

## **Alabama State Bar Client Security Fund Rules**

### **Rule 7.**

#### **Processing applications.**

##### *A. Preliminary consideration.*

- (a) Whenever the Committee receives an application, it may, in its absolute discretion, after investigation, require exhaustion of some or all civil remedies before processing or adjudicating the application or paying claims.
- (b) If the accused lawyer shall be a member in good standing of the Alabama State Bar, the applicant's cooperation in grievance proceedings by the Bar against such lawyer shall be a prerequisite to the granting of relief to such applicant from the Fund. The Committee may require that an applicant prosecute or cooperate in appropriate civil proceedings against the accused lawyer as a prerequisite to the granting of relief to such applicant from the Fund.

B. The Committee will hold such meetings and conduct such investigations or review as seem necessary or desirable in order to determine whether the claim is for a reimbursable loss, and to guide the Committee in determining the extent, if any, to which the claim shall be reimbursed. (If the Committee determines that the claim is clearly not for a reimbursable loss, no further investigation need be conducted and such determination shall constitute a rejection of the application.) If the Committee determines that it is necessary to hear the applicant and the attorney or to receive other evidence on behalf of the applicant, then and in that event the Committee shall request the appearance of such individuals and the receipt of such additional evidence as may be required. In all cases, the lawyer charged shall be given an opportunity to be heard by the Committee if he or she so requests.

C. The Committee, in its sole discretion, shall determine the amount of loss, if any, that any client shall be reimbursed from the Fund. In making such determination, the Committee shall consider, inter alia, the following:

- (a) The negligence, if any, of the client that contributed to the loss.
- (b) The comparative hardship of the client suffered by the loss.
- (c) The total amount of reimbursable losses in the previous years for which total reimbursement has not been made and the total assets of the Fund.
- (d) The total amount of reimbursable losses of the clients of any one lawyer or association of lawyers.

- (e) The Committee may, in its sole discretion, allow further reimbursement of a reimbursable loss allowed by it at a prior time with respect to a loss that has not been fully reimbursed; provided such further reimbursement would not be inconsistent or in conflict with any previous determination with respect to such a loss.
- (f) No reimbursement shall be made to any client unless said reimbursement is approved by a majority vote of the Committee at a duly held meeting at which a quorum is present.

D. In determining whether or not any payment will be made on a claim, the Committee may consider:

- (a) The condition of the Fund.
- (b) The nature and size of the claim presented.
- (c) Such other factors as the Committee may deem just and proper.

E. Notice of the action taken by the Committee on any claim shall be transmitted by certified mail to all parties in interest.

F. Orders directing payment of claims are final, binding, and not subject to review or declination except as the result of facial deficiencies in any order or subrogation agreement. If such occurs, the Executive Director shall so notify the Committee within 14 days of the date of the order explaining the deficiency and what corrective action is deemed appropriate. Upon re-submission of a corrected order or agreement, payment shall be promptly made.

[Amended eff. 1-14-2011.]

**Note from the reporter of decisions:** The order amending the Alabama State Bar Client Security Fund Rules, effective January 14, 2011, is published in that volume of the *Alabama Reporter* that contains Alabama cases from \_\_\_ So. 3d.