

SBM STATE BAR OF MICHIGAN

2009-2010 COMMITTEE ANNUAL REPORT

Article VI §6, Bylaws of the State Bar of Michigan

No later than May 1 of each year, the chair of each committee and sub-entity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or sub-entity.

Committee Name: Standing Committee on the Client Protection Fund

Jurisdiction: The Standing Committee on the Client Protection Fund (“CPF Committee”) is responsible for reviewing claims involving the dishonest conduct of lawyers (includes theft and embezzlement of client funds and failure to return unearned fees) submitted to it by State Bar staff after investigation and analysis. The CPF Committee makes recommendations to the State Bar’s Board of Commissioners regarding the approval and denial of claims, provides its analysis of why a claim is recommended for payment or denial, and recommends the amount to be paid on approved claims. The CPF Committee is also responsible for the distribution of payments on claims authorized by the Board of Commissioners and the institution and prosecution of all subrogation actions on behalf of the Fund. The CPF Committee makes recommendations to the Board of Commissioners regarding loss prevention programs that may help reduce occurrences that result in CPF claims.

Chair(s) and Committee Members:

Officer	Name	Address	Telephone	Email
Chair	Roshunda L. Price (P49187)	Detroit Medical Center Corporate Legal Affairs 4707 Saint Antoine Street Suite W514 Detroit, MI 48201-1427	(313) 966-2893	Rprice2@dmc.org
Staff Liaison	Danon D. Goodrum-Garland (P53603)	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933-2012	(517) 346-6333	dgarland@mail.michbar.org
Staff Liaison	Robin Lawnichak	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933-2012	(517) 346-6379	rlawnichak@mail.michbar.org
Commissioner Liaison	Richard J. Siriani (P20535)	Miller Canfield 840 W. Long Lake Road Suite 200 Troy, MI 48098-6358	(248) 879-2000	siriani@millercanfield.com
Members		Members		
L. Fallasha Erwin (P27018)		Rico D. Neal (P69744)		
Jennifer M. Harvey (P65140)		Alecia M. Ruswinckel (P62825)		
Albert L. Holtz (P15088)		Mark L. Teicher (P34301)		
Starr M. Hewitt Kincaid (P57430)				
Donna J. Lehl (P40013)				
John M. Nader (P41610)				

Committee Meeting Schedule:

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Please attach any additional information needed regarding Committee meetings as an addendum.

Meeting Type	Date	Location
Description		
Regularly scheduled Standing Committee meeting.	June 4, 2009	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933
<i>See "Committee Activities" below.</i>		
Regularly scheduled Standing Committee meeting.	September 8, 2009	Erman, Teicher, Miller, Zucker & Freedman, P.C. 400 Galleria Officentre, Suite 444 Southfield, MI 48034
<i>See "Committee Activities" below.</i>		
Regularly scheduled Standing Committee meeting.	October 22, 2009	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933
<i>See "Committee Activities" below.</i>		
Regularly scheduled Standing Committee meeting.	January 7, 2010	Erman, Teicher, Miller, Zucker & Freedman, P.C. 400 Galleria Officentre, Suite 444 Southfield, MI 48034
<i>See "Committee Activities" below.</i>		

Resources Provided By The State Bar Of Michigan In Support Of Committee Work:

The State Bar provides a full-time paralegal with primary responsibility for claims administration, a full-time legal secretary who provides administrative support, and staff counsel who provides legal services and manages the State Bar's CPF Department. The State Bar also provides meeting facilities, meals for meetings, teleconference services, materials, document production services, and financial management of the Fund. In addition, State Bar staff routinely provides informational pamphlets to court administrators as requested to educate the public on how to find a lawyer and general information about the Fund.

Committee Activities:

During its regularly scheduled meetings, the CPF Committee reviewed claim reports prepared by staff, determined whether claims should be recommended for approval or denial, and made recommendations to the Board of Commissioners regarding the approval and denial of claims and the amount to be paid on claims recommended for payment.

The CPF Committee also recommended revisions to: (1) CPF Rule 1(A) to enhance the clarity of the “purpose and scope” statements; and (2) CPF Rule 9(C)(3) to remove the contingency fee limitation and therefore expand the application of the rule to any representation arrangement in instances where the dishonest conduct involves misappropriation of settlement proceeds. These revisions were adopted by the Board of Commissioners and have been incorporated into the CPF Rules as amended and published in November of 2009.

The CPF Committee considered and developed three policy positions: (1) the circumstances when it would recommend that the respondent be required to waive the right to receive credit for attorney’s fees pertaining to claims involving misappropriation of settlement proceeds under Rule 9(C)(3); (2) the circumstances when it would recommend reimbursement of a claim where a claimant filed for Chapter 7 bankruptcy after filing a CPF claim and failed to list the CPF claim as an asset of the bankruptcy estate; and a (3) procedure for reviewing administratively closed CPF claims.

Michigan Rule of Professional Conduct (“MRPC”) 1.15A, the Trust Account Draft Overdraft Notification (“TAON”) rule, was adopted by the Michigan Supreme Court in December of 2009, with an effective date of September 15, 2010. The CPF Committee proposed the TAON rule to the State Bar’s Representative Assembly as a loss prevention program, which embraced it and submitted the TAON Rule to the Michigan Supreme Court for consideration in 2008. State Bar staff within the CPF Department is assisting with implementation of the TAON rule.

Complete Claims Activity: For the period April 1, 2009, through March 31, 2010, 112 new claims were filed and 90 claims were pending at the beginning of this period for an overall total of 202 claims. As a result of overall claims processing during this period, 138 claims remain pending at the end of this period.

The CPF Committee reviewed 32 claims during this time period of which 4 claims were denied by the CPF Committee, 34 claims totaling \$335,829.50 approved by the Board of Commissioner were paid, 12 claims totaling \$257,290.59 approved by the Board of Commissioners and awaiting executed subrogation agreements have not been paid, 0 claims approved by the CPF Committee involving the dishonesty of a single lawyer and expected to exceed the aggregate limit are being held until expiration of the two year period, 8 claims totaling \$11,388.00 recommended for approval by the CPF Committee are pending review by the Board of Commissioners, and there are no appeals for denied claims pending review by the Board of Commissioners.

Since the inception of the Fund, 930 claims have been paid totaling \$5,418,390.88, while 1576 have been closed administratively, denied or withdrawn.

Future Goals and Activities:

Loss Prevention – The CPF Committee will continue reviewing potential loss prevention measures for possible implementation.

Scheduled Meetings -- CPF Committee meetings have been scheduled for May 6, 2010, and September 16, 2010, to review claims and conduct other business as needed.

Other Information:

Financial Activity --The Fund received \$294,618 from the 2009/10 membership dues assessment and \$3,735 in Pro Hac Vice fees thus far for this fiscal year. In addition, the Fund received subrogation payments from respondents totaling \$4,047 during the period April 1, 2009, through March 31, 2010. The Fund balance as of March 31, 2010, was \$2,118,652;¹ however, there is \$257,290.59 authorized, but unpaid, for claims awaiting receipt of executed subrogation agreements.

¹ Estimated, not finalized or audited.