

1:28-2. Payment to the Fund; Enforcement

(a) Generally. Except as hereinafter provided, each holder of a plenary license to practice law in the State of New Jersey shall pay annually to the treasurer of the Fund a sum that shall be determined each year by the Supreme Court. An attorney who makes payment after February 1 of the billing year, or such other date as the Court may determine, but before being placed on the Ineligible List shall be subject to a late fee of \$25, which shall be shared equally with the Ethics Financial Committee. The treasurer shall annually report the names of all attorneys failing to comply with the provisions of this Rule to the Supreme Court for inclusion on the list of those attorneys deemed ineligible to practice law in New Jersey by order of the Court. An attorney shall be reinstated automatically to the practice of law without further order of the Court on filing with the Fund the annual registration statement for the current year together with the annual payment, the late fee, any arrears due from prior years, and a reinstatement fee of \$25 if the attorney's name is being removed from one calendar year's Ineligible List or \$50 if the attorney's name is being removed from two or more calendar years' Lists.

For the purpose of annual assessment all members of the Bar shall report changes of address as they occur and thus keep their billing address current with the Fund at all times.

Any member of the Bar who receives a billing notice addressed to another member of the Bar shall either forward the notice to the intended recipient or return it to the Fund.

(b) Exceptions. The following categories of plenary license holders shall be exempt from payment to the Fund:

(1) Newly admitted attorneys, for the balance of the calendar year of their plenary admission and for the next succeeding calendar year;

(2) Attorneys who have been admitted to practice for fifty years or more;

(3) Attorneys on full-time active duty with the armed forces, VISTA or the Peace Corps and not engaging in any way in private practice, but they shall be considered in all respects inactive New Jersey attorneys; and

(4) Attorneys who have retired completely from the practice of law, but they shall be considered in all respects inactive New Jersey attorneys.

Note: Source—R.R. 1:22A-2; amended July 17, 1975 to be effective September 8, 1975; amended January 31, 1984 to be effective February 15, 1984; amended June 29, 1990 to be effective September 4, 1990; redesignated paragraph (a) amended and paragraph (b) adopted July 14, 1992 to be effective September 1, 1992; paragraphs (a) and (b) amended February 8, 1993, to be effective immediately.

1:28-3. Payment of Claims

(a) Eligible Claims. The Trustees may consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state or an attorney admitted pro hac vice acting either as an attorney or fiduciary, provided that:

(1) Said conduct was engaged in while the attorney was a practicing member of the Bar of this State or admitted Pro Hac Vice in a matter pending in this State;

(2) On or after January 1, 1969, the attorney has been suspended, disbarred or placed in disability inactive status, has resigned with prejudice or has pleaded guilty to, or been convicted of embezzlement or misappropriation of money or other property; or an ethics committee has certified a claim to the trustees as an appropriate matter for their

consideration. Where an ethics committee does not act and an attorney cannot be located, is deceased or incapacitated, the trustees may consider timely application directly provided that the trustees find that the claim is an appropriate matter for their consideration;

(3) The claim is filed within one year of the earliest of an event set forth in subparagraph (2) above. The time limitation set forth in this subparagraph may be extended by the trustees in their discretion;

(4) The claim is made directly by or on behalf of the injured client or the client's personal representative or, if a corporation, by or on behalf of itself or its successors in interest; and

(5) The claimant certifies that the relevant facts have been fully disclosed in writing to the appropriate law enforcement and disciplinary authorities. A willfully false certification in this regard shall be an absolute bar to any award.

(b) Consideration of Claims. The trustees in their sole discretion but on the affirmative vote of 4 of them shall determine which eligible claims merit reimbursement from the Fund and the amount, time, manner, conditions and order of payment of reimbursement. In making such determinations the trustees shall consider, among other appropriate factors, the following:

(1) The amounts available and likely to become available to the Fund for the payment of claims and the size and number of claims which are likely to be presented;

(2) The amount of the claimant's loss as compared with the amount of losses sustained by other eligible claimants;

(3) The degree of hardship suffered by the claimant as a result of the loss;

(4) The degree of negligence, if any, of the claimant which may have contributed to the loss;

(5) The potential for recovery from a collateral source.

(c) Limitation on Payments. The trustees shall, by regulation, fix the maximum amount which any one claimant may recover from the Fund and the aggregate maximum amount which may be recovered because of the dishonest conduct of any one attorney.

(d) Rights to Fund. No claimant or any other person or organization shall have any right in the Fund as beneficiary or otherwise.

(e) Conditions of Payment. The trustees may require as a condition to payment that the claimant execute such instruments, take such action or enter into such agreements as the trustees require, including assignments, subrogation agreements, trust agreements, and promises to cooperate with the trustees in making or prosecuting claims or charges against any person.

(f) Attorney's Fee. No attorney representing a claimant shall receive a fee for services unless authorized by the rules and regulations of the trustees and upon their express direction.

Note: Source—R.R. 1:22A-3(a) (b) (c) (d) (e) (f). Paragraph (a) (2) amended June 24, 1974 to be effective immediately; paragraph (a) amended and paragraph (a)(5) adopted January 31, 1984 to be effective February 15, 1984; paragraphs (a)(1), (2) and (5) amended, former paragraph (a)(4) deleted, paragraph (a)(3) redesignated as paragraph (a)(4) and new paragraph (a)(3) adopted, paragraph (b) text amended and paragraph (b)(5) adopted June 29, 1990 to be effective September 4, 1990; paragraphs (a) and (a)(1) amended July 14, 1992 to be effective September 1, 1992; introductory paragraph and paragraphs (a)(4) and (f) amended July 13, 1994 to be effective September 1, 1994.

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Rules

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