



ANNUAL REPORT

OF THE

CLIENT PROTECTION FUND COMMISSION

FOR

CALENDAR YEAR 2009

Submitted to the

Supreme Court of New Mexico

and the

State Bar of New Mexico
Board of Bar Commissioners



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March 8, 2010

Supreme Court of the State of New Mexico and
State Bar of New Mexico Board of Bar Commissioners,

As the Commission Chair of the Client Protection Fund for 2009, I am pleased to present, on behalf of the Commission the Fund's annual report. The annual report provides information on the history, purpose, revenues, claim process, commissioner information, types of claims, the amounts reimbursed on claims, and an overview of the Fund from 2006-2009.

On December 13, 2005 the Supreme Court issued an order establishing the State Bar of New Mexico Client Protection Fund Commission. The Commission is comprised of four members appointed by the Supreme Court, two members appointed by the State Bar of New Mexico, the treasurer of the State Bar of New Mexico Board of Bar Commissioners, and two ex officio non-voting members.

The Commissioners are active in thoroughly investigating every claim and providing recommendations to the full Commission. The Commission helps 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. In 2009, the Commission reimbursed \$95,965.79 to claimants that have been harmed by their attorneys. I would like to thank the Commissioners for their dedication and compassion in investigating claims to ensure that those harmed are reimbursed.

I would like to thank Chief Justice Edward L. Chavez, the CPF Liaison Justice Richard C. Bosson and all of the Justices of the Supreme Court of New Mexico and the State Bar of New Mexico Board of Bar Commissioners for providing their support to the Fund. Effective September 29, 2009, the Supreme Court issued an order assessing \$15 annually from every attorney licensed to practice law in New Mexico. This is an important step forward in providing long term funding.

I hope you will take the time to read the annual report and learn more about what the Fund does. Please share this valuable information with those who may need assistance from the Fund.

A handwritten signature in black ink, appearing to read "Briggs Cheney".

Briggs Cheney, Esq.
Client Protection Fund Chair 2009

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INTRODUCTION

History and Purpose of the Client Protection Fund

The Client Protection Fund (CPF) Commission was established by order of the Supreme Court of New Mexico, effective December 13, 2005, as a permanent Commission of the Board of Bar Commissioners of the State Bar of New Mexico. The Commission was established to oversee the Client Protection Fund. The CPF Commission is charged with receiving, holding, managing and disbursing money from the Fund according to the rules governing the Client Protection Fund Rules 17A-001 et seq. NMRA. The State Bar of New Mexico has been given the responsibility of administering the Commission, developing and approving the budget, and managing operations and staffing for the CPF Commission.

The purpose of the Client Protection 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 admitted and licensed to practice law in the courts of this jurisdiction. The New Mexico Client Protection Fund Commission continues to carry out its responsibilities and meet its objectives by providing assistance to clients who have been financially harmed by the dishonest conduct of licensed New Mexico attorneys.

Revenues of the Client Protection Fund

The initial funding for CPF was established in 2005 by Supreme Court Order transferring funds from fines levied through the Minimum Continuing Legal Education Board (MCLE) to the Client Protection Fund. In 2008, the Supreme Court ordered an additional transfer of funds from MCLE to Client Protection Fund. The Supreme Court in 2009 ordered a \$15 annual assessment of every active New Mexico attorney pursuant to Rule 17 A-003 (B) NMRA. The combination of the MCLE funds and the annual assessment will permit CPF to increase reserves; to gradually increase the maximum amount reimbursable from the Fund to injured clients; and, to satisfy future losses that are certain to occur. In addition to the financial support, the State Bar of New Mexico provides in-kind support in administration of the Fund and the Commission.

Eligible Claims

To qualify for a claim through the CPF the loss the client incurred must be caused by the dishonest conduct of the lawyer and shall have arisen out of a client-lawyer relationship or a fiduciary relationship. The claim has to be filed no later than five (5) years after the client knew or should have known of the dishonest conduct of the lawyer. The dishonest conduct is defined as wrongful acts such as theft or embezzlement of money or the wrongful taking or conversion of money, property or other things of value such as failure to refund unearned fees or the borrowing of money from a client without intention to repay it or with disregard of the lawyer's inability or reasonably anticipated inability to repay it. The Commission also has a hardship exception which allows them in cases of extreme hardship or special and unusual circumstances to recognize a claim which would not otherwise be included under the Client Protection Fund rules.

Processing a Claim

The claimant must complete the CPF form and have it notarized. The claimant must provide a copy of any written agreement pertaining to the claim, copies of any checks, money orders, receipts or other proof of payment. The claimant is responsible for completing the form and providing evidence of a reimbursable loss. The current cap per claim is \$10,000.00.

The program administrator of CPF will notify the lawyer or the lawyer's representative and they will have 20 days to respond to the claim. The Disciplinary Board is also notified of the claim against the lawyer.

The claim is referred to one of the Commissioners for investigation. The Commissioner investigates and presents a recommendation to the full Commission at their quarterly meeting. The approval or denial of a claim requires the affirmative votes of at least four Commissioners.

The claimant and the lawyer are notified of the decision of the Commission. Either party may request reconsideration in writing within thirty days (30) of the denial or determination of the amount of a claim. When appropriate, reimbursement of a claim will be completed after the thirty day reconsideration period has been completed. Reimbursement from CPF is discretionary and no person has a legal right to reimbursement from the fund.

Confidentiality

The claims, proceedings and reports involving claims for reimbursement are confidential until the Commission approves a claim for reimbursement to the claimant. The Commission publishes the nature of the claim, the amount of reimbursement, and the name of the lawyer after reimbursement to the claimant. The claimant's name and address are confidential.

The Client Protection Fund has an information site on the State Bar of New Mexico website. All annual reports, rules, orders and contact information are available through the CPF homepage at www.nmbar.org.

2009 Annual Report Summary

The CPF experienced a marked increase in the dollar amounts claimants requested in 2009. The following is a summary of the 2009 operations:

- ❑ 47 requests from the public for claim forms were received and processed;
- ❑ 30 claim forms alleging a total loss of \$884,071.75 were returned to the Commission requesting an investigation and reimbursement;
- ❑ 23 Claims were reimbursed (in full or partial) against 8 attorneys in the amount of \$95,965.79;
- ❑ 11 claims were denied or partially denied for a total amount denied of \$60,733.78;
- ❑ 10 claims alleging a total loss of \$740,340.64 were pending at the end of 2009, and;
- ❑ The Client Protection Fund received restitution in the amount of \$5,056.89.

***“Thank you...Because of the money you gave me
I was able to save my house.”***

Quote from a Claimant 2009

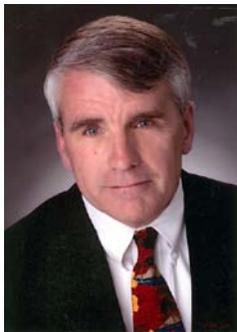
2009 CLIENT PROTECTION FUND COMMISSIONERS

The Commission consists of seven lawyers four appointed by the Supreme Court, two appointed by the Board of Bar Commissioners (BBC), the treasurer of the BBC, and the State Bar staff administrator of the fund and the executive director of the State Bar of New Mexico are ex-officio, non-voting members. The appointed members serve for staggered three year terms. The CPF officers, elected by the Commission, consist of a Chair, Treasurer and Secretary. Program assistance is provided by the Office of General Counsel of the State Bar of New Mexico.

Duties and Responsibilities of the Commission

The CPF Commission's duties and responsibilities are to receive, evaluate, determine, and pay claims. They are to invest a portion of the fund and to maintain sufficient reserves to pay losses. The Commission is required to provide an annual report to the Supreme Court and to the Board of Bar Commissioners. Annual reports of the Commission can be viewed at www.nmbar.org. The Commission also annually publicizes the nature of the claim, the amount of the claim, the amount of reimbursement and the name of the lawyer. The Commission promotes prevention of dishonest conduct by lawyers by working with the Disciplinary Board and Lawyers Assistance Program.

2009 Commissioners



Briggs F. Cheney – Chair

Supreme Court Appointee

Briggs Cheney has practiced law since 1973 in Albuquerque, New Mexico, and practices with Sheehan, Sheehan & Stelzner, P.A., as an of counsel. His practice has focused on the representation of lawyers and he has been recognized for his work in this area in the 1995-1996, 1997- 1998, 1999-00, 2000-02, 2002-04, 2005-06, 2007 editions of Best Lawyers in America, in Albuquerque The Magazine – Albuquerque's Top Lawyers (July 2006), and *Southwest Super Lawyers* (2007) and is an AV rated lawyer by Martindale- Hubbell. In addition to an active trial practice, over the last fifteen years Mr. Cheney has devoted more of his active practice to mediation and has been recognized for his skills as a mediator in the 2005-06 edition of Best Lawyers in America.

Mr. Cheney has been very active in local, state and national bar activities. He served on the State Bar of New Mexico's Board of Bar Commissioners for nine years, is a past-president of the New Mexico Bar Foundation and the Albuquerque Bar Association. He served three elected terms as New Mexico's delegate to the House of Delegates of the American Bar Association (1995 - 2004) where he also served as a member of the ABA's Nominating Committee, the Executive Committee of State Delegates to the ABA (past co-chair), the Steering Committee to the ABA House, the ABA's Standing Committee on Lawyer's Professional Liability, the ABA Commission on Lawyer's Assistance Programs (COLAP), and the ABA's Standing Committee on Lawyer Referral. He presently serves as a Commissioner and treasurer for the State Bar's Client Protection Fund. He is a long time member and past chair of the New Mexico State Bar's Professional Liability Committee and serves as a member of the Bar's Lawyer's Assistance Committee, a committee he helped form in the early 1980's. He has received recognition as Outstanding Lawyer of the Year from the Albuquerque Bar Association, the Distinguished Bar Service Award in 2005, the CLE Sandia Award (for A Lifetime of Commitment to CLE) in 2008. In 2008, he received the ABA Solo and Small Firm Section's Making a Difference in the Profession award. In 2005, he was recognized by the University of New Mexico Alumni Association with its Zia Award. He is a Supreme Court appointee and was first appointed to the Commission in January of 2007 and his current term expires on December 31, 2012.



Charles J. Vigil – Treasurer

Supreme Court Appointee

Charles Vigil is the President and Managing Director of Rodey, Dickason, Sloan, Akin & Robb, P.A. in Albuquerque, where he practices in the areas of labor and employment, products liability, commercial litigation and professional liability. He is a past President of the State Bar of New Mexico and has been actively involved in the area of client protection on both the state and national level. Since 2006, Vigil has served as a member of the New Mexico Client Protection Fund Commission and in 2008 he was appointed to serve on the ABA Client Protection Fund Committee. He is a Supreme Court appointee and was first appointed to the Commission in January of 2007 and his current term expires on December 31, 2012.



Hank Kelly – Secretary

State Bar of New Mexico Appointee

Hank Kelly practices in the areas of corporate and partnership law, mergers and acquisitions, commercial real estate law, insurance law, and business and individual taxation. Mr. Kelly is listed in Best Lawyers in America, based upon the results of lawyer surveys or polls. He is a member of the American Bar Association (Member, Standing Committee on Lawyers' Professional Liability, 1985-1991; Chairman, 1990-1991; Member, Standing Committee on Professional Discipline, 1993-1998; Member, Standing Committee on Lawyer Competence, 1998-1999; Member, Standing Committee on Professionalism, 1999-2002; Member, Standing

Committee on Client Protection, 2002-2005; Real Property, Probate & Trust Section; Taxation Section), State Bar of Texas, State Bar of New Mexico, Member, New Mexico Client Protection Fund Commission, 2006-; Supreme Court of New Mexico Code of Professional Conduct Committee, 2002 -; Chairman 2009-; Charter Fellow, Center for Civic Values, f/k/a New Mexico Bar Foundation. He is a State Bar appointee and was first appointed to the Commission in January of 2007 and his current term expires on December 31, 2012.



Gaelle D. McConnell

Supreme Court Appointee

Gaelle D. McConnell graduated magna cum laude from the University of New Mexico and received her juris doctor with honors from the University of New Mexico in 1991. Ms. McConnell is admitted to practice in New Mexico and the U. S. District Court, District of New Mexico. Her practice concentrates almost exclusively on contested and uncontested probate matters, guardianship/conservatorship, estate planning and business planning. She is a member of the Albuquerque and American Bar Associations, the State Bar of New Mexico and is a member of the Elder Law and Real Property, Probate & Trust

sections of the New Mexico State Bar.

Ms. McConnell is a member and former director of the Estate Planning Council. She is a former chair of the advisory committee for Lawyer Referral for the Elderly Program and former President and board member of Law Access New Mexico. She was the managing attorney of the Client-Attorney Assistance Program of the State Bar. Additionally, she serves on various committees and boards within the community.

Ms. McConnell frequently speaks on legal ethics, law office management, probate, estate planning and business entity topics. Ms. McConnell has been listed since 2007 in The Best Lawyers in America in the category of Trusts and Estates. She is a Supreme Court appointee and was first appointed to the Commission in January of 2007 and her current term expires on December 31, 2010.



Dan O'Brien

State Bar of New Mexico Appointee

Dan O'Brien has been in practice since 1983. He is "AV" rated by Martindale-Hubbell. Mr. O'Brien defends tort, employment and bad faith actions and specializes in trial work. He has practiced insurance defense law for the last 24 years and has successfully defended more than 75 jury trials. He is one of the first New Mexico lawyers to be recognized as a civil trial specialist and is a member of the American Board of Trial Advocates (ABOTA). He served as President of the New Mexico Defense Lawyers Association in 1999, and president of the State Bar of New Mexico in 2004. He was given the "Quality of Life – Legal Employer Award" by the State Bar of New Mexico in June 2001. He is a State Bar appointee and was first appointed to the Commission in January of 2007 and his current term expires on December 31, 2010.



Stuart D. Shanor

Supreme Court Appointee

Stuart Shanor is a senior partner in the Roswell office of Hinkle, Hensley, Shanor & Martin, L.L.P. His practice primarily involves commercial litigation and banking matters. Mr. Shanor serves on the Executive Committee of the Firm and Partner in Charge of the Roswell office.

Mr. Shanor received his B.A. Degree from Wittenberg University in Springfield, Ohio in 1959, and his J.D. Degree from the University of Michigan Law School in 1962. While at Michigan he was a member of the Barristers Society. Following graduation from Law School, Mr. Shanor joined the Cleveland, Ohio Law Firm of Thompson, Hine & Flory and was affiliated with this firm until 1966 when he relocated to New Mexico and joined the predecessor firm to Hinkle, Hensley, Shanor & Martin, L.L.P.

He is a member of the Chaves County, New Mexico, and American Bar Associations. He is admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Tenth Circuit, the United States Court of Claims, the United States District Court for the District of New Mexico, and the New Mexico Supreme Court. He is a member of the American Judicature Society, a fellow of the American Bar Foundation, a charter member of the New Mexico Bar Foundation, a member of the Board of Visitors of the University of New Mexico School of Law, and a member and regional Chairman for the United States Supreme Court

Historical Society. He served as Chairman of the New Mexico Supreme Court Task Force on Lawyer Advertising, as Co-Chairman of the Supreme Court Task Force on The Code of Professional Responsibility, and as Chairman of the Task Force on Professionalism. He is a Review Officer for the New Mexico Disciplinary Board, and is a member of the Fee Arbitration Committee of the State Bar, and the New Mexico Medical Review Commission. He is a former member of the Uniform Jury Instruction Committee of the New Mexico Supreme Court. Mr. Shanor recently concluded a term as a member and subcommittee chairman of the Committee on Admissions and Disciplinary Proceedings for the United States District Court for the District of New Mexico. He also is a fellow, immediate past President and ex officio member of the Board of Regents of the Hinkle, Hensley, Shanor & Martin, L.L.P. He is a Supreme Court appointee and was first appointed to the Commission in January of 2007 and his current term expires on December 31, 2011.



Hans Voss – BBC Treasurer

State Bar of New Mexico Appointee

Hans Voss has been practicing law in New Mexico for the last eleven years and is serving his fifth year as a member of the BBC. He participates as a member of the Executive, Finance and Governmental Affairs committees and is the BBC liaison to the Uniform Jury Instructions Committee (Civil) and the Appellate Rules Committee. He earned his J.D. from the UNM School of Law in 1998. Additionally, he holds an M.A. in economics (UNM '94), a B.A. in economics (UNM '92) and an A.S. in engineering (UNM '91). Voss also represents the 7th Bar Commissioner District. He is the treasurer of the Board of Bar Commissioners and is appointed to serve on the Commission for the 2009 year.



Justice Richard C. Bosson

Supreme Court Liaison

Justice Richard C. Bosson became a member of the New Mexico Supreme Court in December 2002. Before that date, he served as judge on the New Mexico Court of Appeals starting in 1994, including two years as Chief Judge during 2001-02. Justice Bosson graduated in 1966 from Wesleyan University and received his Juris Doctor in 1969 from Georgetown University Law Center. He has been an active member of the New Mexico Bar since 1970. In 1998 Justice Bosson received a Masters Degree in Judicial Process from the University of Virginia School of Law. Justice Bosson was a member of the Legal Aid Society of Albuquerque and a founding member of the Mexican American Legal Defense and Education Fund in Albuquerque from 1970-74. In 1975 he spent a year in Colombia, South America as a recipient of a Latin American Teaching Fellowship, sponsored by the Fletcher School of Law and Diplomacy, associated with the Universidad de los Andes in Bogota. Thereafter, Justice Bosson was with the New Mexico Attorney General's Office in the Consumer Protection Division and as Director of the Civil Division from 1976-78. Entering private law practice in Santa Fe, Justice Bosson was a Senior Partner of Bosson & Canepa, P.A. in Santa Fe from 1981-94. During his years as a private attorney, Justice Bosson served as Bond Counsel for the State of New Mexico and the City of Santa Fe; New Mexico Commissioner of Banking; and a member of the New Mexico Constitution Revision Commission in 1994-95. He also served many years as a member of the Board of Trustees for the New Mexico Trial Lawyers Association. He is currently a certified high school soccer referee in New Mexico. Justice Bosson has been married to his wife, Gloria, since 1971 and they have two children, Christopher and Monica.



Joe Conte

Executive Director, State Bar New Mexico

Appointed by Position

Ex officio, non-voting

Joseph Conte became the executive director of the State Bar of New Mexico and the New Mexico Bar Foundation in July of 2003. He previously worked as director of communications for the State Bar, from 1998 to 2001, and then worked as director of communications for the State Bar of Georgia from 2001 until his return to New Mexico. Joe has more than two decades of experience in marketing, communications and non-profit management. His prior work experience includes serving as deputy director of communications for the Michigan House of Representatives and senior editor for a California-based publishing company. Joe

holds a bachelor's degree from Oakland University and a Master's degree in communications from Michigan State University.

Joe is a member of the National Association of Bar Executives, the Association of Legal Administrators, and the New Mexico Society of Association Executives. He has been an active volunteer for the Center for Civic Values, Dismas House where he received the honor of “chef of the year” for 2006, the American Lung Association of New Mexico, and New Mexico Animal Friends. He is a past board member of the Applesed Foundation of New Mexico and is currently Second Vice President of the New Mexico Bio Park Society.



Christine Joseph
Program Administrator

Appointed by Position
Ex officio, non-voting

Christine Joseph is the program administrator for the General Counsel of the State Bar. She is a member of the State Bar of New Mexico Paralegal Division. Chris has an associate’s degree in Paralegal Studies from CNM. She has worked at the State Bar for nine years. She is the program administrator for the Client Protection Fund Commission. She assists with the Client Helpline and various committees. Chris is also the administrator of the State Bar’s Fee Arbitration program. She worked as the assistant director of the Public and Legal Services Department of the State Bar before becoming the program administrator for the General Counsel.



Richard B. Spinello
General Counsel, State Bar of New Mexico

Staff Counsel

Richard Spinello, a native New Mexican, has an undergraduate degree from the University of New Mexico (1989) and a Juris Doctor from the Thomas M. Cooley Law School (1997). He became a member of the New Mexico Bar in 1997. Previously in private practice in Rio Rancho, NM, Richard assisted clients with Family Law, Estate Planning, Probate and Adult Guardianships. He came to the State Bar in 2000 as a staff attorney for the Lawyer Referral for the Elderly Program (LREP) and was a 2002 graduate of the State Bar’s Leadership Training Institute.

After three years as staff attorney and a year as managing attorney for the LREP program, Mr. Spinello was hired as director of the Public & Legal Services Department (PLSD) for the State Bar and Bar Foundation. During his tenure as PLSD Director he helped secure funding for and participated in the creation of, the Client Protection Fund (CPF) rules and CPF Commission, the statewide, “10 Step” Pro Bono Plan, and the 2007 State Plan for Providing Civil Legal Services to Low Income New Mexicans. In January 2007, Richard was named General Counsel for the State Bar of New Mexico and is currently overseeing a professional office to assist the State Bar and Bar Foundation with policy and regulatory functions of an integrated bar. In 2009, he was appointed by the New Mexico Supreme Court to the Court’s Code of Professional Conduct Committee. He is the past chair of the Supreme Court’s Access to Justice Commission System Planning Working Group, a member of the State Bar of New Mexico, the Albuquerque Bar Association, the American Bar Association, the ABA Center for Professional Responsibility, and the National Association of Bar Executives.

Former Client Protection Fund Commissioners and Administrators

Jessica Anne Perez (BBC Treasurer)	1-year term expired 12/31/2008
Stephen S. Shanor (BBC Treasurer)	1-year term expired 12/31/2007
Henry A. Alaniz (BBC Treasurer)	1-year term expired 12/31/2006
Richard Spinello, Esq. (Staff Administrator)	Ex officio 2007-2008
Tonya Herring (Staff Administrator)	Ex officio 2006

2009 CLIENT PROTECTION FUND OPERATIONS

2009 Claims Processing

The Commission received a total of 47 claim form requests in 2009. Of those requests, 30 claims alleging a total loss of \$884,071.75 were filed with the Commission. The return rate of claim forms filed represents 64% of the total claim forms that were requested and sent. The alleging total loss amount for 2009 includes one claim in the amount of \$680,636.

Of the 30 claims filed with the Commission 23 claims were paid (in full or partial) with a total amount of \$95,965.79 broken down as follows:

- ❑ 16 claims paid in full for a total of \$56,857.79;
- ❑ 7 claims were paid partially for a total of \$39,108.00; and,
- ❑ The partial amount that was denied for these 7 claims totaled \$42,245.65.

The status of the remaining claims filed with the Commission is as follows:

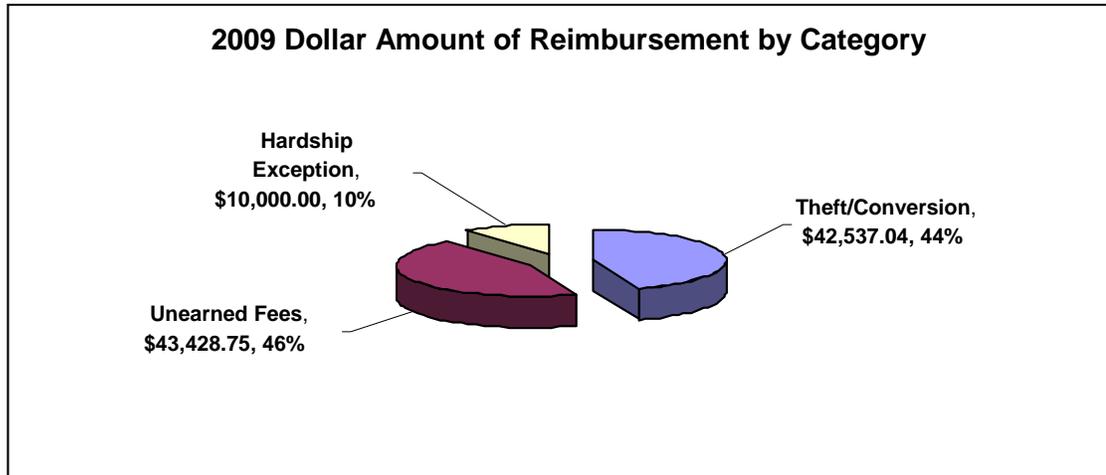
- ❑ 4 claims were denied in full for a total amount of \$18,488.13, and;
- ❑ 10 claims were pending at the end of the year alleging a total loss of \$740,340.64 which was carried over into 2010.

2009 Awarded Claims

Attorney	Claims Paid	Claim Amount Reimbursed	Nature of Claim
Anthony Romo	1	\$1,400.00	Failure to Refund Unearned Fees
Charles Marcus	5	\$6,770.00	Failure to Refund Unearned Fees
Dennis Martinez	1	\$6,089.52	Failure to Refund Unearned Fees
Donald Lepley	1	\$10,000.00	Theft/Conversion
G. Mitchell Baker	1	\$2,214.43	Failure to Refund Unearned Fees
Karl Werner	3	\$3,284.50	Failure to Refund Unearned Fees
Mary Kennedy	1	\$3,670.30	Failure to Refund Unearned Fees
Victor Sizemore	10	\$62,537.04	Failure to Refund Unearned Fees, Hardship Exception and Theft

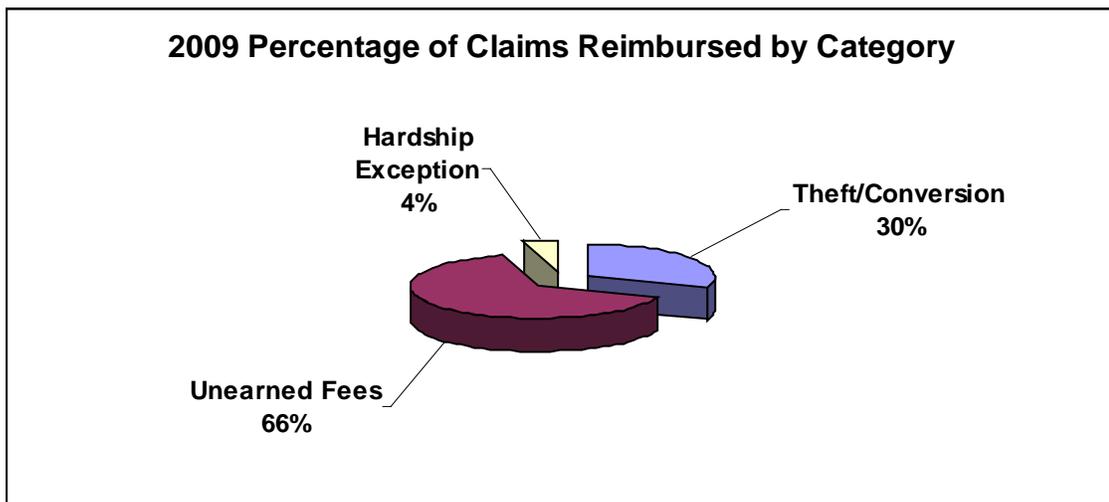
Dollar Amount of Claims Reimbursed by Category

In 2009, the Fund reimbursed claimants \$95,965.79 on 23 claims. The largest number of claims was reimbursed for unearned fees which represents 46% or \$43,428.75. The second largest number of claims was reimbursed for theft/conversion which represents 44% or \$42,537.04.



Percentage of Claims Reimbursed By Category

In 2009, the Fund reimbursed 23 claims. The largest number of claims was for unearned fees which was 66% or 15 claims. The second largest number of claims was for theft which was 30% or 7 claims. The last category was the hardship exception which was 4% or 1 claim.



*“I want to thank youFor all the time and effort you gave me.
All the time spent listening to me.”*

Quote from a Claimant, 2009

Other Commission Activities in 2009

- ❑ The Client Protection Fund Commission met four times in 2009: February 24, June 9, August 25, and November 12.
- ❑ The February 9, 2009 Bar Bulletin insert on Beyond Discipline contained an article on Client Protection Fund written by Commissioner Chuck Vigil.
- ❑ Submitted the Beyond Discipline article from the Bar Bulletin to the Client Protection Webb which is the newsletter for the National Client Protection Organization.
- ❑ The Commission issued its 2008 annual report in March 2009 to the New Mexico Supreme Court and the State Bar of New Mexico Board of Bar Commissioners.
- ❑ Commissioners Cheney, Vigil, Kelly, Justice Bosson, General Counsel Richard Spinello and Staff Administrator Chris Joseph attended the ABA's National Forum in Chicago on Client Protection on May 29-30 of 2009.
- ❑ A special issue of the New Mexico Business Weekly provided an article and contact information on CPF.
- ❑ The Commission voted to support a "Payee Notification" rule, met with the PRC general counsel, worked with the PRC staff attorney on the language of the proposed rule and testified at the PRC hearing on the "Payee Notification" rule. The rule is pending with the PRC.
- ❑ Packets of information on CPF were sent to new admittees to the State Bar.
- ❑ Information packets were supplied to the 12th Judicial Bench and Bar Conference in Otero and Lincoln Counties.
- ❑ A letter of support for the proposed Rule 16-104 (C) NMRA for disclosure of lack of malpractice insurance was submitted on behalf of the Client Protection Fund Commission to the New Mexico Supreme Court on April 30 ,2009.
- ❑ A letter of support for the proposed Rule 17-204 (B) NMRA for trust account overdraft notification was submitted on behalf of the Client Protection Fund Commission to the New Mexico Supreme Court on April 13, 2009.
- ❑ At the request of the Commission, the Supreme Court issued an order pursuant to Rule17A-003 (B) NMRA providing a \$15 annual assessment of every lawyer admitted and licensed to practice law in New Mexico to the Client Protection Fund.
- ❑ 2010 dues form was updated to include Client Protection Fund assessment.
- ❑ A Professionalism CLE informing New Mexico attorneys about the Client Protection Fund was developed and presented to the members along with a DVD produced by the National Client Protection Organization called Legal Insider, The National Client Protection Fund Organization.

“People like you have made it so much easier to deal with the issues I’ve had....From my heart and soul thank you so very much!”

Quote from a Claimant, 2009

2009 CLIENT PROTECTION FUND FINANCIAL INFORMATION

Statement of Revenues and Expenditures 2009 (pre audit)

State Bar of New Mexico 300-Client Protection Statement of Revenues and Expenditures-Summary From 12/1/2009 through 12/31/2009

	Actual Current YTD	Annual Budget to Date	Variance Rev. Under () Exp. Over ()
Revenues			
Client Protection Funds Used	\$0.00	\$113,515.00	(\$113,515.00)
Interest on Investments	\$6,445.65	\$15,000.00	(\$8,554.35)
Restitution	<u>\$5,056.89</u>	<u>\$0.00</u>	<u>\$5,056.89</u>
Total Revenues	\$11,502.54	\$128,515.00	\$117,012.46
Expenses			
Bar Center Occupancy	\$1,419.96	\$1,420.00	\$0.04
Audit/Accounting/Taxes Forms	\$1,340.58	\$1,200.00	(\$140.58)
Dues & Subscriptions	\$200.00	\$200.00	\$0.00
Bank Fees	\$400.47	\$300.00	(\$100.47)
Claims	\$97,286.42	\$100,000.00	\$2,713.58
Insurance Office Package	\$539.77	\$0.00	(\$539.77)
D & O Professional Liability	\$0.00	\$525.00	\$525.00
Internet Usage	\$170.00	\$170.00	\$0.00
Printing/Duplicating	\$424.79	\$300.00	(\$124.79)
Telephone	\$82.10	\$0.00	(\$82.10)
Postage	\$535.06	\$0.00	(\$535.06)
Travel-Education	\$4,931.99	\$6,400.00	\$1,468.01
Meetings	\$595.05	\$1,000.00	\$404.95
Marketing-Materials	\$362.76	\$1,000.00	\$637.24
Direct Labor	<u>\$13,750.13</u>	<u>\$16,000.00</u>	<u>\$ 2,249.87</u>
Total Expenses	<u>\$122,039.08</u>	<u>\$128,515.00</u>	<u>\$6,475.92</u>
Revenues over Expenses	(\$110,536.54)	\$0.00	\$110,536.54

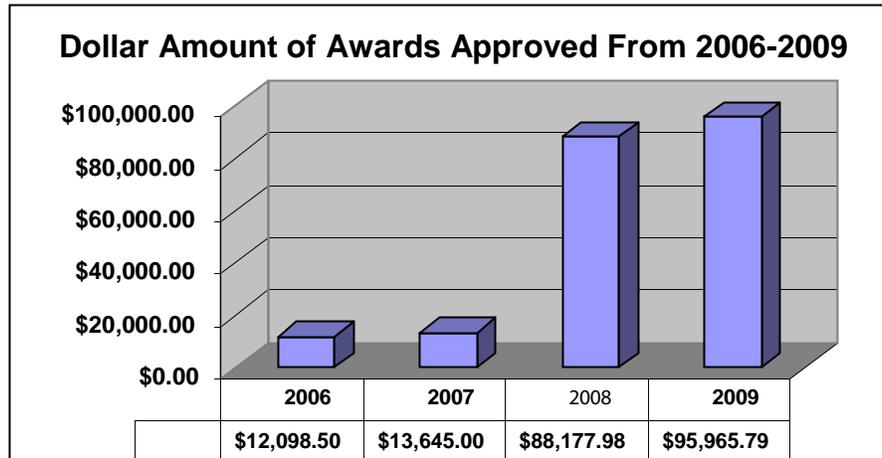
State Bar of New Mexico
 300-Client Protection
 Balance Sheet
 For the Period Ending December 31, 2009

	<u>Current YTD</u>
ASSETS	
Current Assets	
Cash	\$1,080.43
Trust	<u>341,048.03</u>
Subtotal Cash	342,128.46
Accounts Receivable	
Due from Affiliate	
Due to/from Inter Funds	<u>19,239.26</u>
Total Assets	<u>361,367.72</u>
 LIABILITIES AND NET ASSETS	
Liabilities	
Accounts Payable	<u>23,325.00</u>
Total Liabilities	23,325.00
Net Assets	
Temporarily Restricted Assets	448,579.26
Current Net Assets	<u>(110,536.54)</u>
Total Net Assets	<u>338,042.72</u>
Liabilities and Net Assets	<u>361,367.72</u>

STATISTICAL HISTORY OF THE CLIENT PROTECTION FUND 2006-2009

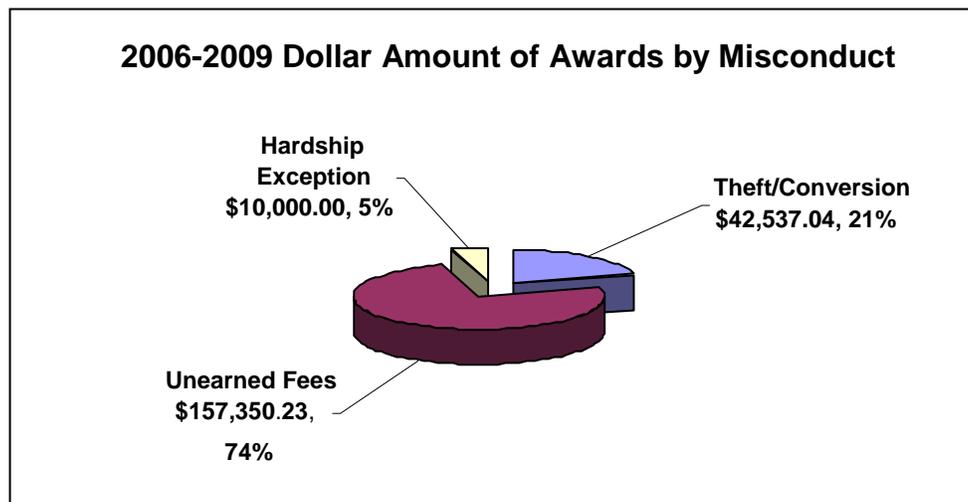
Awards Approved From 2006-2009

Since 2006, 112 claims have been filed with the Fund with a total amount of alleged losses of \$1,165,672.27. In the four years the Commission has been in existence, they have approved 70 claims and reimbursed \$209,887.27 to eligible claimants.



Dollar Amounts of Reimbursement by Misconduct 2006-2009

Over the last four years, the largest amount of reimbursements to claimants was for failure to return unearned fees. Unearned fees accounts for 74% or \$157,350.23 of all reimbursable losses with theft/conversion coming in second with 21% or \$42,537.04.



Denial of Claims 2006-2009

In the four years the Fund has been in existence, there have been 54 claims denied with a dollar amount of \$205,026.05. The Fund in 2006 had a cap of \$2,500, in 2007 the cap increased to \$5,000 and in 2008 the cap increased to \$10,000. There have been eight claims with a total dollar amount of \$63,218.12 denied because they exceeded the respective cap on claims.

ANNUAL CPF STATISTICS AT-A-GLANCE	2006	2007	2008	2009
CLAIM FORMS REQUESTED AND FILED WITH THE COMMISSION				
Total number of claim forms requested:	19	38	76	47
Total dollar amount of requested claim forms (potential known exposure):	Not tracked	\$110,287.04	\$297,738.46	\$1,008,205.75 * (\$327,569.75)
Total number of claims filed with the Commission:	9	16	57	30
Total dollar amount of claims filed with the Commission:	\$30,648.50	\$61,715.89	\$189,236.13	\$884,071.75 * (\$203,435.75)
Return rate of requested claim forms:	47%	42%	75%	64%
CLAIMS APPROVED BY THE COMMISSION				
Total number of claims approved or partially approved:	6	6	35	23
Total dollar amount of claims approved and paid:	\$12,098.50	\$13,645.00	\$88,177.98	\$95,965.79
CLAIMS DENIED BY THE COMMISSION				
Total number of claims denied or partially denied:	7	6	30	11
Total dollar amount of claims denied:	\$18,550.00	\$29,585.41	\$96,156.86	\$60,733.78
Claims made or known in excess of the current cap:	1	1	3	3
Total dollar amount denied in excess of the current cap:	\$12,500.00	\$4,000.00	\$13,378.29	\$33,339.83
ATTORNEY STATISTICS				
Total number of attorneys with claims filed:	4	11	15	16
Highest number of claims for a single attorney:	5	4	23	13
Top two attorneys - total percentage of claims:	67%	44%	64%	60%
Amount Reimbursed to the Fund:	\$0.00	\$2,400.00	\$11,266.18	\$5,056.89
PENDING CLAIMS				
Claims approved and pending payment (end of year):	0	0	1	0
Claim amount approved and pending payment (end of year):	\$0.00	\$0.00	\$3,670.30	\$0.00
Claims pending approval and carried over to next year:	0	5	9	10
Claim amount pending approval (end of year):	\$0.00	\$15,653.00	\$18,359.13	\$740,340.64 * (\$59,704.64)

* A claim of \$680,636 was filed by one claimant

2010 CLIENT PROTECTION FUND COMMISSION

2010 Client Protection Fund Commission Officers

Charles J. Vigil - Chair
(Supreme Court appointee) Appointed January 1, 2010
3-year term expires 12/31/2012

Henry A. (Hank) Kelly - Treasurer
(State Bar appointee) Appointed January 1, 2010
3-year term expires 12/31/2012

Daniel J. O'Brien - Secretary
(State Bar appointee) Reappointed January 1, 2008
3-year term expires 12/31/2010

2010 Client Protection Fund Commissioners

Briggs F. Cheney
(Supreme Court appointee) Reappointed January 1, 2010
3-year term expires 12/31/2012

Ms. Gaelle D. McConnell
(Supreme Court appointee) Reappointed January 1, 2008
3-year term expires 12/31/2010

Stuart D. Shanor
(Supreme Court appointee) Appointed January 1, 2009
3-year term expires 12/31/2011

Andrew Cloutier
(BBC Treasurer) 1 Year term expires 12/31/2010
Appointed by Position

The Hon. Richard C. Bosson
NM Supreme Court Supreme Court Liaison

Joseph Conte
Executive Director, State Bar New Mexico Appointed by Position
Ex officio, non-voting

Christine Joseph
Program Administrator Appointed by Position
Ex officio, non-voting

Richard B. Spinello
General Counsel, State Bar of New Mexico Staff Counsel



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