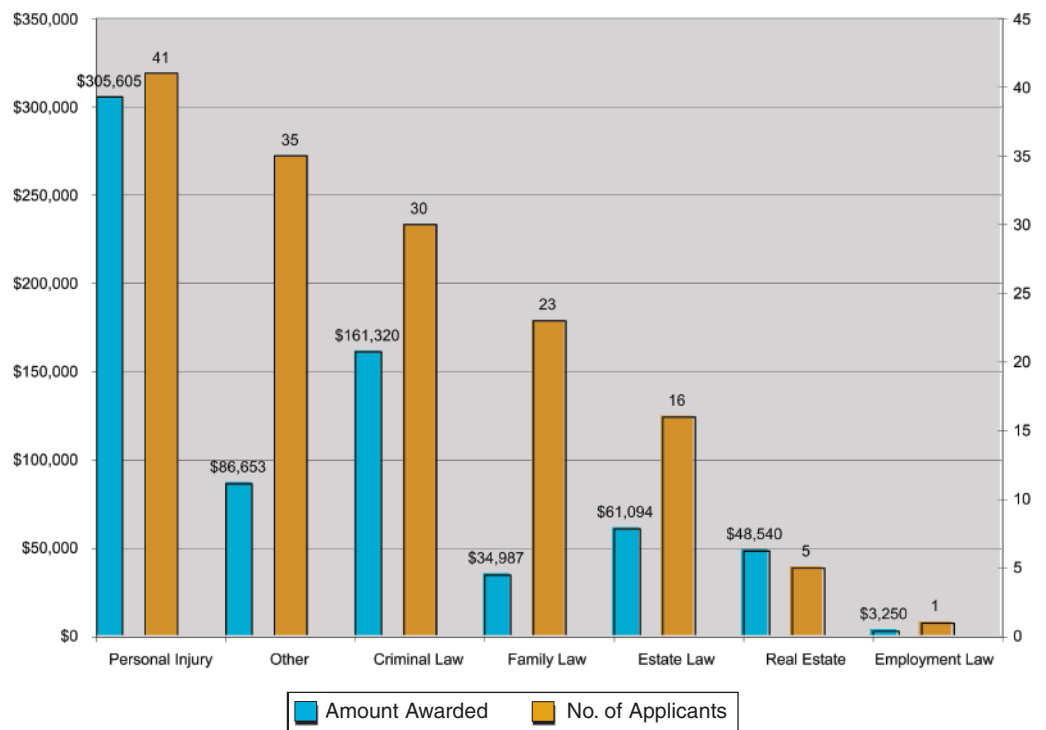
Breakdown of 2009 Grants

Decisions on applications to the Fund are made by a standing subcommittee of the Board of Directors called the Client Security Fund Subcommittee, which is a subcommittee of the Discipline & Client Attorney Assistance Committee. Throughout the Bar year, 237 applications were considered by the Subcommittee. Of these, 151 were approved for grants. The breakdown of applications based upon the failure to refund unearned fees and those based upon theft is shown below.



"I would like to express my deepest gratitude. I could not have asked for more. You made a difference in my life. I had otherwise no means to go after the man who took advantage of me when I was so vulnerable. I will never forget what you did. God bless you."
 — Grateful 2008 applicant

Fields of practice engaged in by the lawyers who caused the losses are represented below, by numbers of approved applications and by amounts of grants approved.



New Fund Rules

The '08/'09 Subcommittee completely rewrote the Fund's rules, which had been amended continually since the Fund's inception in 1975. The full Board approved the new rules at its April meeting.

The new rules put into place numerous substantive changes. These include:

- the elimination of providers of services under letters of protection as eligible applicants
- for applicants whose lawyers are already disbarred, resigned or deceased, the limitation against claims filed over four years from the time the applicant knew or should have known of the loss
- the ability of the Subcommittee to review an application while a lawyer is under a disability suspension or if the lawyer cannot be served during the disciplinary process
- the ability of the Subcommittee to limit multiple losses arising out of the same transaction to the \$30,000 cap
- the ability of the applicant to ask for reconsideration

"Just a note to thank you and your associates for going to bat for me. I appreciate it so much."
— Grateful 2009 applicant

5 Steps to a Successful CSF Application

- 1) If your lawyer is not already disbarred, resigned or deceased, file a grievance. Cooperate during the disciplinary process, and obtain a disciplinary sanction against the lawyer.
- 2) File your application within 18 months of the final disciplinary judgment, or within four years of your loss if your lawyer was already disbarred, resigned or deceased and you therefore did not participate in the disciplinary process.
- 3) Demonstrate on your application that the lawyer's dishonest conduct occurred in Texas and that your lawyer was providing traditional legal services.
- 4) Provide proof that your lawyer failed to refund an unearned fee, or that he stole money from you. Typically, proof is in the form of receipts or the fronts and backs of checks.
- 5) If your application is based on an unearned fee, submit proof to show that the lawyer provided no services. If the lawyer did provide some services, submit proof to show what was accomplished.

"Even though the facts and documentation supported and justified the outcome, we viewed your assistance as a blessing. This small victory meant a lot to us as we look back on our losses."
— Grateful 2009 applicant

2008-2009 Client Security Fund Subcommittee



Cheng

Michelle M. Cheng served as Chair. She is an attorney with Austin's Whitehurst, Harkness, Ozmun, Brees, Cheng & Imhoff, P.C. Cheng received her J.D. from the University of Texas School of Law in 1996.



Clarke

Janna Clarke served as Vice-Chair. She is of counsel to Broude, Smith & Jennings, P.C., graduated from the University of Texas at Arlington with a B.A. in political science (1972) and received her J.D. from Texas Tech University School of Law (1984).



Benesh

Steve Benesh is a partner in the Austin office of Bracewell & Giuliani LLP. Benesh graduated from the University of Texas at Austin with a B.B.A. in marketing (1984) and received his J.D. from the University of Texas School of Law (1987).



Fisher

David Jefferson Fisher is a partner with Orgain Bell & Tucker L.L.P. Fisher graduated from Southwestern University in 1985 and from Texas Tech University School of Law in 1988. He currently serves as Chair of the Board.



Gilbert

Pamela Gilbert is a Vice President with Southwestern Motor Transport, Inc. in San Antonio. Gilbert has served four terms on the District 10 Grievance Committee as a public member.



Jefferson

Lamont A. Jefferson is a partner in the San Antonio office of Haynes and Boone, L.L.P., where his practice focuses on business, insurance and fiduciary duty litigation. Jefferson earned his B.A. from Rice University and his J.D. from the University of Texas School of Law.



Sloan

John D. Sloan, Jr. is a partner in the Longview firm of Sloan, Bagley, Hatcher & Perry. Sloan earned his B.B.A. (1977) and his J.D. (1980) from Baylor University.



Wilson

Cheryl Wilson, of Wilson & Pennypacker, L.L.P., has been certified in family law by the Texas Board of Legal Specialization since 1978. Wilson received her B.A. (1970) and J.D. (1973) from the University of Texas at Austin.



Ray

Maureen Ray is the administrator and legal counsel to the Fund. She has been with the State Bar for 13 years and is licensed to practice law in Texas, Washington State, and New Jersey.