CLIENT PROTECTION FUND
http://www.azbar.org/cpf/

Thank you for your interest in the Client Protection Fund (Fund). Enclosed are the Fund's *Claim for Relief* form and the *Declaration of Trust*, which outlines the Fund's rules and claim criteria. All claims must be submitted on the official claim form with supporting documentation.

The Client Protection Fund was created to compensate clients who have lost money due to the dishonest conduct of their lawyer. The Fund defines "dishonest conduct" as conduct in the nature of theft, embezzlement, or misappropriation of money, for example, taking legal fees and performing **no** legal services. Another way the Fund may assist clients is in situations where a lawyer dies before performing any legal work of value for which he/she was already paid. The Fund does ***not*** cover malpractice or negligence by a lawyer, nor does it cover disputes about legal fees charged when the lawyer did perform some work. The Fund is established by donations from lawyers; no tax dollars are used in the Fund. **There is no entitlement to any money from the Fund**. Payments of claims are made in the sole and absolute discretion of the Fund's Board of Trustees.

In order for a claim to be eligible for consideration, the lawyer must be disbarred, formally suspended for a period of more than six months, on interim suspension, on disability inactive status, convicted of a related felony, or deceased. In addition, claims must be filed within **five years** of when the client knew or should have known of the dishonest conduct, and may only be filed if there was a lawyer/client relationship.

Additionally, the State Bar's lawyer discipline process is separate from the Fund. The Fund is **not bound** by restitution orders issued in State Bar discipline matters. Pursuant to Rule 12(C) of the Fund's Declaration of Trust, "[t]he Trustees shall consider findings and restitution orders in discipline matters, but are not bound by them in determining claims."

If you would like to file a Client Protection Fund claim, please:

1. **IMPORTANT:** Read the enclosed *Instructions* and *Important Information* pages, as well as *Declaration of Trust* Rules 3 (A-F) and 4 (C-D).

2. **PLEASE PRINT LEGIBLY** and answer all questions on the claim form (which is on pages 4-8) to the best of your ability. If a question does not apply to your situation, please put "N/A" for "not applicable." Please be sure to sign and date the claim form.

3. Please provide any supporting documentation[1] that you feel will prove what you allege in your claim. **Copies** of proof of payment to the lawyer or proof that the lawyer received money on your behalf are required and claims without this information may be returned or denied for lack of proof. Examples of required proof of payment can include: the front and back of cancelled checks, receipts for cash payments, billing statements from the lawyer, fee agreements, copies of settlement information, etc.

4. Please include information regarding any court cases in which the lawyer represented you, specifically the **court case numbers** relevant to your claim.

5. Return the completed claim form (pages 4-8 only) and all supporting documentation to the address listed on ***Instructions*** page.

Once we have received the documentation requested above, your claim will be reviewed and investigated to determine eligibility, completeness and accuracy. If deemed eligible, the claim will be forwarded to the Fund's Board of Trustees for consideration at a future meeting.

Please note that consideration of a claim may take in excess of one year due to the eligibility requirements, the investigative process, and the number of claims received by the Fund. Accordingly, we appreciate your patience and cooperation in this matter. **Remember: There is no right to money from this Fund—decisions on claim payments are in the sole discretion of the Trustees**.

If a lawyer is assisting you with this claim, please note that Rule 17 of the Declaration of Trust states that lawyers who assist members of the public with Client Protection Fund claims may not charge fees for such assistance unless approved in advance by the Fund's Trustees.

The State Bar of Arizona Client Protection Fund appreciates your inquiry.

Client Protection Fund Administrator
Direct phone: 602-340-7286
Email: cpf@staff.azbar.org

Enclosures

[1] If you have already filed a complaint against the lawyer, you may have to submit copies of documents with this claim that you have already submitted to the State Bar with your discipline complaint.

STATE BAR OF ARIZONA

PLEASE FOLLOW INSTRUCTIONS BELOW AND READ ALL ATTACHED INFORMATION

INSTRUCTIONS

1) Read the attached "*Important Information about the Client Protection Fund*" and the "*Declaration of Trust*," particularly Rules 3 (A-F) and 4 (C-D) (*keep these documents for your records*).

2) Answer **all** questions on the claim form **clearly**, **legibly** and to the best of your ability. Forms that are incomplete or cannot be read will be returned. If a question does not apply to your situation, please put "N/A" for "not applicable." If you need more space, attach additional pages.

3) Attach **copies** (no original documents) of any evidence that proves your loss[1], including proof that you paid the lawyer or that the lawyer received money on your behalf (i.e., front and back of cancelled checks, payment receipts, billing statements, fee agreements, copies of settlement documentation or checks, etc.). This information is required and incomplete claims may be returned or denied for lack of proof. Also, please provide information regarding specific court cases (include court case numbers) in which the lawyer represented you.

PLEASE DO NOT SEND TWO-SIDED OR STAPLED DOCUMENTS.

4) **Sign and date the claim form**. Please keep the "*Instruction*" and "*Information*" pages and the "*Declaration of Trust*" for your records. Return the completed and signed claim form (pages 4–8) with your supporting documentation to the following address:

Client Protection Fund State Bar of Arizona 4201 N. 24th St., Suite 100 Phoenix, AZ 85016-6266
You may also email the packet to: CPF@staff.azbar.org

Return only the completed and signed claim form (pages 4–8) with supporting documentation.

NOTICE TO LAWYERS ASSISTING CLAIMANTS WITH CPF CLAIMS:
Rule 17 of the Client Protection Fund Declaration of Trust provides ". . . no lawyer shall receive or accept payment for assisting or representing a claimant in a Client Protection Fund claim unless such payment has been approved in advance by the Trustees."

[1] The Client Protection Fund is separate from the State Bar Discipline process. If you have already filed a State Bar complaint against this lawyer, you may have to submit copies of documents with this claim that you have already submitted to the State Bar with your discipline complaint. Your assistance is appreciated.

STATE BAR OF ARIZONA

PLEASE READ IMPORTANT INFORMATION ABOUT THE CLIENT PROTECTION FUND

Please read this entire document before you complete the Claim for Relief.

In order to help you decide whether you qualify for reimbursement from the Client Protection Fund (Fund), and the amount you may request, we have prepared the following answers to the questions most often asked about the Fund:

What do I need to know about the Fund?

The Fund was created to reimburse clients who have lost money due to the dishonest conduct of their lawyer. The Fund does **not** cover negligence, incompetence, or malpractice by a lawyer, nor does it cover disagreements about legal fees charged when the lawyer did perform work for the client.

The Fund is financed entirely by donations from lawyers who are licensed or authorized to practice law in Arizona; no tax dollars are used. The rules of the Fund (found in the attached "*Declaration of Trust*") state that payments may only be made in the "sole and absolute discretion" of the Fund's Board of Trustees. **You are not automatically entitled to reimbursement from the Fund.**

What are the basic requirements for an eligible claim?

The basic requirements that must be met in order for a claim to be eligible for consideration by the Fund include (but may not be limited to):

- The lawyer must be licensed or authorized to practice law in Arizona.
- The claimant must have had a "lawyer-client" relationship with the lawyer.
- The claim must be filed within five (5) years from the time the claimant knew, or should have known, of the lawyer's dishonest conduct.
- The loss must have been caused by the **dishonest conduct** of the lawyer (as defined at the end of this section).
- The lawyer **must** be in one of the following categories before a claim can be considered:
  1. Suspended (for longer than six months);
  2. Disbarred;
  3. Placed on Interim Suspension;
  4. Transferred to Disability Inactive status; or,
  5. Deceased

6. Claims may also be eligible for consideration if the lawyer has been convicted of a felony arising out of the facts of the claim.

NOTE: If the lawyer has not been disciplined, or has received a disciplinary sanction of less than a "six month and one day suspension," the claim will not be eligible for consideration.

DEFINITION OF DISHONEST CONDUCT

For the purpose of the Fund, "dishonest conduct" means only:

1. **Wrongful acts in the nature of theft or embezzlement of money, or the wrongful taking or conversion of money, property or other things of value from a client;**

2. **Failure to refund unearned fees received in advance when extremely little or no work was performed; or,**

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

What types of losses are NOT reimbursable?

- Claims based on ***negligence***, ***incompetence***, or ***malpractice*** by a lawyer. If your lawyer did things such as filing late or incorrect paperwork with the court, neglecting to perform necessary tasks, or the outcome of your legal matter was not what you thought it should be, your claim may not be eligible for reimbursement.

- Claims based on ***disputes regarding the fees charged by the lawyer*** in cases where the lawyer did do some work for the claimant. If your lawyer did more than an "insignificant amount" of work for you, your claim may not be eligible for reimbursement.

- Claims based on money given to a lawyer for ***investment, loan, or any other purpose*** that was not part of a customary lawyer-client relationship.

- Claims requesting ***reimbursement for legal fees paid to other lawyers, interest, damages, fines, or other expenses***. Only money given to the lawyer, or received by the lawyer on behalf of the claimant, is potentially eligible for reimbursement.

PLEASE NOTE:

If you have received an Order of Restitution in a State Bar discipline matter, that order is binding only on the lawyer. An Order of Restitution is part of the lawyer's disciplinary sanction, but is not a "reimbursable loss" under the Client Protection Fund's Declaration of Trust. The Board of Trustees will consider any Order of Restitution when reviewing a claim, but they are not bound by the order. **Having an Order of Restitution does not entitle you to reimbursement by the Client Protection Fund.**

STATE BAR OF ARIZONA

For State Bar Use Only

Claim #: _____

Lawyer: _____

Claimant: _____

CLIENT PROTECTION FUND CLAIM FOR RELIEF

IMPORTANT NOTICE TO CLAIMANTS:

The State Bar of Arizona has no legal responsibility for the acts of individual lawyers. Payments from the Client Protection Fund are made in the sole discretion of the Trustees administering the Fund and **not as a matter of right**. The claimant acknowledges that accepting payment from the Client Protection Fund may affect the right to pursue a civil action against the lawyer. The maximum amount payable for any claim is $100,000. The maximum amount payable for all claims against a lawyer is $250,000.

1. Claimant(s) (*actual client of lawyer*)

   Name: _____

   Address: _____

   City: _____ State: _____ Zip: _____

   E-mail: _____ Contact phone: (_____) _____

   ☐ Please check if we may communicate with you via e-mail.

2. Co-Claimant(s) (*person who paid for the legal services – if different from claimant*)

   Name: _____

   Address: _____

   City: _____ State: _____ Zip: _____

   E-mail: _____ Contact phone: (_____) _____

   ☐ Please check if we may communicate with you via e-mail.

3. Lawyer alleged to have caused loss

   Name: _____

   Address: _____

   City: _____ State: _____ Zip: _____

4. Is this lawyer deceased? ☐ Yes ☐ No [redacted]

5. Was this lawyer hired to provide legal representation for the claimant? ☐ Yes ☐ No

   a. If no, describe the claimant's relationship to the lawyer: _____

   b. If yes, give the approximate date the lawyer was hired: _____

   c. Give the approximate date the lawyer's services ended: _____

   d. Give the approximate date the loss was discovered: _____

6. How much was the lawyer paid for legal services **OR** how much money did the lawyer receive on the claimant's behalf? $_____

7. How was the lawyer paid? ☐ Cash ☐ Check ☐ Credit Card ☐ Other (please list)

   _____

   (*Attach **copies** of documentation to verify all money received by the lawyer (i.e., front and back of cancelled checks, credit card receipts or statements, cash receipts, billing statements, fee agreements, settlement checks, etc. **This documentation is required**. If you cannot provide this information, please explain why on a separate page.)*

8. What is the alleged loss amount? $_____
   (If the loss was property, give details and value of the property on a separate page. Attach copies of appraisals, receipts, or any other evidence of value.)

9. Was the claimant's agreement with the lawyer in writing? ☐ Yes ☐ No
   (*If yes, attach a copy of the agreement.*)

10. For what type of matter was the lawyer hired?

    ☐ Criminal ☐ Civil ☐ Family ☐ Probate

    ☐ Employment ☐ Immigration ☐ Other _____

    _____

    _____

11. What legal services did the claimant ask the lawyer to perform? _____

    _____

    _____

    _____

12. If a court case is involved, provide the case name, the case number, and the court location:

    _____

    _____

13. What legal services did the lawyer actually perform? (*i.e., phone calls, meetings, correspondence, prepared and/or filed legal documents, appeared in court, etc.*) _____

_____

_____

_____

14. Describe the lawyer's conduct and how it caused the loss: _____

_____

_____

_____

15. Did the claimant hire, or did the court appoint, a new lawyer to complete the legal work?

☐ Yes ☐ No If yes, provide the new lawyer's name and contact information:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

16. Has the claimant or co-claimant ever been the spouse, relative, partner, associate, employer, or employee of the lawyer alleged to have caused the loss? ☐ Yes ☐ No

If yes, please explain: _____

_____

17. Has the claimant demanded a return of lost funds or property from the lawyer? ☐ Yes ☐ No

If yes, indicate the date of demand _____
(If the demand and/or the lawyer's response were in writing, please attach copies.)

If no, state the reason why the claimant did not make a demand: _____

_____

18. Has the claimant been reimbursed for any part of this claim? ☐ Yes ☐ No

If yes, provide the following information: Amount paid: $_____

From whom? _____ Date paid: _____

19. If known, is this loss covered by any insurance, indemnity or bond?

☐ Yes ☐ No ☐ Unknown If yes, provide the following information:

Name of Insurer, Surety Company, or Bondsman: _____

Address: _____ City: _____ State: _____ Zip: _____

20. Has this claim been presented to the Client Protection Fund of any other state?

☐ Yes ☐ No If yes, which state? _____

21. Have there been, or will there be, any civil or criminal actions taken in connection with the facts set out in this claim? ☐ Yes ☐ No ☐ Unknown

If yes, state who filed these proceedings, when and where filed, and the current status (*include case numbers if known*): _____

_____

_____

22. Did you file a Lawyer Discipline Charge (complaint) with the State Bar of Arizona? ☐ Yes ☐ No

If yes, provide the file number and status of the disciplinary proceeding (if known): _____

_____

23. If a lawyer is assisting you with this claim, provide his/her name and contact information:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

E-mail: _____ Phone: (_____) _____

(**NOTE**: *If you are represented by counsel in filing this claim, all communications will be through your lawyer; you are only contacted directly if you are NOT represented by counsel.*)

24. How did you learn about the Client Protection Fund? _____

_____

LIMITATIONS AND AGREEMENTS
IMPORTANT: Please read and sign

A. This claim is executed and filed in order to induce the State Bar of Arizona Client Protection Fund Board of Trustees to process, investigate and consider in its sole discretion the reimbursement from the Client Protection Fund of all of the loss incurred by the claimant as a result of the dishonest conduct of the lawyer named in this claim.

B. The claimant agrees to furnish any change of name or address promptly to the Fund Administrator.

C. The claimant understands and acknowledges that the maximum award per claimant is $100,000.00 and that the maximum award per lawyer is $250,000.00.

D. The claimant understands and agrees that upon payment from the Client Protection Fund, the undersigned claimant:

1. Transfers, assigns and sets over to the Client Protection Fund of the State Bar of Arizona, *pro tanto*, all undersigned claimant's claims, demands, causes of action, actions, and suits against the above-named lawyer arising out of the above-described dishonest conduct upon which this claim for reimbursement is based.

2. Authorizes the Client Protection Fund of the State Bar of Arizona to prosecute all such claims, demands, causes of action, actions or suits against the above-named lawyer either in the name of the undersigned claimant, or in the name of the Client Protection Fund, as the Trustees may in the sole exercise of their discretion deem appropriate.

3. Agrees that he/she will cooperate with the Fund in any efforts to enforce any claim, demand, cause of action, actions or suits against the above-named lawyer.

4. And Further Agrees that all civil actions to be taken against the above-named lawyer hereunder shall be under the absolute control of the Fund and that the Trustees may prosecute, fail to prosecute, or abandon any such claim, demand, cause of action, actions or suits against the above-named lawyer as they shall, in the exercise of their discretion and without the necessity of consent or approval of the undersigned claimant, deem appropriate.

E. The undersigned claimant understands that before he/she receives any payment from the Fund, the claimant or his/her legal representative will be required to execute and deliver to the Trustees a written agreement stating that in the event the reimbursed applicant or his/her estate should ever receive any restitution from the lawyer or the estate of the lawyer named above, the reimbursed claimant shall agree to repay to the Fund the original reimbursement from the Fund, together with legal interest thereon.

IN CONSIDERATION OF THE FOREGOING, the claimant agrees to cooperate in the investigation of this claim and also in any related disciplinary proceedings against the lawyer(s) in question; and, as a condition precedent to any payment from said Fund, claimant agrees to execute and deliver to the Trustees such instrument or instruments as may be required.

I, the undersigned say: I am the Claimant and/or Co-Claimant in the above matter; I have read the foregoing Claim for Relief, and know the contents thereof; and I certify that the same is true of my personal knowledge, except as to the matters and things which are therein stated upon my information or belief, and that as to those matters and things I believe them to be true. I have read the Client Protection Fund Declaration of Trust and agree to be bound by all rules set forth therein. I swear or avow under penalty of perjury that the foregoing is true and correct.

_____

Claimant's signature

_____

Co-claimant's signature

_____

Date



THE CLIENT PROTECTION FUND OF THE STATE BAR OF ARIZONA

DECLARATION OF TRUST

CREATED JANUARY 7, 1961 (AS FURTHER AMENDED ON APRIL 16, 2021)

The Client Protection Fund of the State Bar of Arizona was authorized by the membership of the State Bar on April 19, 1960 and established by the Declaration of Trust of January 7, 1961. The Supreme Court of Arizona, pursuant to Rule 32(d)(8), Ariz. R. Sup. Ct., required the creation of the original Trust and delegated authority to the State Bar of Arizona Board of Governors ("Board") to amend the Trust from time to time as may be appropriate. Under the terms of the original trust agreement, the Board of Governors reserved the right to amend or revoke the Trust from time to time, in whole or in part, by written instrument. The Board previously amended the Trust on November 26, 1971, May 31, 1974, May 6, 1981, April 23, 1993, February 27, 1998, January 18, 2002, November 18, 2005, January 20, 2006, May 30, 2008, amended and restated on December 13, 2013, and further amended on November 21, 2014, September 29, 2017, and April 16, 2021. This agreement, as amended and restated in its entirety, sets forth the terms and provisions relating to the Administration of the Trust after this date.

The name of the trust shall hereinafter be the Client Protection Fund of the State Bar of Arizona ("Fund").

RULE 1: PURPOSE AND SCOPE

A. The purpose of the Fund is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of lawyers or legal paraprofessionals admitted and licensed or otherwise allowed to practice in Arizona, occurring in the course of the client-lawyer or fiduciary relationship between the lawyer and the claimant.

B. For purposes of these Rules, "lawyer" and shall include a person:

(1) licensed to practice law in this jurisdiction, regardless of where the lawyer's conduct occurs;
(2) authorized to practice as in-house counsel;
(3) admitted *pro hac vice*;
(4) authorized to practice as a foreign legal consultant;
(5) admitted only in a non-United States jurisdiction but who is authorized to practice law in this jurisdiction; or,
(6) recently suspended or disbarred whom clients reasonably believed to be licensed to practice law when the dishonest conduct occurred.

C. For purposes of these Rules, "legal paraprofessional" shall include a person licensed pursuant to the Arizona Code of Judicial Administration § 7-210 to provide legal services without the supervision of an attorney in the areas of law and within the scope of practices, as defined in ACJA § 7-210.

D. Every lawyer and legal paraprofessional has an obligation to the public to participate in the collective effort of the Bar to reimburse persons who have lost money as a result of the dishonest conduct of another lawyer or legal paraprofessional. Contribution to the Fund is required of all active, inactive, and affiliate members of the State Bar of Arizona, pursuant to the Supreme Court of Arizona's mandate, as set forth in Rule 32(c)(8) and (9) and (d)(8), Ariz. R. Sup. Ct.

RULE 2: ESTABLISHMENT

A. There is established the State Bar of Arizona Client Protection Fund to reimburse claimants for losses caused by dishonest conduct committed by lawyers or legal paraprofessionals as defined in these rules.

B. The trust shall exist as a separate entity from the State Bar of Arizona and is established, under the authority of the Board, and as required by the Supreme Court, pursuant to Rule 32(d)(8), Ariz. R. Sup. Ct. The Client Protection Fund Board of Trustees ("Trustees") shall receive, hold, manage, and disburse from the Fund such monies as may be allocated to the Fund pursuant to Rule 32(c)(8), Ariz. R. Sup. Ct., and from any other sources.

C. These rules shall be effective for claims filed with the Trustees after the effective date of this amended and restated Declaration of Trust.

RULE 3: ELIGIBLE CLAIMS

A. The loss must be caused by the dishonest conduct of the lawyer or legal paraprofessional and shall have arisen out of and by reason of a client-lawyer or client-legal paraprofessional relationship or a fiduciary relationship between the lawyer or legal paraprofessional and the claimant that is customary and related to the practice of law.

B. The claim shall have been filed within five years after the claimant knew or should have known of the dishonest conduct of the lawyer or legal paraprofessional.

C. The loss must be caused by the dishonest conduct of a lawyer or legal paraprofessional who has: 1) received a disciplinary suspension of longer than six months; 2) been placed on interim suspension pursuant to Rule 61, Ariz. R. Sup. Ct.; 3) been disbarred; 4) had their license revoked; 5) died; 6) been transferred to disability inactive status pursuant to Rule 63, Ariz. R. Sup. Ct.; or 7) been convicted of a felony arising out of the facts that gave rise to the claim. In appropriate circumstances, the Trustees may determine that a claim is appropriate for consideration for reimbursement because the loss was caused by the lawyer's or legal paraprofessional's dishonest conduct regardless of the lawyer's or legal paraprofessional's status.

D. As used in these Rules, "dishonest conduct" refers to the following circumstances, and **not** to the quality or outcome of any legal work performed (unless deemed relevant by the Trustees).: 1) wrongful acts committed by a lawyer or legal paraprofessional in the nature of theft or embezzlement of money or the wrongful taking or conversion of money, property, or other things of value; 2) failure to refund unearned fees received

in advance as required by Rule 1.16(d) of the *Arizona Rules of Professional Conduct*, Rule 42, Ariz. R. Sup. Ct., when very little to no work of value was performed; or 3) a lawyer's or legal paraprofessional's act of intentional dishonesty or deceit that proximately leads to the loss of money or property.

E. Except as provided by Paragraph I of this Rule, the following losses shall **not** be reimbursable: 1) claims based solely upon negligence, incompetence, or malpractice by a lawyer or legal paraprofessional; 2) money lost by a claimant that was given to a lawyer or legal paraprofessional for investment or any other purpose that did not arise from the client-lawyer or client-legal paraprofessional relationship; 3) claims requesting compensation for interest, legal fees paid to other lawyers or legal paraprofessionals, damages, or other expenses; and 4) disputes regarding the reasonableness of a fee.

F. Except as provided in Paragraph I of this Rule, the following claimants shall **not** be eligible for reimbursement: 1) the spouse (present or former), child, parent, grandchild, grandparent, or sibling of the lawyer or legal paraprofessional, whether by blood or marriage; 2) partners, associates, co-shareholders, or employees of the lawyer or legal paraprofessional; 3) any insurer, surety, or bonding agency or company that seeks reimbursement for payment made under an insurance or surety contract or bond covering the risk involved in the lawyer's or legal paraprofessional's dishonest conduct; 4) any business entity controlled by the lawyer or person described in paragraphs F.1 or 2 above; 5) any governmental entity or agency; 6) medical providers or other third parties with claims against the lawyer or legal paraprofessional pursuant to law; or 7) any business entity unless considered pursuant to Paragraph I of this Rule.

G. In determining whether it would be more appropriate for this Fund or another state's Fund to pay a claim, the Trustees should consider the following factors with respect to lawyers, and to legal paraprofessionals if applicable:

(1) the Fund(s) into which the lawyer or legal paraprofessional is required to pay an annual assessment or into which an appropriation is made on behalf of the lawyer or legal paraprofessional by the bar association;
(2) the domicile of the lawyer or legal paraprofessional;
(3) the domicile of the client;
(4) the residence(s) of the lawyer or legal paraprofessional;
(5) the number of years the lawyer or legal paraprofessional has been licensed in each jurisdiction;
(6) the location of the lawyer's or legal paraprofessional's principal office and other offices;
(7) the location where the client-lawyer or client-legal paraprofessional relationship arose;
(8) the primary location where the legal services were rendered;
(9) whether at the time the legal services were rendered, the lawyer or legal paraprofessional was engaged in the unauthorized practice of law as defined by the jurisdiction in which the legal services were rendered; and
(10) any other significant contacts.

H. The Trustees may enter into an agreement with the Fund of another jurisdiction to reimburse a portion of the loss suffered by a claimant whose claim may be eligible for payment under both Funds. The Trustees may take into consideration the other Fund's rules on payment of claims for reimbursement prior to entering into such an agreement.

I. In cases of extreme hardship or special and unusual circumstances, the Trustees may, in their sole and absolute discretion, recognize a claim that would otherwise be excluded under these Rules.

J. In cases where it appears that there will be unjust enrichment, or the claimant unreasonably or knowingly contributed to the loss, the Trustees, may, in their sole and absolute discretion, deny the claim.

RULE 4: PROCEDURES AND RESPONSIBILITIES FOR CLAIMANTS

A. The Trustees shall prepare and approve a form for claiming reimbursement from the Fund that will be available, at no charge, from the State Bar.

B. The form shall include at least the following information provided by the claimant under penalty of perjury:

1. The name, address, email address, and telephone number(s) of claimant;

2. The name, address, email address, and telephone number(s) of the lawyer or legal paraprofessional alleged to have dishonestly taken the claimant's money or property, and any family or business relationship of the claimant to the lawyer;

3. The legal or other fiduciary services the lawyer or legal paraprofessional was to perform for the claimant;

4. The amount paid to the lawyer or legal paraprofessional;

5. A copy of any written agreement pertaining to the claim;

6. Copies of any checks, money orders, receipts, or other proofs of payment;

7. The form of the claimant's loss (e.g., money, securities, or other property);

8. The amount of loss and the date when the loss occurred;

9. The date when the claimant discovered the loss, and how the claimant discovered the loss;

10. The lawyer's or legal paraprofessional's dishonest conduct;

11. The name of the person, if any, to whom the loss has been reported (e.g., county attorney, police, disciplinary agency, or other person or entity) and a copy of any complaint and description of any action that was taken;

12. The source, if any, from which the loss can be reimbursed, including any insurance, fidelity, or surety agreement;

13. The description of any steps taken to recover the loss directly from the lawyer or legal paraprofessional or any other source;

14. The circumstances under which the claimant has been, or will be, reimbursed for any part of the claim (including the amount received, or to be received, and the source), along with a statement that the claimant agrees to notify the Fund of any reimbursements the claimant receives during the pendency of the claim;

15. The existence of facts believed to be important to the Fund's consideration of the claim;

16. The manner in which the claimant learned about the Fund;

17. The name, address, email address, and telephone number(s) of the claimant's present lawyer or legal paraprofessional;

18. The claimant's agreement to cooperate with the Fund in reference to the claim or as required by Rule 16, in reference to civil actions which may be brought in the name of the Fund pursuant to a subrogation and assignment clause which shall also be contained within the claim;

19. The claimant's agreement to repay the Fund if the claimant is subsequently reimbursed from another source;

20. The name and address of any other state Funds to which the claimant has applied or intends to apply for reimbursement, together with a copy of the application; and

21. A statement that the claimant agrees to the publication of appropriate information about the nature of the claim and the amount of reimbursement if reimbursement is made.

C. Claimants must substantially complete the claim form and provide satisfactory evidence of a reimbursable loss in order to file a claim with the Fund. The claim shall be filed with the Trustees by addressing the completed claim and supporting evidence to the Phoenix office of the State Bar of Arizona.

D. Claimants shall provide such additional information as requested by the Trustees or staff in order to assist in the consideration of the claim.

RULE 5: FUNDING

A. The Supreme Court of Arizona, pursuant to Rule 32(c)(8) and (9), Ariz. R. Sup. Ct., requires that all active, inactive, and affiliate members of the State Bar shall contribute to the Fund annually, in an amount established by the Court.

B. A lawyer or legal paraprofessional whose dishonest conduct has resulted in reimbursement to a claimant shall make restitution to the Fund, including interest and the expense incurred by the Fund in processing the claim.

C. The Trustees may invest such balances as are in the Fund, in accordance with the Board's investment policy. All income realized from such investments, realized capital appreciation, restitution, annual member assessments, and all other income shall accrue to the Fund.

RULE 6: FUNDS

A. All monies or other assets of the Fund shall constitute a trust and shall be held in the name of the Fund, as required by Rule 32(c)(9) and (10), Ariz. R. Sup. Ct.

B. All administrative expenses incurred in the administration of the Fund by the State Bar, including but not limited to salaries, reproduction, telephone, postage, travel, accommodations, rent, overhead, costs of investigation, clerical expenses, and expenses of hearings, shall be paid from the Fund.

RULE 7: BOARD OF TRUSTEES

A. The Board of Trustees shall consist of five trustees who shall be appointed by the Board.

B. Any active or judicial member in good standing with the State Bar of Arizona who shall have practiced law or served in a judicial capacity in the State of Arizona for at least ten (10) years shall be eligible for appointment as a Trustee; provided, however, that no more than two (2) lawyer Trustees shall, at any time, reside in the same county. The Board in its discretion may appoint one non-lawyer Trustee.

C. Trustees shall be appointed for terms of five (5) years. Trustees may serve no more than two five-year terms. The Board may remove a Trustee for cause at any time.

D. Any vacancy occurring during a term shall be filled by the Board for the unexpired portion of the term.

E. The Trustees shall have the authority to elect from among their members, a chairperson, a secretary, and a treasurer. A Trustee elected as treasurer shall procure a personal surety bond in adequate amount to cover all Trustees and staff of the Fund, and the cost thereof shall be considered an administrative expense of the Fund.

F. The Trustees shall serve without compensation, but shall be entitled to reimbursement from the Fund, if no other source of funds is available, for their expenses reasonably incurred in performance of their duties as Trustees, including transportation, meals, and lodging, on the same basis as the expenses of the Board are reimbursed.

RULE 8: TRUSTEE MEETINGS

A. The Trustees shall meet as frequently as necessary to conduct the business of the Fund and to timely process claims.

B. The chairperson shall call a meeting at any reasonable time or upon the request of at least two Trustees.

C. Three Trustees shall constitute a quorum. A majority of the Trustees present at a meeting may exercise any powers held by the Trustees.

D. Trustee meetings shall be open to the public in accordance with the Public Meetings Policy of the State Bar of Arizona. The chairperson may invite guests as appropriate.

RULE 9: DUTIES AND RESPONSIBILITIES OF TRUSTEES

The Trustees shall have the following duties and responsibilities:

A. To receive, evaluate, determine, and pay claims;

B. To promulgate rules of procedure not inconsistent with these Rules;

C. To invest Fund money in accordance with the Board's investment policies;

D. To ensure that the Fund maintains sufficient reserves to pay present and future claims;

E. To provide a full report at least annually to the Board and to make other reports as necessary;

F. To publicize activities of the Fund to the public and the Bar;

G. To employ adequate staff to assure the Fund's effective and efficient functions;

H. To retain and compensate consultants, investigators, accountants, agents, legal counsel, and other persons as necessary;

I. To prosecute claims for restitution to which the Fund is entitled;

J. To engage in studies and programs for client protection and prevention of dishonest conduct by lawyers or legal paraprofessional;

K. To promote effective communication between lawyer disciplinary authorities and the Fund;

L. To perform all other acts necessary or proper for the fulfillment of the purposes and effective administration of the Fund; and

M. To prepare a form of application for reimbursement upon which all claims shall be made.

RULE 10: CONFLICTS OF INTEREST

A. A Trustee who has or has had a client-lawyer relationship or financial relationship with a claimant or lawyer who is the subject of a claim shall not participate in the investigation or adjudication of a claim involving that claimant or lawyer.

B. A Trustee with a past or present relationship, other than as provided in Paragraph A, with a claimant, lawyer, or legal paraprofessional whose alleged conduct is the subject of a claim, shall disclose such relationship to the Trustees and, if the Trustees deem appropriate, that Trustee shall not participate in any proceeding relating to such claim.

C. A Trustee may recuse himself or herself from consideration of a claim for any reason.

RULE 11: IMMUNITY

The Fund and its Trustees, employees, and agents shall be absolutely immune from civil liability for all acts performed in the course of their official duties pursuant to Rule 48(l), Ariz. R. Sup. Ct. Claimants, lawyers, or legal paraprofessionals who assist claimants with any claim

or communications with the Fund shall be immune from liability to respondent lawyers or legal paraprofessionals.

RULE 12: PROCESSING OF CLAIMS

A. Whenever it appears, upon initial review by Fund staff, that a claim is not eligible for consideration by the Trustees, pursuant to Rule 3, Paragraphs A, B, D, E, or F, the claimant shall be advised of the reasons why the claim is not eligible, and that unless additional facts to support eligibility are submitted to the Fund within thirty (30) calendar days of the date of letter of notification of insufficiency, the claim file shall be closed. If the claimant submits sufficient additional supporting facts within the thirty days, the claim shall be processed as set forth below.

B. A copy of each claim shall be sent by certified mail to the lawyer or legal paraprofessional at the lawyer's or legal paraprofessional's last known address, or to the personal representative of the lawyer's or legal paraprofessional's estate, conservator, or other representative. The lawyer or legal paraprofessional shall have thirty (30) calendar days from the date of mailing of the claim to provide the Trustees with a written response to the claim.

C. Staff shall review each claim and conduct an investigation as seems necessary and appropriate in order to assist the Trustees in deciding the eligibility for reimbursement. Staff and/or the Trustees may request additional information from the claimant with respect to the alleged dishonest conduct.

D. To the extent permitted by Rule 70, Ariz. R. Sup. Ct., the State Bar shall allow the Trustees to have access to its files and records, if any, pertaining to the dishonest conduct alleged. Information from documents obtained by the Fund shall be used solely for the purpose of determining the validity of the claim and shall not be otherwise disclosed. The Trustees shall consider findings and restitution orders in discipline matters but are not bound by them in determining claims.

E. Once the Fund staff deems the investigation to be materially completed, a copy of all documents obtained through the investigation shall be sent to the lawyer or legal paraprofessional. The lawyer or legal paraprofessional shall have thirty (30) calendar days from the date of mailing to provide the Trustees with a supplemental written response to the claim.

F. Failure of the lawyer or legal paraprofessional to respond to the substance of the claim at any stage in its processing may be deemed an admission of the allegations in the claim.

G. After the 30 days referred to in paragraph E above have expired, the Fund staff shall send to each Trustee a copy of each claim, any written responses submitted by the lawyer or legal paraprofessional, and any investigatory reports and supplementary documentation.

H. At the request of a Trustee, or at the written request of either the claimant or the lawyer or legal paraprofessional alleged to have caused the loss, the Trustees may afford both the claimant and the lawyer or legal paraprofessional an opportunity to be heard by the Trustees. The request for a hearing shall be filed with the Fund administrator within thirty (30) calendar days after the lawyer or legal paraprofessional receives notice of the claim. Any such proceeding shall be informal, and all relevant testimony and evidence may be received. Absent such a request, a claim shall be

processed on the basis of the information obtained in the application for reimbursement, any information obtained by Staff, and any written response from the lawyer.

I. Reconsideration.

1. If a claim has been denied by the Fund, a claimant may request reconsideration of the determination within thirty (30) calendar days of the denial by submitting a written request to the Fund administrator.

2. To have a claim reconsidered, the claimant must provide new information to the Fund. Any submission containing new information shall be mailed to the lawyer or legal paraprofessional, who shall have thirty (30) calendar days from the date of mailing to provide the Trustees with a written response to the new information.

3. A claimant may not seek reconsideration if the Trustees approve any amount of payment of a claim, even if the payment approved is less than the amount requested in the claim.

4. If a claimant fails to make a request or the request is denied, the decision of the Trustees shall be final.

5. Written notice of the Trustees' decision on the request for reconsideration shall be given to all interested parties.

RULE 13: PAYMENT OF REIMBURSEMENT

A. In authorizing payment of claims, the Trustees shall not award more than $100,000 to any one claimant and shall not award more than $250,000 in the aggregate on account of claims arising out of the dishonest conduct of any one lawyer or legal paraprofessional. The Trustees are authorized to exceed these limits only in extraordinary circumstances and only by unanimous vote of all Trustees and the approval of the Board of Governors.

B. The Trustees shall determine, in their sole discretion, whether a claim merits reimbursement from the Fund, the amount, time, and manner of its payment, and the conditions upon which payment shall be made. Unless the Trustees direct otherwise, no claim shall be paid until the expiration of six months following the lawyer's or legal paraprofessional's death, transfer to disability inactive status, suspension, interim suspension, disbarment, or conviction of a felony in a prosecution arising out of facts which give rise to the claim, as the case may be.

C. Determination of amount of claim:

1. If the aggregate of all claims pertaining to a lawyer or legal paraprofessional which are filed prior to the expiration of the six-month period and approved for payment by the Trustees is less than the $250,000 aggregate limitation, not exceeding $100,000 to any one claimant, then all such approved claims may be paid in full; provided, however, if any approved claimant has not completed exhaustion of their remedies against any insurance policy, bond, or any other reasonable source of recovery, payment to such claimant shall be withheld until they have realized final recovery thereon.

2. If the aggregate of all claims exceeds the $250,000 limitation, then all such approved claims, not exceeding $100,000 to any one claimant, may be paid on the basis of a pro rata sharing of the $250,000; provided, however, if any approved claimant has not exhausted their remedies against any insurance policy or bond or any other reasonable source of possible recovery, no part of the claim shall be paid at that time, but the other claimants shall receive payments on their claims with all approved claims, including such claims not to be paid at that time, being included in their apparent maximum allowable amounts to determine the initial pro rata shares. When the aforementioned claimant whose remedies were not exhausted has realized their final recovery, the pro rata shares of all claimants shall be recalculated, and final payment shall be made to them. In the event any claimant does not or is unable to realize final recovery on the insurance policy or bond or other means of recoupment within one year following the expiration of the six months mentioned in sub-part 1, *above*, the Trustees are authorized to establish, in their absolute discretion, the net amount of the claim to be paid by the Trustees in view of the claim on claimant's insurance policy or bond or other source and thereupon to recalculate the pro rata claims of all claims and to make final payment thereon.

3. If the claimant's full and complete recovery on all known insurance policies and bonds or other sources would not, in the judgment of the Trustees, reduce the amount of the allowable claim under the terms of this Declaration of Trust, then sub-parts 1 and 2above, for withholding final payment on the claim shall not apply.

4. In the event the $250,000 limitation per lawyer or legal paraprofessional is not exhausted by the claims filed within the six months mentioned above, approved claims that are filed subsequent to the expiration of six months shall be granted priority on the basis of the date of filing, the earlier claim to be paid the full amount allowed before payment on any claim filed thereafter, until the $250,000 limitation has been reached.

RULE 14: REIMBURSEMENT FROM THE FUND IS A MATTER OF GRACE

No person or entity shall have any legal right to reimbursement from the Fund whether as claimant, third-party beneficiary, or otherwise. Decisions on claims are in the sole and absolute discretion of the Trustees, and all decisions on requests for reconsideration by the Trustees are final.

RULE 15: RESTITUTION AND SUBROGATION

A. A lawyer or legal paraprofessional whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution, and the Fund may bring such action as the Trustees deem advisable to enforce such obligation.

B. A lawyer or legal paraprofessional whose dishonest conduct has resulted in reimbursement to a claimant shall make restitution to the Fund, including interest and the expense incurred by the Fund in processing the claim, as well as any attorney's fees and costs incurred by the Fund in connection with the claim. A lawyer's or legal paraprofessional's failure to make satisfactory arrangement for restitution shall be cause for suspension, disbarment, or denial of an application for reinstatement.

C. As a condition of reimbursement, and to the extent of the reimbursement provided by the Fund, a claimant shall be required to provide the Fund with a transfer of the claimant's rights against the lawyer or legal paraprofessional, the lawyer's or legal paraprofessional's legal representative, estate or assigns; and of the claimant's rights against any third party or entity who may be liable for the claimant's loss.

D. Upon commencement of an action by the Fund as subrogee or assignee of a claim, it shall advise the claimant, who may then join in such action to recover the claimant's unreimbursed losses.

E. In the event that the claimant commences an action to recover unreimbursed losses against the lawyer. legal paraprofessional, or another entity that may be liable for the claimant's loss, the claimant shall be required to notify the Fund of such action.

F. The claimant shall be required to agree to cooperate in all efforts that the Fund undertakes to achieve restitution for the Fund, and to repay the Fund if claimant is subsequently reimbursed from another source an amount that exceeds the difference between the principal misappropriated and the Fund award. Such repayment shall not exceed the amount of the Fund award.

RULE 16: CONFIDENTIALITY

A. Files and all documents related to claims and all claims proceedings shall be confidential to the extent that they contain confidential personal information or information confidential under the client-lawyer privilege, the Rules of Professional Conduct, or other adopted policies, rules, or law.

B. This Rule shall not be construed to deny access to relevant information by professional discipline agencies or other law enforcement authorities as the Trustees may authorize, or the release of statistical information that does not disclose the identity of the claimants.

RULE 17: COMPENSATION FOR REPRESENTING CLAIMANTS

No lawyer or legal paraprofessional shall receive or accept payment for assisting or representing a claimant in a Client Protection Fund claim unless such payment has been approved in advance by the Trustees.

TERM

This amended and restated Declaration of Trust shall remain in full force and effect as now adopted and shall only be amended by the Board by instrument in writing.

The Board shall retain the right to amend or revoke this trust by instrument in writing, except that revocation must be approved by the Supreme Court of Arizona. If, at the time of revocation, any monies remain in the Fund, those monies shall be directed and distributed to the Arizona Foundation for Legal Services & Education, also known as the Arizona Bar Foundation, a nonprofit organization created for a designated charitable purpose under Internal Revenue Code § 501(c)(3), and shall be used by the Foundation for the purposes listed in Rule 43(f)(6)(A) and (B), Ariz. R. Sup. Ct.

Dated: May 28, 2021

Denis M. Fitzgibbons, President