

Utah State Bar Commission

Friday, April 21, 2023

Zoom Link: <https://us02web.zoom.us/j/83083169133>

Meeting ID: 830 8316 9133

Telephone: +1 669 444 9171

AGENDA

1. 9:00 a.m. President's Report: Kristin Woods

- | | | |
|-----------------|-----|---|
| <i>05 Mins.</i> | 1.1 | Bar President-Elect & Commission Election Results |
| <i>05 Mins.</i> | 1.2 | Spring Convention Report: Erik Christiansen |
| <i>05 Mins.</i> | 1.3 | Report on Western States Bar Conference |
| <i>02 Mins.</i> | 1.4 | Admissions Ceremony May 16th at State Capitol |
| <i>02 Mins.</i> | 1.5 | Annual Meeting June 29, 2023, at Law and Justice Center |

2. 9:30 a.m. Action Items

- | | | | |
|-----------------|-----|---|---------------------------------|
| <i>20 Mins.</i> | 2.1 | Bar Foundation Grant for New A2J Employee for Debt Collection Calendar and Data analysis: Pam Beatse | (TAB 1, Page 3) |
|-----------------|-----|---|---------------------------------|

3. 10:00 a.m. Information Items

- | | | | |
|-----------------|-----|--|---------------------------------|
| <i>15 Mins.</i> | 3.1 | The Future of Utah's Legal Regulatory Sandbox: Katie Woods | (TAB 2, Page 9) |
| <i>10 Mins.</i> | 3.2 | Proposed Changes to Rule of Professional Conduct 7.1: Nancy Sylvester | |
| <i>30 Mins.</i> | 3.3 | Report on the 2023 Legislative Session: Frank Pignanelli | |

4. 11:00 a.m. Executive Session

11:30 a.m. Adjourn

CONSENT AGENDA

[\(TAB 3, Page 29\)](#)

(Approved without discussion by policy if no objection is raised)

1. Minutes of March 16, 2023 Commission Meeting

ATTACHMENTS

[\(TAB 4, Page 34\)](#)

1. March Financial Statements
2. OPC Annual Report
3. Fund for Client Protection Annual Report

2023 CALENDAR

May 5	Law Day Luncheon	Noon	Grand America
May 16	Admission Ceremony	Noon	State Capitol
June TBD	Jackrabbit Bar		TBD, Wyoming
June 2	Executive Committee Meeting	Noon	Telephone/Video Conference
June 9	Commission Meeting	9:00 a.m.	Law & Justice Center
June 13	Judicial Intern Opportunity Program Reception	5:00 p.m.	Law & Justice Center
June 29	Utah State Bar Annual Meeting		Law & Justice Center
July 19	Executive Committee Meeting	Noon	Telephone/Video Conference
July 26	Commission Meeting	9:00 a.m.	TBD
August 3-8	ABA Annual Meeting		Denver, Colorado
September 22-24	Commission Retreat		Snowpine Lodge Alta, Utah
November 17	Fall Forum		Little America Hotel

TAB 1

TO: Utah State Bar Commission

FROM: Utah State Bar's Access to Justice Office ("ATJ Office")

RE: Debt Collection Pilot Proposal

DATE: April 13, 2023

PROPOSED DEBT COLLECTION 36-MONTH PILOT PROGRAM & BUDGET

This project will allow the ATJ Office to develop a 36-month pilot to use data-based research to study the Debt Collection consolidated pro se calendars in Utah ("Pilot") with a goal of improving that system for all parties (plaintiffs, defendants and the Utah State Courts). Through this research, we will review debt trends, the value of brief legal advice and/or limited scope representation, and explore the benefits of expanding the current Pro Se Debt Calendar Volunteer Program ("Program") statewide. The ability to expand is contingent on the approval of the Utah State Court. The motivation for this Pilot is three-fold:

1. to ensure that the ATJ Office provides well-supported pro bono volunteer opportunities for attorneys and LPP's (Licensed Paralegal Practitioners) in Utah;
2. to assist the Utah State Courts in improving their courthouse operations by providing the opportunity for pro bono representation to pro se litigants in District Court debt collection matters; and
3. to provide no cost civil legal services to defendants in debt collection matters.

The ATJ Office is best situated to conduct this pilot program because of its current relationships with key partners, current data collection systems with the Courts and because of the experience with debt collection law by the two ATJ Office attorneys. Specifically, the ATJ Office will hire a staff attorney or LPP as the pilot project Calendar Facilitator to provide day-to-day facilitation, limited scope representation, and data entry to support this project. There will also be a request for funding of administrative needs, technology, debt collection training, travel, and consultant work.

The ATJ Office and its work

It is the mission of the ATJ Office to advance equity in the legal system and expand access to justice at all levels for people with lower-incomes or who are disadvantaged. The ATJ Office fulfills this mission by creating a culture of service and respect in Utah where pro bono and reduced rate services are optimized to help people, families, and communities in need.

The ATJ Office of the Utah State Bar directs all Access to Justice Programs, Signature Pro Bono Programs, and the Modest Means Lawyer Referral Program. This includes overseeing the initiatives of the Pro Bono Commission, the Access to Justice Commission, and pro bono activities in each of the eight Judicial Districts. In addition, the ATJ Office fields all public

requests for information on pro bono or reduced rate legal services to the Utah State Bar. The ATJ Office is staffed by an attorney-director, a staff attorney, and an office coordinator.

Debt collection consistently ranks in the top three areas of legal need for self-represented people along with family law and housing. For example, the ATJ Office and its volunteers provided the following public interest services:

- Virtual Legal Clinic (previously known as Tuesday Night Bar): provided free, 30-minute over-the-phone brief legal advice to 1,206 people. The top five requested legal areas are family law, landlord/tenant, debt collection, criminal defense, and employment.
- Utah Free Legal Answers: provided written responses to civil legal questions submitted via a website by eligible participants to 585 people. The top five requested legal areas are family law, housing, debt collection, employment, and civil rights.
- Pro Se Eviction and Debt Collection Calendars: provided free, limited scope representation for immediate occupancy (eviction) and debt collection hearings to people with hearings in the Third District with Judge Parker. During the 12-month period of April 2022 through March, the ATJ Office assisted 801 on the immediate occupancy calendar and 751 people on the debt collection calendar.
- Modest Means Lawyer Referral Program: Modest Means Lawyer Referral program helps Utahns with modest earnings find a lawyer offering discounted rates to match their incomes. Last year, we served 492 clients with 623 legal issues. The greatest areas of need are in family law, criminal law, landlord/tenant, and guardianships.
- Pro Bono Cases: provided full pro bono representation to 419 qualifying people; along with numerous additional people were served through pro bono signature programs including the Bankruptcy Pro Bono Project, the Guardianship Signature Program, Wills for Heroes (wills for first responders), Veterans Legal Clinic, Utah@EASE (veterans and service members), and more.

The chart below comes from the Utah State Courts and shows the percentage of party representation for each civil case type. The ATJ Office has seen a trend in higher percentage of

Cases with Self-Represented Litigants in District Courts
Reporting for Cases Disposed between Jul 1, 2021 to Jun 30, 2022

	Case Counts				Percentages					
	Total	Both Parties with Representation	One Party Self-Represented	Both Parties Self-Represented	Self-Represented Petitioner	Self-Represented Respondent	Both Parties with Representation	One Party Self-Represented %	Both Parties Self-Represented %	Self-Represented Petitioner %
Adoption	969	6	711	241	241	952	1%	74%	25%	99%
Civil Stalking	1,168	125	195	845	933	952	11%	17%	73%	80%
Conservatorship	130	117	13		11	2	90%	10%		8%
Contract: Empl Discr	9	4	5			5	44%	56%		56%
Contract: Fraud	133	85	43	5	9	44	64%	32%	4%	7%
Contracts	2,427	767	1,651	9	16	1,653	32%	68%	0%	1%
Custody and Support	1,133	355	407	371	436	713	31%	36%	33%	38%
Debt Collection	40,748	1,503	47,244	1	3	47,243	3%	97%	0%	0%
Divorce/Annulment	12,507	3,197	3,178	6,132	6,338	9,104	26%	25%	49%	51%
Estate Personal Rep	3,327	5	2,642	680	680	3,322	0%	79%	20%	20%
Eviction	4,842	338	4,107	397	418	4,483	7%	85%	8%	9%
Guardian-Adult	416	317	90	9	93	15	76%	22%	2%	22%
Guardian-Adult Child	473	257	175	41	214	43	54%	37%	9%	45%
Guardian-Minor	689	194	466	29	491	33	28%	68%	4%	71%
Name Change	1,678		216	1,460	1,461	1,675	13%	13%	87%	87%
Paternity	685	345	256	64	74	310	52%	38%	10%	11%
Protective Orders	4,872	1,085	1,289	2,498	2,942	3,343	22%	26%	51%	60%
Small Claim	10	2	1	7	7	8	20%	10%	70%	70%
Temporary Separation	84	16	26	42	47	63	19%	31%	50%	56%
Summary	84,284	8,718	82,715	12,821	14,414	73,963	10%	74%	15%	17%

Cases include the following case types: Adoption, Civil Stalking, Conservatorship, Contract: Empl Discr, Contract: Fraud, Contracts, Custody and Support, Debt Collection, Divorce/Annulment, Estate Personal Rep, Eviction, Guardian-Adult, Guardian-Adult Child, Guardian-Minor, Name Change, Paternity, Protective Orders, Small Claim, Temporary Separation

pro se party representation and, unfortunately, since the onset of COVID-19, our office has seen a decrease in the number of attorneys providing pro bono representation.

Debt Collection Data Pilot Program Description

In conjunction with the Pew Debt Team, this pilot will work to develop data-driven best practices regarding debt collection court cases in conjunction with pro bono representation. The project will work closely with key stakeholders, including Plaintiff debt collection attorneys and the Utah Courts, to continually adjust and improve the project over the first 6-12 months prior to seeking approval from the Utah Courts to expand the program statewide.

The ATJ Office proposes to increase staffing by one full-time, benefitted attorney or LPP position for a 36-month pilot program, which if successful, would become a permanent position, fully funded by the Utah State Bar. Funds will also be used to purchase and customize a case management system that can be used by ATJ Office staff and easily accessed by pro bono attorneys. The ATJ Office already tracks some of the data that will be used for this project, using Google sheets, which is free but has limited functionality. There is no other organization currently tracking this combination of demographics and outcomes for people using the pro se calendars.

Through work with stakeholders and the data collected through this Pilot Debt Collection Project, the ATJ Office aims:

1. To understand the legal landscape of pro se debt collection in Utah.
2. To support volunteers through targeted onboarding, training, and mentoring.
3. To determine best practices for the Utah Courts to expand pro bono debt collection representation statewide.

Management and Schedule

The ATJ Director, Pamela Beatse, will oversee the planning, design, and program execution as well as relationship-building with stakeholders. Through the request in-kind donations from the UBF, David McNeill and the Pew Research Team will work with the ATJ Office staff to determine data methodology and collection, data review and make recommendations for data-based program improvements. The Pilot will incorporate the current debt collection consolidated calendar program. The ATJ Staff Attorney, Keenan Carroll, will fully participate in the ongoing management of the Pilot program. A new attorney or LPP will provide day-to-day coordination, administration, limited scope representation and data collection to support the ATJ Director and Staff Attorney.

Timeline:

0-6 months – Post and hire for new staff position; Purchase and build out case management system. Begin stakeholder conversations on ways to improve the dedicated debt collection calendars and pro bono representation. Begin working with Data Research Team. Continue to

recruit pro bono attorneys and LPP's to assist with brief legal advice and limited scope representation for defendants in District Court debt collection cases.

6-12 months: Based on data analysis from Data Research Team, make adjustments to current Debt Collection Program run by Judge Parker and seek feedback for continual improvement from stakeholders.

12-36 months: Work with Utah State Courts to gain approval for expanding programming beyond the Third District Court to assist pro se defendants throughout the State. Continue to review collected data outcomes and make program improvements as necessary.

Pilot Background

Research from the Utah Bar Foundation's *Debt Collection and the Utah State Courts Report* showed that some policies, including statutes and court rules, serve to disincentivize defendant participation in debt lawsuits. In some cases, policies around attorney fees and court-awarded damages lead to worse outcomes for defendants who do engage with the courts than for defendants who do not participate in their cases and receive a default judgment.

While the Bar Foundation did some analysis of debt cases receiving limited scope volunteer services, it did not have adequate data to fully gauge the impact or effectiveness of the consolidated Pro Se Debt Collection Calendars. The purpose of the Pro Se Debt Collection Calendar is to ensure the law respects a party's rights whether they have legal representation or not. At a pro se calendar, volunteer legal practitioners provide limited scope representation for a designated hearing. The volunteer works to reach a manageable settlement or give argument before the judge in a well-represented manner. Clients feel supported by the justice system and the court hears everyone's voices. The ATJ Office manages the Pro Se Calendar Volunteer Program ("Program") in the Third Judicial District of Utah.

Currently, the ATJ Office collects key data from the Program using Google Sheets.

This data will be vital to evaluating the effectiveness of the current pro se debt collection calendars. The Pilot project aims to broaden the scope of the underlying legal landscape provided by the Utah Bar Foundation report. This can be a crucial part of providing equal access to justice for all Utahns.

Specific Grant Requests

Staffing: The ATJ Office will hire a full-time, benefitted, Debt Collection Program Coordinator. This position will be either a staff attorney or licensed paralegal practitioner. Job description attached.

Technology: Customizable case management/ data collection platform.

Equipment: One computer with two secondary display monitors.

Stakeholder Meetings and Local Travel: The Pilot will require meetings and local travel in Utah to connect with judicial officers, plaintiffs' counsel, government agencies, nonprofits, and other stakeholders. This will serve the dual purpose of allowing the ATJ Office to connect with these groups for other pro bono programs and needs.

Debt Collection Training: The ATJ Office will send the ATJ Staff Attorney and the new Debt Collection Calendar Facilitator to the annual, week-long National Association of Consumer Advocates conference.

Consultants: The ATJ Office may need to hire a consultant to assist with the customization of the case management/data collection system. Additionally, the ATJ Office may seek the consulting services of seasoned Debt Collection practitioners to assist with creating training materials for pro bono attorneys and LPP's.

The ATJ Office is also seeking the in-kind support of David McNeill and The Pew Research Team to assist with the data analysis and research for this project for the first 12 months.

Adjustments and Analysis

The ATJ Office is open to making further changes and adjustments to the Pilot or the data collection process based on feedback from the Bar Commission, the Utah Bar Foundation, and PEW Charitable Trusts. The ATJ Office will use data consultants to assist with analysis of the results and will make periodic reports to the Bar Commission.

Request for Approval

The Access to Justice Office, with support from the Access to Justice Commission, is requesting approval from the Bar Commission to conduct this Pilot as outlined with the proposed budget, attached as Exhibit 2. This Pilot would allow the ATJ Office to provide effective volunteer opportunities, training, and programming. It would ensure our legal professionals are able to meet their duty to better serve Utah communities with pro bono services. In addition, the information we collect would give valuable insights into how to improve court rules and processes for pro se litigants to further a more just and accessible legal system.

TAB 2



SUPREME COURT OF THE STATE OF UTAH

HON. MATTHEW B. DURRANT
CHIEF JUSTICE

HON. JOHN A. PEARCE
ASSOCIATE CHIEF JUSTICE

HON. PAIGE PETERSEN
JUSTICE

HON. DIANA HAGEN
JUSTICE

HON. JILL M. POHLMAN
JUSTICE

April 4, 2023

Kristen K. Woods, President
Utah State Bar
645 South 200 East
Salt Lake City, UT 84111

Re: The Future of Utah's Legal Regulatory Sandbox

Dear Katie,

Over the past several months, we have been gathering information and input from multiple stakeholders in order to make informed decisions about the future of Utah's Legal Regulatory Sandbox. We launched the Sandbox by issuing Standing Order No. 15 and created the Legal Services Innovation Committee (LSI Committee) and Office of Legal Services Innovation (Innovation Office or IO) to carry out the objectives and principles in that order. To date, the Court has authorized 49 Sandbox entities that use some novel approach to the business or service of law. Those entities are providing innovative services to individuals and small businesses in Utah, employing new business structures (including non-lawyer ownership) and new kinds of service providers (both non-lawyer providers and software).

The Sandbox is a well-regulated, data-driven experiment that relies on an ex post evaluation of consumer harm. Consumer harm is measured in three ways. First, Sandbox entities must regularly report detailed data to the Innovation Office. This data includes the type of services sought, the service dates, the scope of services provided, the amount paid for each distinct service, the legal and/or financial outcomes

experienced by the client, and any client complaints. The data is compiled and analyzed each month for evidence of consumer harm, such as a mismatch between services sought and services provided, poor outcomes, or disproportionate cost. Second, the IO solicits consumer complaints directly through a link that must be conspicuously posted on each entity's website and at brick-and-mortar locations. Third, the IO assesses the quality of the services provided by entities using software or nonlawyer service providers by employing Utah-licensed lawyers with relevant expertise to audit case files. So far, three audits have been completed and a fourth is underway, and the audit process, reports, and results have been both thorough and positive. Each month, the Court reviews a detailed report on all entities authorized in the Sandbox, and the IO releases a public report that excludes proprietary information. The IO also has a robust public-facing website with a sortable database of all authorized entities and their authorization materials as well as the public facing monthly reports.

The results have been promising. Sandbox entities have served 24,000 unduplicated consumers and provided over 40,000 legal services. Most of those services (87%) have been provided by lawyers working as employees within new legal businesses. Thirteen percent of services have been provided by nonlawyers. Sandbox entities are primarily serving individual consumers and small businesses with an average cost of service of \$162. Small business services make up the majority delivered to date (40%). Military benefits (21%), immigration (13%), end of life planning (6%), and accident/injury (6%) round out the top five areas of service. There have been fourteen total complaints reported to the IO about services received from a Sandbox entity. Seven have been identified by the IO as related to potential consumer harm caused by a legal service. The IO investigated each of those complaints and determined that each one was resolved by the relevant entity to the satisfaction of all parties.

We believe that this regulatory framework has been successful. But the Sandbox is an experiment, and the Court is committed to refining our approach to this project as we gather more information. In addition to the data described above, the Court has met with and gathered input from Bar leadership, lawyer legislators, the Utah Association for Justice, the Arizona Supreme Court, national experts in legal regulation, Utah lawyers, and members of the public. Based on that input, the Court plans to make the following changes to the Sandbox to ensure its viability, respond to criticisms and concerns, and to ensure that Sandbox entities do not present an undue risk to the public while still retaining the basic framework of regulating based on an ex post evaluation of consumer harm.

We appreciate the Bar's willingness to engage with the Court and provide feedback on the Sandbox. And we believe that these adjustments are responsive to the concerns that the Bar Commission and others have raised. We value the Bar's partnership and hope to benefit from the Bar's support and active participation in this project going forward.

1. Structure

Beginning July 1, 2023, we would like to move part of the IO's operations to the Utah State Bar. The Sandbox will remain a seven-year pilot project under the supervision and control of the Utah Supreme Court.

Locating part of the IO in the Bar is consistent with how the Court delegates its other regulatory functions. The Bar operates relatively autonomously in carrying out its other admissions and licensing functions because it is administering established rules approved by the Court. But because the Sandbox is a pilot project, the Court needs to retain more control over its operations so that it can make ongoing policy adjustments as needed. For that reason, the Court envisions that the IO, under the direction of the Bar's Executive Director, will carry out the administrative functions of operating the Sandbox, while the LSI Committee will be responsible for making recommendations to the Court on regulatory actions, such as entity authorizations and enforcement. The Court will continue to vote on all authorizations and any changes to our policies and procedures.

Under this plan, the Court would pay for and provide a data analyst, and the LSI Committee would continue to operate on a volunteer basis. The Bar would be responsible for funding one FTE for a program director housed at the Bar, plus any associated administrative support and overhead costs for the IO and LSI Committee.

Program Director

The Bar will recruit and hire a full-time employee as a program director to manage the operations of the IO for the remainder of the seven-year pilot project. Ideally, the program director should be a licensed attorney. A hiring committee (consisting of an elected Bar Commission representative, the Bar's Executive Director, the Chair of the LSI Committee, the Appellate Court Administrator, and a member of the Utah Supreme Court) will select the most qualified applicant and submit the recommendation to the full Court for approval. The program director's salary will be competitive with the salaries of similarly qualified people employed by the Bar.

The program director will carry out the IO's day-to-day operations in accordance with the policies and procedures in the IO Manual approved by the Court. In fulfilling these duties, the program director will report directly to the Bar's Executive Director. The Executive Director may allocate additional staff or resources to the IO as needed to effectively carry out the duties of the office, subject to the Bar's regular budgeting process. The program director will also staff the LSI Committee. Staffing the committee entails drafting the monthly report, preparing applications for the committee's review, notifying the committee of any complaints or compliance violations, preparing and distributing committee agendas and minutes, hosting monthly meetings, and other duties as directed by the Chair of the LSI Committee.

Data Analyst

Data analysis is an essential part of the Sandbox. The data we collect aids the Court in regulating Sandbox entities and in assessing the success of this evidence-based experiment, which will inform future policy decisions. To perform this function, the Court has employed a qualified data analyst as an independent contractor. The Court will explore ways to continue funding this position, rather than asking the Bar to hire a data analyst as part of the IO's operations.

LSI Committee

The LSI Committee assists the Utah Supreme Court in regulating entities authorized to provide legal services pursuant to Standing Order 15. The committee is responsible for taking immediate action on complaints and violations in accordance with the approved enforcement policy, reviewing all Sandbox applications and making approval recommendations to Court, recommending ongoing policy and procedure changes for Court approval, reviewing data and audit results, and reporting monthly to the Court on the status of the Sandbox.

As a Supreme Court advisory committee, the LSI Committee's members are appointed by and serve at the pleasure of the Court. The membership currently consists of Chair John Lund, a Utah attorney and past president of the Utah Bar; Vice Chair Nathaniel Player, a Utah attorney and Director of the Utah State Court's Self Help Center; Dr. Rebecca Sandefur, an expert on access to justice and consumer legal needs; Dr. Thomas Clarke, an expert on court policies, technology, and regulation; and Lucy Ricca, an expert on legal services regulation and policy.

The Bar Commission and others have “encourage[d] the Court to diversify the voices leading and evaluating” the Sandbox. (Memorandum, The Utah State Bar Board of Bar Commissioners, December 16, 2022). In order to incorporate more stakeholder voices, the Court will expand the LSI Committee to include at least:

- one elected Bar Commissioner,
- one member of the Bar’s Access to Justice Commission,
- two Utah attorneys experienced in areas of law directly serving consumers,
- one Utah licensed paralegal practitioner, and
- one non-attorney member experienced in working with traditionally underserved communities.

The Court encourages the LSI Committee to create subcommittees – policy, applications, compliance, data review, audits, etc. – so long as subcommittee membership is open to all committee members who would like to participate.

2. Funding

The first two years of Sandbox operations were funded entirely by grants. Those grants covered the initial ramp up costs of the project, including the creation of a database and an application portal. Now that those initial expenses are behind us, the costs of operating the Innovation Office will likely change. Currently, the annual cost of operating the IO is approximately \$384,000. We anticipate those costs will be reduced by taking advantage of the Bar’s existing administrative infrastructure, converting the program director from a contractor to a full-time employee, and relying on additional lawyer and non-lawyer volunteers.

The Bar has questioned whether the ongoing expenses of the IO should be subsidized by the Bar’s budget, which is largely composed of the mandatory lawyer licensing fees that the Court has authorized the Bar to collect. These criticisms have been two-fold. Some have argued that the legislature has made a policy decision that people are entitled to legal services if their liberty or parental rights are threatened. “But free or discounted legal services (whether by lawyers or algorithms) in commercial contexts hasn’t yet become a priority that taxpayers, or lawyers for that matter, should fund.” (“An Apology for Lawyers,” Mark O. Morris, Utah Bar Journal, Jan/Feb 2023.) This criticism misunderstands the purpose of the Sandbox. The Sandbox does not fund free or discounted legal services. Rather, it permits private enterprise and market forces

to meet consumers' needs. All expenses associated with operating the Sandbox are for the purpose of *regulating* – not subsidizing – these entities. And the regulation of the practice of law is the exclusive constitutional responsibility of the Utah Supreme Court. Because the Court has authorized the Utah State Bar to administer its regulatory functions, the operation of the IO fits squarely in the Bar's wheelhouse.

The second criticism carries more weight. Lawyers and paralegal practitioners fund the cost of their own regulation by paying Court-assessed licensing fees that the Bar collects. Why shouldn't non-traditional legal providers in the Sandbox do the same? We believe they should. This is particularly true of the for-profit businesses that make up the majority of Sandbox entities. "If someone has a business model to serve unmet legal needs in a way that can turn a profit for them, then they should have that opportunity if they are willing to fund that risk, and at the same time risk failure along with any other new business enterprise." ("An Apology for Lawyers," Mark O. Morris, Utah Bar Journal, Jan/Feb 2023.) Part of funding that risk entails paying for the costs of the regulation required to make sure that innovative service models do not harm consumers.

The Court has developed a two-part approach to funding the IO going forward. We have authorized a fee policy for Sandbox entities with the intent that the project will eventually become fully self-funded, just as the regulation of lawyers is self-funded. Although we intend to implement the fee policy on July 1st, the Court recognizes that there will be a lag before the IO is self-sustaining. During that time, the IO's operating expenses will require some Bar resources. To reduce the impact on the Bar's budget, the Court will provide additional start-up funds. Both parts of this approach are explained in detail below.

Fee Policy

The Bar Commission has encouraged the Court to make the IO "fully self-funded by charging fees to applicants and participants." (Memorandum, The Utah State Bar Board of Bar Commissioners, December 16, 2022). To that end, the Court has approved a fee policy developed by the LSI Committee through which Sandbox entities will defray the cost of their own regulation. The fee policy, which will be implemented beginning on July 1, 2023, consists of three parts: (1) an application fee, (2) a fee for the costs of any required audit or prelaunch assessment, and (3) an annual fee based on revenue.

1. **Application Fee:** Each entity will be required to pay an application fee of \$250 at the time the application is submitted. The Court may authorize additional fees to cover the cost of any required background checks.
2. **Audit Costs:** For-profit entities must cover the cost of any required pre-launch assessment (\$1,000) or post-launch audit (\$2,000). Volunteer lawyers with expertise in the relevant area of the law will be recruited to conduct pre-launch assessments and audits of non-profit entities.
3. **Annual Fee:** Once an entity successfully completes the 12-month pilot phase, the entity may apply for an annual license. Issuance of the annual license is conditioned on the recommendation of the LSI Committee and subject to the discretion of the Court. Qualifying entities seeking annual licensing will be required to pay an annual licensing fee as follows:
 - a. Base fee of \$250.
 - b. Additional fee of 0.5% of revenue resulting from authorized services reported for the prior calendar year. If an entity has operated for less than a full calendar year, then the revenue-based fee amount will be prorated.

Annual fee statements will be distributed after the close of the calendar year and fees are due the last business day in January. Entities failing to submit fees due by the relevant date will incur late fees.

Our best estimate is that Sandbox fees will generate approximately \$25,000 in FY24. Assuming the historical rate of forty to fifty applications per year continues, application fees would be expected to generate \$10,000 to \$12,500 per year. There are twelve entities who have successfully completed the pilot phase and would be eligible for annual licensing, generating base licensing fees of \$3,000. Based on the gross revenue reported by those entities, we estimate approximately \$12,000 in revenue-based licensing fees for FY24. As more entities enter the Sandbox and grow their businesses, we expect the percentage-based revenue will trend upward over time.

All fees will be collected by the Bar and used to fund the operating costs of the IO going forward. If the current fee schedule does not sufficiently cover the IO's operating costs within two years, the Court will reassess the schedule.

Start Up Funds

In addition to the fees detailed above, the Court anticipates that it will be able to provide the Bar with a substantial sum to cover the IO's initial operating costs. The Judicial Council previously allocated \$324,000 in federal American Rescue Plan Act funds to the Sandbox. Based on our current projections, we will have approximately \$100,000 of those funds remaining on July 1st. We have confirmed with our general counsel's office, our finance department, and the Governor's Office of Planning and Budget, that the Court can transfer those remaining funds to the Bar under an agreement to use the funds for their intended purposes and in accordance with federal regulations.

The Court recognizes that at least some of the initial cost of operating the IO within the Bar will come from lawyer licensing fees, but we view that as an appropriate use of those fees that is wholly consistent with the Bar's mandate. The Sandbox offers opportunities for enterprising Utah lawyers to expand their practices to fulfill unmet market demand. Utah-licensed lawyers have been involved in every authorized Sandbox entity. Regulating these new business models to ensure that they do not pose a risk to the public is fully within our delegation of regulatory authority to the Bar. The Court believes that it is fair to use a portion of its lawyer licensing fees to test this regulatory model, so long as Sandbox entities also contribute to the cost of regulation. And, unlike lawyer licensing fees, the revenue-based fee structure ties the amount of that contribution to the profits generated by virtue of participating in the Sandbox. This funding mechanism allows the Court to continue to carry out our constitutional regulatory responsibilities through the Bar in a way that is fair and equitable to all participants.

3. Narrowing the Scope of the Sandbox

From the beginning, the stated purpose of this project has been to "shrink the access-to-justice gap by fostering innovation and harnessing market forces, all while protecting consumers of legal services from harm." (Utah Supreme Court Standing Order No. 15, August 14, 2020.) Some have suggested that "access to *justice* is very different from access to *legal advice*, or *legal services*," because "[n]ot having enough money to pay a lawyer for a range of traditional legal services . . . does not necessarily imply injustices are being perpetrated." ("An Apology for Lawyers," Mark O. Morris, Utah Bar Journal, Jan/Feb 2023.) And the Bar Commission defines "access to justice" initiatives as those "that aim[] to improve legal services to those citizens of limited or meager financial means." (Memorandum, The Utah State Bar Board of Bar

Commissioners, December 16, 2022). The Court, on the other hand, defines the access-to-justice gap broadly to include unmet legal needs of all kinds and across all socio-demographic groups.

But even under this broad definition, the purpose of this pilot project is to address unmet consumer needs. Specifically, we are testing whether some of our own rules are preventing the market from meeting those needs, and we are doing so in a way that carefully assesses whether the public is being harmed. Because we wanted to allow the market to innovate, we did not pre-judge which models would ultimately result in a benefit to consumers. But we have listened closely to feedback from the Bar and others who believe that Sandbox participation should be limited to entities that are “furthering access to justice in some meaningful and helpful way within the State of Utah.” (Memorandum, The Utah State Bar Board of Bar Commissioners, December 16, 2022). Although we define access to justice broadly, we agree that narrowing the scope of the Sandbox will better advance our core goal of addressing unmet consumer needs.

In doing so, we are guided by the successes we have seen in the two-and-half years of Sandbox operations. In particular, the vast majority of services provided in the Sandbox are to individual consumers and small businesses, two groups that have been identified as key components of the justice gap. Multiple entities are using capital to develop new tiers of service using either technology or nonlawyer providers to decrease cost and/or increase accessibility. Finally, the Court is pleased to have multiple nonprofits within the Sandbox, using nonlawyers to provide targeted free legal services to Utah communities in need.

The Court intends to narrow the scope of the Sandbox to these types of innovative models that are designed to benefit consumers. This will allow the IO to direct its limited resources toward those entities with the potential to reach consumers currently underserved by the legal market.

Beginning July 1, 2023,¹ the LSI Committee will require all new applicants to demonstrate that their proposal meets an “**innovation requirement**,” meaning that Sandbox authorization will allow the entity to reach consumers currently underserved by the market. An applicant may make this showing in several ways, including but not limited to, reducing the cost of legal services, making legal services more accessible, or developing a new business or service model. Examples might include using non-lawyer providers to deliver free or low-cost services, creating a one-stop-shop for consumers to

1. To implement the changes outlined in this letter, the Court has temporarily paused accepting new applications.

obtain related legal and non-legal services, or taking on outside investment to fund software development.

Importantly, non-attorney investment or ownership arrangements which do nothing more than supply capital for advertising and/or marketing of existing legal services will *not* meet the innovation requirement.

4. Reducing Risk to Consumers

By design, the Sandbox's regulatory model differs from the traditional regulation of the practice of law. The traditional model licenses individual lawyers and paralegals who meet specified qualifications to practice as they see fit so long as they adhere to the Rules of Professional Conduct. The Sandbox authorizes entities, not individuals, to function in a highly regulated environment and regulates based on an ex post evaluation of consumer experience, rather than by rule.

While the Court wants to preserve the basic regulatory structure of the Sandbox, we see the wisdom in adding more front-end controls to ensure, at the outset, that new providers do not present an undue risk to the public. The Court has heard from many stakeholders who have suggested we test an entity's ability to competently deliver the proposed legal services, that we improve the vetting process to exclude "bad actors" from the Sandbox, and that we impose fiduciary duties on non-lawyers in the Sandbox. The following changes respond to those concerns.

Ensuring Competence

Although the Sandbox uses an ex post regulation model, the Court seeks some additional pre-launch assurance that the entity will be able to competently offer legal services to the public. To address the Court's concern, the LSI Committee has proposed a new policy relating to moderate- and high-risk entities. The Court believes this policy strikes the right balance in allowing innovation while protecting the public.

We begin with the assumption that Utah-licensed lawyers are competent to provide legal services and will do so only if they have "the legal knowledge, skills, thoroughness, and preparation reasonably necessary for the representation." Utah R. Prof'l Cond. 1.1. Based on that assumption, an entity's level of innovation, and potential risk, corresponds to the degree of licensed lawyer involvement—the less lawyer involvement, the more potential risk. Under the following framework, higher innovation entities must demonstrate that they are capable of competently providing the legal service they seek to offer:

- **Low Innovation Entities:** An entity is categorized as low innovation, and thus low risk, when it uses an alternative business structure involving non-lawyer ownership (ABS) to deliver legal services through licensed lawyers or paralegal practitioners. Because all services are provided by Bar licensees subject to admission standards and the Rules of Professional Conduct, existing safeguards are sufficient to ensure competence.
- **Moderate Innovation Entities:** Moderate innovation entities deliver legal services using non-lawyer alternative legal providers (ALPs), including trained non-lawyers or computer software with the ongoing involvement of a licensed lawyer. To ensure that the legal services provided by these entities are of an appropriate quality, the following safeguards are required:
 - The entity's quality assurance process must be directed by a Utah-licensed lawyer who:
 - oversees the development of the service method, such as by developing training materials, supervising education and training, developing scripts, algorithmic models, templates and/or checklists, and
 - plays an ongoing quality assurance role, by directing regular reviews of providers' services for quality and accuracy.
 - The entity is subject to consumer disclosure and Innovation Office badge display requirements, monthly data reporting, and may be subjected to an audit of services for quality at the discretion of the Innovation Office.
- **High Innovation Entities:** High innovation entities also deliver legal services using ALPs, but they have no consistent, ongoing involvement of a Utah-licensed lawyer. To ensure that these entities are competent to provide legal services, the following safeguards are required:
 - the entity must identify the specific, limited service that it intends to offer (e.g., responding to a notice of eviction, filing for an

uncontested divorce, expunging criminal records, seeking a domestic violence protective order, petitioning for a name change),²

- before offering services to the public, the entity must satisfactorily complete a pre-launch service assessment conducted by two independent attorneys with relevant expertise, and
- the entity is subject to consumer disclosure and Innovation Office badge requirements, monthly data reporting, and may be subjected to an audit of services for quality at the discretion of the Innovation Office.

Additional Vetting of Participants

The Court also wishes to see additional vetting of Sandbox participants, similar to Arizona’s requirements for ABSs. Currently, a Sandbox application requires identification of all “controlling persons” and “financing persons” involved in the entity. Controlling persons are “all persons and entities who wholly or partially direct the management or policies of [the] proposed entity and/or the direct provision of legal services to consumers, whether through ownership of securities, by contract, or otherwise.” (Innovation Office Manual, updated September 29, 2022.) Financing persons are “all persons and entities who will wholly or partially (greater than 10%) finance the business of your proposed entity.”³ (*Id.*)

2. The Court acknowledges that a particular entity seeking to build a viable product or service may need authorization for additional related activities. For example, Rasa, an entity offering criminal expungement services in the Sandbox, also needed the authorization to respond to Rule 402 Motions. Timpanogos, an entity assisting survivors of domestic violence with getting protective orders, also needed authorization to assist with stalking injunctions. The key principle here is that the entity must be clear and specific in their application and that the authorization must, at least initially, be tailored to a specific identified legal need or bundle of related legal needs. Over time, an entity may seek to expand its authorization into additional identified legal needs or bundles of legal needs.

3. These categories are similar to Arizona’s definition of “Authorized Persons” (ACJA § 7-209):
- “Authorized person” means a person possessing:
1. An economic interest in the alternative business structure equal to or more than 10 percent of all economic interests in the alternative business structure; or
 2. The legal right to exercise decision-making authority on behalf of the alternative business structure. Examples may include: a sole proprietor of a sole proprietorship, a manager of a limited liability company, an officer of a

The applicant is required to disclose whether any controlling or financing persons have been disbarred or suspended from the practice of law or have a felony criminal history. The applicant is also required to disclose whether “the entity and, if applicable, its parent and other affiliated companies” have any history of a state or federal criminal (misdemeanor or felony) conviction, a state or federal consent decree, a state or federal enforcement action resulting in sanctions (disgorgement, civil penalties, and/or injunction), or a current state or federal criminal investigation or state or federal enforcement action.

Although false or incomplete disclosures are grounds for revoking the entity’s Sandbox authorization, there is currently no mechanism for the IO to independently verify these disclosures. In addition, because applications are not currently posted on the IO’s website, the public does not have an opportunity to review these disclosures without making a public records request.

To ensure that the individuals and entities operating in the Sandbox do not pose an undue risk of harm to consumers, we propose the following additional safeguards:

1. The IO will verify that the entity authorized to provide Sandbox qualifying services is registered and in good standing with the Utah Department of Commerce.
2. All financing and controlling persons must consent to and pay the cost of a background check by the Utah Bureau of Criminal Identification at the time the application is filed. A background check will be performed before the application is recommended to the Court. All financing and controlling persons must further consent to a credit history check and, if required by the Innovation Office or the Court, to submit fingerprint cards.
3. All financing and controlling persons must disclose if they are an attorney, licensed paralegal practitioner, or otherwise required to maintain a professional license (e.g., social worker, accountants, mental health providers). The IO will verify that all such persons are in good standing with the applicable licensing agency.

corporation, a general partner of a general or limited partnership, or a person possessing comparable rights by operation of law or by agreement.

4. All financing and controlling persons must sign a form⁴ under penalty of perjury that asks whether the person or the entity applicant itself:
- a. has committed any act constituting material misrepresentation, omission, fraud, dishonesty, or corruption in business or financial matters,
 - b. has engaged in conduct showing incompetence or a source of injury and loss to the public,
 - c. has been convicted by final judgment of a felony, regardless of whether civil rights have been restored,
 - d. has been convicted by final judgment of a misdemeanor, regardless of whether civil rights have been restored,
 - e. has had a professional or occupational license or certificate denied, revoked, suspended, or any other disciplinary action taken,
 - f. has been terminated, suspended, placed on probation, or other disciplinary action taken in the course of employment since the age of 21,
 - g. has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation theft or conversion,
 - h. has been placed on probation or parole,
 - i. has violated any decision, order, or rule issued by a professional regulatory entity,
 - j. has violated any order of a court, judicial officer, or administrative tribunal, or
 - k. to the best of their knowledge, is the subject of any pending criminal or administrative investigations relating to professional competency, unauthorized practice of law, or material misrepresentation, omission, fraud, dishonesty, or corruption in business or financial matters.

4. The form should be substantially similar to Arizona's "Authorized Person Application," from which questions (a) through (j) are taken largely verbatim.

5. All approved Sandbox applications will be publicly available on the IO's website.
 - a. Before posting an application, the IO will redact all personally identifying information other than the names of all financing and controlling persons.
 - b. If the applicant has asserted a GRAMA confidentiality claim for information identified as trade secrets or confidential business information, those portions (other than the names of all financing or controlling persons) will also be redacted.

Fiduciary Duties

The Bar Commission and other stakeholders have asked the Court to hold Sandbox participants “to the same fiduciary and professional responsibility requirements to which lawyers are held.” (Memorandum, The Utah State Bar Board of Bar Commissioners, December 16, 2022). All licensed attorneys and paralegal practitioners operating in the Sandbox continue to be governed by the Rules of Professional Conduct and are subject to lawyer discipline. But non-lawyer managers and owners do not owe similar duties to clients, and many stakeholders worry that those non-lawyers may be incentivized to prioritize profits over a client's best interests. Additionally, although rule 5.4 requires lawyers to prevent others from interfering with their professional independence and judgment, non-lawyer owners or managers may not understand this limitation.

To address these concerns, the Court will require all financing and controlling persons to adhere to the same core fiduciary duties that lawyers owe to their clients: loyalty, confidentiality, diligence, and candor. In addition, all licensing or controlling persons must also agree not to interfere with the lawyer's professional judgment as a condition of authorization.

To participate in the Sandbox, all financing and controlling persons must agree to the following duties:

1. Must act in good faith to further a client's best interests.
2. Must not allow economic or other conflicts of interests to adversely affect the legal services rendered to a client.
3. Must ensure that legal services are delivered with reasonable diligence and promptness.

4. Must not reveal confidential information pertaining to the representation of a client without the client's consent or as allowed or required by law.
5. Must not engage in or allow any activity that misleads or attempts to mislead a client, a court, or others.
6. Must not take any action or engage in activity that interferes with the professional independence of lawyers or others authorized to provide legal services.
7. Must develop systems and processes within the entity applicant to ensure that each of the above duties are met and satisfied.

If the application is approved, these duties will be set forth as a condition of authorization in an order signed by the Court. In addition, as part of the on-boarding process, all financing and controlling persons must complete a one-hour ethics training approved by the LSI Committee that explains these obligations.

Compliance will be monitored through client complaints, data reporting, and exit surveys (see below). A violation of these duties will result in the suspension or revocation of the entity's authorization to practice in the Sandbox, disqualification of financing and controlling persons from submitting future Sandbox applications, and possible sanctions for violating a Court order.

5. Measuring Consumer Harms and Benefits

The purpose of this pilot project is to gather information to better inform the Court's future policy decisions. Although we are gathering promising data that suggests a lack of consumer harm, we have very little data on whether and how these reforms may be benefitting consumers. Benefit to consumers can take many forms, including increased access to legal advice or services, lower cost, increased information, greater knowledge, and improved control and choice. The Court needs evidence of consumer benefit to weigh against the potential risks of changing the way we regulate the practice of law. That evidence is also crucial to building and sustaining public support for this project.

In terms of consumer harm, some stakeholders have expressed concern that the current method of soliciting complaints is too passive. Although we require entities to conspicuously post a link for reporting complaints, asking consumers more direct

questions about the services they received and providing another opportunity to submit a complaint may generate more complete data on consumer harm as well.

To provide additional data on consumer benefits and harms, entities will be required to send clients a link to an exit survey. Because these types of consumer surveys have a low response rate, we believe it is important to keep the questionnaire simple. A Net Promoter Score survey is a simple questionnaire designed to measure consumer experience and satisfaction. This type of survey produces significantly higher response rates than other formats, which generates more reliable data. The first part of the questionnaire asks consumers to rate the legal service on a scale of 0 to 10, depending on how likely they would be to recommend the service to others. The second part is an open-ended question asking the consumer to explain their rating. Because we are specifically interested in measuring consumer benefit, we have tailored the open-ended question accordingly.

Each client who receives an authorized Sandbox service will receive a SurveyMonkey email along these lines:

The legal services you received from [Sandbox Entity] were made possible by a Utah Supreme Court pilot project that seeks to increase the availability of legal services. Your feedback is important to help the Court assess whether this project is benefiting consumers.

- On a scale of 1 to 10, how likely are you to recommend this legal service to someone with similar needs?
- How did you benefit from using this legal service?

If you have any concerns or complaints about the service you received, please click this [link](#) to contact the Utah Supreme Court's Office of Legal Services Innovation.

The results of the survey would be sent directly to the data analyst to compile for review by the LSI Committee and the Court. Any complaints related to regulatory harms would be reported to the LSI Committee immediately. The aggregate data would be included in the publicly available portion of the IO's monthly report.

6. Increasing Transparency

Although the IO maintains a robust public website with information about the Sandbox, the Court wishes to provide even more transparency into Sandbox operations to increase public confidence. The Court believes many of the changes detailed above—such as posting applications on the IO’s website and publishing data on consumer benefits—will further that goal and promote a better understanding and appreciation for the work being done in the Sandbox.

In addition, the Court has also adopted a rule requiring Supreme Court advisory committees, including the LSI Committee, to conduct open and public meetings. Effective February 22, 2023, Rule 11-107 of the Code of Judicial Administration requires all committees to:

- Publicly post its meeting dates,
- Post an agenda at least 24 hours before a meeting, and
- Post the location of the meeting or provide a link to join the meeting virtually.

The LSI Committee may close a portion of the meeting to discuss applications containing private personal or confidential business information or other matters permitted by the rule, but it must take any vote in a public meeting. Written minutes of the public portions of its meetings will be posted on the IO’s website after the minutes are approved.

The LSI Committee must promptly respond to public records requests. The Court is considering an additional rule to formalize that process.

We appreciate the Bar's willingness to engage in productive conversations about the future of the Sandbox. Your feedback has been very valuable, and we hope that our efforts to respond to your concerns will strengthen our partnership on this important project going forward. We will reach out to schedule a meeting with Bar leadership where the Court can address any questions or concerns you may have.



Chief Justice Matthew B. Durrant



Associate Chief Justice John A. Pearce



Justice Paige Petersen



Justice Diana Hagen



Justice Jill M. Pohlman

cc: Utah Judicial Council
 Utah State Bar Commission
 Utah State Bar Executive Director Elizabeth Wright
 Utah Association for Justice
 Utah State Senator Michael K. McKell
 Utah State Representative Nelson T. Abbott
 LSI Committee

TAB 3

UTAH STATE BAR COMMISSION MEETING

MINUTES

Thursday, March 16, 2023

Dixie Convention Center, St. George

In Attendance: President Kristin “Katie” Woods, President-Elect Erik Christiansen, and Commissioners Tom Bayles, Matt Hansen, Greg Hoole, Beth Kennedy, Chrystal Mancuso-Smith, Mark Morris, Andrew Morse, Shawn Newell, Cara Tangaro, and Tyler Young.

Ex-Officio Members: Past-President Heather Thuet, Kim Cordova, Scotti Hill, Gabriela Mena, Brittany, J. Merrill, and Margaret Plane.

Not in Attendance: Commissioners J. Brett Chambers, Traci Gunderson, Rick Hoffman and Ex-Officio members Nate Alder, Anaya Gayle, Dean Elizabeth Kronk-Warner, Shalise McKinlay, Camila Moreno, and Dean Gordon Smith.

Also in Attendance: Executive Director Elizabeth A. Wright, General Counsel Nancy J. Sylvester, Utah Court Representative Nick Stiles.

1. President's Report: Katie Woods.

Ms. Woods welcomed the Commission to the meeting.

1.1 Review Spring Convention Schedule: Erik Christiansen

Mr. Christiansen reviewed the Spring Convention schedule, including the opening reception and commission dinner.

1.2 Report on Legislative Session

Ms. Woods reported on the legislative session, noting that it was a challenging session. The Commission discussed the need for more relationship building with the legislature. The Commission also discussed the work that happened on HJR2 and SB129 and the need for education on judicial independence. Ms. Woods then discussed having a committee work on education. Mr. Newell said the key is to educate people in a way that builds bridges. Mr. Hoole, Mr. Newell, and Ms. Woods spoke of their experiences with the nominating commissions.

1.3 Report on National Conference of Bar Presidents Meeting

Ms. Woods reported on the National Conference of Bar Presidents. She said Utah is

getting national recognition for its well-being efforts. Ms. Wright and Ms. Woods shared that it is very helpful to meet with their national colleagues at these meetings.

1.4 UDR Progress Report (TAB 1, Page 7)

Ms. Wright reported that UDR is very grateful for the Bar's support following the death of their executive director. The UDR reported on the way the money was being spent, which is to hire Kai Wilson to help UDR get its organizational structure in order.

1.5 Recognize Scotti Hill for S.J. Quinney Young Alumni Award

Ms. Wright and Ms. Woods recognized Ms. Hill for her award and for her good work at the Bar.

1.6 TAVA and Unmind Update: Martha Knudson

Ms. Knudson reported on the Bar's well-being benefits. She said there have been 250 therapy appointments already completed and over 1000 appointments booked. She said she is keeping an eye on the prepaid sessions. She reported on Unmind, which has around 350 active users at around 45 days out. One of the highest good health indicators is connection among users. But overall health is generally lacking among users. The Commission discussed the need for grass roots communication about Unmind and also shared their experiences using these well-being resources.

2. Action Items

2.1 Credit Card Merchant Fees on Licensing Fees (TAB 2, Page 10)

Ms. Wright reported that the Bar is moving away from paper checks in keeping with modern banking practices. She said the Bar is moving toward ACH payments instead. This will be helpful for minimizing check fraud and lost checks. The change will also eliminate the administrative burden of having to manually process over 2500 checks during licensing. The Bar will now be taking Amex for credit cards, along with Mastercard, Discover Card and Visa. In preparation for the payment changes, Bar staff have been contacting different entities to explain the changes and to give them enough notice to implement licensing and payment procedures for the new system. Ms. Wright reported that some of the government entities with large numbers of lawyers cannot do ACH and they cannot reimburse for credit card fees. Ms. Wright reported that after speaking to different organizations, removal of the credit card surcharge will enable these entities to have their lawyers pay by credit card and seek reimbursement. The \$68,000 loss in surcharge revenue will be made up in administrative time spent processing checks and can be worked into the budget. Mr. Stiles reported that the courts would be more comfortable with this transition if the credit card fees were gone. Mr. Hansen reported on some of the concerns from the counties from an auditing standpoint with respect to getting

rid of checks. Ms. Wright said moving away from checks will be very helpful from an administrative standpoint and that the Bar is not the only entity or business moving away from check payments. Ms. Wright stressed that Bar staff will speak with any entities who have questions or concerns about the new process to assist them in making the transition to payment of licensing fees without checks.

Mr. Bayles moved to remove the surcharge for credit cards. Ms. Tangaro seconded. The Commission held further discussion. The motion passed unanimously.

2.2 Approve 2023-2024 Fund for Client Protection Assessment (TAB 3, Page 13)

Ms. Woods reported that the Fund for Client Protection has been spent down by about \$70,000. Rule 14-904 requires the bar to maintain a \$200,000 balance in the Fund. The request is to assess \$7.00 to licensees, which must be approved by the Court.

Ms. Tangaro moved to assess the fee to licensees. Mr. Christiansen seconded. The motion passed unanimously.

2.3 Select a Bar Trustee for the Foundation for Natural Resources and Energy Law (TAB 4, Page 16)

Ms. Wright noted that the Commission has a role in selecting a trustee for the Foundation for Natural Resources and Energy Law. The Commission expressed concern about making a decision on this since there are so many impressive candidates with whom they are not familiar. The Commission tabled this item pending further information.

2.4 Table at the UCLI Fundraiser Luncheon (TAB 5, Page 39)

Ms. Kennedy moved to purchase a \$1,000 table for 10 for the UCLI fundraiser. Mr. Hansen seconded.

2.5 Table at the Law Day Luncheon (TAB 6, Page 42)

Mr. Hansen moved to purchase a \$500 table for the Law Day Luncheon.

3. Discussion Items.

3.1 Innovation Office

Ms. Wright reported that there is not yet a final recommendation on the Innovation Office but she heard at the Council meeting last month that the recommendation is to come to the Bar as a program administrator employee. There are ARPA funds that will be granted to the Bar (\$130,000) to help fund the office. The court has been in a lot of discussions with the UAJ and has implemented many of its recommendations. The Innovation Office Board will be made up of more lawyers from different areas. License fees will be charged to entities and background checks will be implemented.

4. Information Items.

4.1 ABA Delegates' Report: Kim Cordova and Camilla Moreno

Erik Christiansen reported on behalf of Kim Cordova. He reported that there was a resolution to get rid of the LSAT as an admissions requirement. He said that Utah played a large role in quashing that resolution. 60 deans wrote letters in opposition. The argument against is that it hurts diversity. GPAs are notoriously bad predictors of success in law school. The LSAT is a much more objective standard and predictor of success. The entering class this year is the most diverse of any other year. The argument to get rid of it is that law schools want more flexibility, but that argument failed. The ABA also passed a resolution that the U.S. Supreme Court should adopt a code of ethics.

4.2 Judicial Council Report: Margaret Plane

Ms. Plane said the Council spent a lot of time the past few meetings on legislation. She said the courts are looking at education during non-legislative session time, just as the Bar is. Ms. Plane reported that the courts had 10 budget priorities that were all funded. She also reported that the business and chancery courts will be implemented after the next legislative session. This will be hosted at the Matheson Courthouse. There will be a lot of details to work out between now and then. She noted that the court will need to do outreach going forward. She also noted that CCJJ will need to realign its rules and there will be an opportunity to provide comment there. There will also be an opportunity to get more involved in public comment about judges by different organizations. Ms. Plane reported on court fee reporting and on a bill that didn't pass to have credit card fees charged to patrons. She also said 5th District judges reported to the Council and said they are feeling the pinch of population growth.

5. Executive Session

The Commission held an executive session.

6. Adjournment.

The Commission adjourned at 3:55 p.m.

7. Consent Agenda.

The Commission approved by consent the minutes of the January 27, 2023 Commission meeting.

TAB 4

UTAH STATE BAR
Budget and Finance Committee
Financial Results as of March 31, 2023
and for the first three quarters then ended

FINANCIAL STATEMENT HIGHLIGHTS

Year-to-Date (YTD) Net Profit – Accrual Basis:

	Actual	Budget	Fav(unfav) \$ Variance	Fav(unfav) % Variance
YTD revenue	6,462,631	6,417,055	45,576	1%
YTD expenses	5,495,806	5,192,435	(303,372)	-6%
YTD net profit/(loss)	966,825	1,224,620	(257,796)	-21%

YTD net income is \$960,668 and is \$257,796 less than budgeted.

YTD Net Profit –Cash Basis: Adding back year-to-date depreciation expense of \$118,461 and deducting capital expenditures of \$122,617, the cash basis year-to-date net profit is approximately \$4,156 lower.

Explanations for Departments with Net Profit Variances more than \$10k and 5% Over/Under Budget:

Admissions: For the first nine months of fiscal year 22/23, Admissions net profit is reporting approximately \$35,000 less than budgeted. The reason for most of the variance is due to application fees for the July 2023 exam reporting approximately 10-20% less than budgeted; however we anticipate this variance to even out as more application fee revenues are paid in the last quarter of the year. In addition to the lower admissions revenue, laptop fees revenue is under-reporting by 50%. Some of that variance is due to the slow application revenue in March discussed previously, but some of the laptop fee variance is also due to a programming error in the Admissions database that resulted in laptop fees from applicants applying for the February Bar exam not getting captured properly. The programming error was discovered in March and all applicants since March, have paid the laptop fees. However, due to nature of the error, the Admissions director did not find it appropriate to go back to the applicants to request that payment. As such, we anticipate approximately \$11,000 in missed revenues here that will not be captured.

NLTP: The NLTP program is currently reporting net spending of \$6,038, compared to a budgeted \$6,662 net profit, resulting in an unfavorable variance of \$12,699. The reason for the unfavorable variance is due to NLTP fees underreporting compared to the budget. However we anticipate this variance is a timing issue related to the collection NLTP dues and will even out in the coming months.

OPC: The OPC budget is currently reporting a \$64,079 variance compared to the budget. Of the variance, approximately \$18,000 related to lower than budgeted seminar profits, which appears to be a timing issue as OPC will host one more CLE event in the fourth quarter that is budgeted to bring in approximately \$20,000 in revenues. OPC general & administrative (G&A) expenses and building overhead both are contributing to the higher than budgeted OPC net loss. Higher than budgeted G&A expenses relate to some IT contracts that increased in the current year more than budgeted, and higher than budgeted overhead is due to higher utility costs.

UTAH STATE BAR
Budget and Finance Committee
Financial Results as of March 31, 2023
and for the first three quarters then ended

CLE: The CLE department is currently reporting \$27,064 net loss compared to the budgeted net loss of \$83,674, which is a \$56,610 favorable variance, and is due to all CLE revenues exceeding budgeted estimates. The reason for the favorable revenues is to do high demand for CLE, which was unknown during budgeting due to the lingering effects of the coronavirus pandemic.

Summer Convention: The Summer Convention held in July 2022 in San Diego, California was projected to break-even, thereby having attendance revenues and sponsorships revenues cover all expenses. The current financials for the first nine months of fiscal year 22/23 show that the Summer Convention is reporting a \$109,000 loss due mostly to the fact that registration revenue underreported by \$92,000 and expenses for the venue including food and rental accommodations overreported by more than \$23,000.

Fall Forum: The Fall Forum was hosted in-person in November 2022 and was budgeted to break-even. However, the event is reporting a \$25,000 loss due to registrations underreporting compared to the budget.

Spring Convention: The 2023 Spring Convention was held mid-March in St. George and was the first live Spring Convention in three years due to the pandemic. The convention was budgeted to break-even and is currently reporting a \$3,447 net profit due to registrations covering expenses up through March. We anticipate some additional expenses may come in during April and May, and ultimately we come close to break-even as budgeted.

Member Services: Member Services are reporting \$93,000 larger net spending compared to the budget. Similar to the OPC analysis above, most of the \$23,000 variance in G&A expenses relate to IT expenses wherein contract prices increased. Additionally, the Unmind wellness app, that began in February and costs \$9,500 per month and was not included in the budget as it was negotiated mid-year. Also note the increase of \$14,800 related to salaries and wages due to extra time spent during the legislative session. And finally an increase over the budget of \$33,400 for program services, which mostly relates to the new mental health service Tava provided to members, wherein the Bar is charged for sessions used by members who have received services through the program. The sessions charges and popularity of the program are more than anticipated and were not budgeted for because the contract was negotiated and started mid-year.

Bar Operations: Bar Operations net spending for the first nine months of the year is more than \$109,000 less than budgeted, which is due to the investment income reporting significantly more than budgeted, as investments performed better than the prior year.

Facilities: Bar meeting room facilities for the first nine months of the fiscal year are reporting less net spending than budgeted. After three years of slow rental income due to the pandemic, the Bar is starting to see more demand for rental meeting space, thus the improved actual net spending compared to the budget.

UTAH STATE BAR
Budget and Finance Committee
Financial Results as of March 31, 2023
and for the first three quarters then ended

ADDITIONAL COMMENTS

Board Designated Reserves: In consultation with Bar management and the Budget & Finance Committee, the Commission informally targeted the following reserve amounts:

Operations Reserve (3 months' operations)	\$1,747,525
Capital Replacement Reserve (equipment)	200,000
Capital Replacement Reserve (building)	<u>600,000</u>
Total	\$2,547,525
Estimated cash reserve at March 31, 2023	<u>\$4,309,533</u>
Excess of current cash reserve over board-designated reserve	<u>\$1,762,008</u>

**Utah State Bar
Income Statement
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
Licensing	4,656,955	4,668,893	4,803,834	(134,940)	97%	4,922,403	95%
Admissions	454,935	446,455	475,452	(28,997)	94%	547,370	82%
NLTP	46,050	38,850	56,041	(17,191)	69%	64,642	60%
OPC	26,072	17,726	35,763	(18,037)	50%	61,613	29%
CLE	285,430	436,852	246,230	190,622	177%	480,715	91%
Summer Convention	197,225	128,325	220,464	(92,139)	58%	220,464	58%
Fall Forum	87,005	47,275	84,215	(36,940)	56%	84,660	56%
Spring Convention	55,975	106,495	99,661	6,834	107%	124,252	86%
Member Services	265,185	262,533	266,318	(3,785)	99%	310,750	84%
Public Services	40,247	39,916	16,742	23,174	238%	17,291	231%
Bar Operations	3,267	173,257	24,191	149,066	716%	27,960	620%
Facilities	58,364	96,055	88,144	7,911	109%	133,994	72%
Total Revenue	6,176,711	6,462,631	6,417,055	45,576	101%	6,996,114	92%
Expenses							
Licensing	136,627	146,995	133,159	(13,836)	110%	187,839	78%
Admissions	336,543	395,292	389,248	(6,044)	102%	494,361	80%
NLTP	46,870	44,888	49,380	4,492	91%	69,146	65%
OPC	1,104,862	1,186,548	1,140,507	(46,041)	104%	1,534,494	77%
CLE	325,473	463,916	329,904	(134,012)	141%	519,476	89%
Summer Convention	187,858	238,003	215,154	(22,848)	111%	220,464	108%
Fall Forum	31,068	80,587	84,341	3,754	96%	84,660	95%
Spring Convention	4,586	103,048	72,836	(30,212)	141%	124,252	83%
Member Services	448,550	568,898	485,533	(83,365)	117%	699,770	81%
Public Services	425,179	489,677	475,065	(14,612)	103%	626,761	78%
Bar Operations	1,281,060	1,509,302	1,488,407	(20,895)	101%	1,998,080	76%
Facilities	250,763	268,654	328,903	60,249	82%	430,800	62%
Total Expenses	4,579,439	\$ 5,495,806	5,192,435	(303,372)	106%	6,990,103	79%
Other							
Net Profit (Loss)	\$ 1,597,272	\$ 966,825	\$ 1,224,620	\$ (257,796)	79%	\$ 6,011	16084%
Depreciation	105,935	118,461	106,134	(12,328)	112%	145,522	
Cash increase (decrease) from operations	1,703,207	1,085,286	1,330,754	(245,468)	82%	151,533	
Changes in operating assets/liabilities	(2,283,442)	(3,028,580)	(3,028,580)	-	100%	20,000	
Capital expenditures	(80,967)	(122,617)	(75,000)	(47,617)	163%	(157,000)	
Net change in cash	\$ (661,202)	\$ (2,065,912)	\$ (1,772,827)	\$ (293,085)	117%	\$ 14,533	-14215%

**Utah State Bar
Licensing
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4010 · Section/Local Bar Support fees	17,880	17,148	18,181	(1,033)	94%	18,352	93%
4004 · Admissions - Laptop Fees	455	230	465	(235)	49%	464	50%
4006 · Transfer App Fees	-	-	-	-	#DIV/0!	-	#DIV/0!
4011 · Admissions LPP	950	1,200	605	595	198%	1,433	84%
4021 · Lic Fees > 3 Years	3,811,030	3,831,800	3,909,585	(77,785)	98%	3,932,691	97%
4020 · NLTP Fees	-	2,400	-	2,400	#DIV/0!	-	#DIV/0!
4022 · Lic Fees < 3 Years	196,365	195,330	219,634	(24,304)	89%	231,657	84%
4023 · Lic Fees - House Counsel	49,615	53,380	54,120	(740)	99%	56,901	94%
4025 · Pro Hac Vice Fees	148,450	137,750	157,827	(20,077)	87%	227,384	61%
4024 · Lic Fees LPP	3,600	3,850	2,874	976	134%	3,672	105%
4026 · Lic Fees - Inactive/FS	117,815	119,845	120,680	(835)	99%	120,987	99%
4027 · Lic Fees - Inactive/NS	221,550	222,810	225,789	(2,979)	99%	227,348	98%
4029 · Prior Year Lic Fees	-	-	-	-	#DIV/0!	-	#DIV/0!
4030 · Certs of Good Standing	14,540	14,880	17,900	(3,020)	83%	23,440	63%
4061 · Advertising Revenue	-	140	92	49	153%	122	115%
4081 · CLE - Registrations	-	200	-	200	#DIV/0!	-	#DIV/0!
4095 · Miscellaneous Income	55	30	63	(33)	48%	102	30%
4096 · Late Fees	74,650	67,900	76,019	(8,119)	89%	77,850	87%
Total Revenue	4,656,955	4,668,893	4,803,834	(134,940)	97%	4,922,403	95%
Expenses							
Program Services	9,472	29,389	21,188	(8,201)	139%	28,055	-
Salaries & Benefits	102,007	88,001	82,840	(5,161)	106%	111,445	79%
General & Administrative	17,435	20,168	21,531	1,363	94%	38,141	53%
Building Overhead	7,713	9,437	7,600	(1,837)	124%	10,198	93%
Total Expenses	136,627	146,995	133,159	(13,836)	110%	187,839	78%
Net Profit (Loss)	\$ 4,520,328	\$ 4,521,899	\$ 4,670,675	\$ (148,776)	97%	\$ 4,734,564	96%

Note: Includes LPP staff time and exam expense

**Utah State Bar
Admissions
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4001 · Admissions - Student Exam Fees	140,800	132,225	145,005	(12,780)	91%	146,421	90%
4002 · Admissions - Attorney Exam Fees	65,325	52,975	66,954	(13,979)	79%	68,697	77%
4003 · Admissions - Retake Fees	24,750	26,500	29,361	(2,861)	90%	38,199	69%
4004 · Admissions - Laptop Fees	71,600	37,900	74,687	(36,787)	51%	82,824	46%
4005 · Admissions - Application Forms	(850)	5,450	641	4,809	-	(867)	-
4006 · Transfer App Fees	46,100	40,050	47,059	(7,009)	85%	65,994	61%
4008 · Attorney - Motion	60,350	107,950	61,486	46,464	176%	87,465	123%
4009 · House Counsel	21,250	26,350	25,500	850	103%	28,560	92%
4011 · Admissions LPP	-	-	306	(306)	0%	306	0%
4095 · Miscellaneous Income	3,910	3,855	3,436	419	112%	5,171	75%
4096 · Late Fees	21,700	13,200	21,017	(7,817)	63%	24,600	54%
4200 · Seminar Profit/Loss	-	-	-	-	#DIV/0!	-	#DIV/0!
Total Revenue	454,935	446,455	475,452	(28,997)	94%	547,370	83%
Expenses							
Program Services	90,665	131,248	106,298	(24,950)	123%	107,572	122%
Salaries & Benefits	181,112	189,160	220,164	31,004	86%	298,236	63%
General & Administrative	51,089	58,151	49,562	(8,589)	117%	70,462	83%
Building Overhead	13,677	16,732	13,224	(3,508)	127%	18,091	92%
Total Expenses	336,543	395,292	389,248	(6,044)	102%	494,361	80%
Net Profit (Loss)	\$ 118,392	\$ 51,163	\$ 86,204	\$ (35,041)	-41%	\$ 53,009	97%

**Utah State Bar
NLTP
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4020 · NLTP Fees	46,050	38,850	56,041	(17,191)	69%	65,535	59%
4081 · CLE - Registrations	-	-	-	-	#DIV/0!	-	#DIV/0!
4200 · Seminar Profit/Loss	-	-	-	-	#DIV/0!	(893)	-
Total Revenue	46,050	38,850	56,041	(17,191)	69%	64,642	60%
Expenses							
Program Services	-	-	5,063	5,063	0%	6,750	0%
Salaries & Benefits	28,755	27,761	26,766	(995)	104%	36,980	75%
General & Administrative	15,200	13,560	14,737	1,177	92%	21,560	63%
Building Overhead	2,915	3,567	2,814	(753)	127%	3,856	92%
Total Expenses	46,870	44,888	49,380	4,492	91%	69,146	65%
Net Profit (Loss)	\$ (820)	\$ (6,038)	\$ 6,662	\$ (12,699)	-91%	\$ (4,504)	134%

**Utah State Bar
OPC
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4095 · Miscellaneous Income	3,019	700	2,415	(1,715)	29%	4,000	18%
4200 · Seminar Profit/Loss	23,053	17,026	33,348	(16,322)	51%	57,613	30%
Total Revenue	26,072	17,726	35,763	(18,037)	50%	61,613	29%
Expenses							
Program Services	4,105	7,421	6,344	(1,078)	117%	12,271	60%
Salaries & Benefits	958,296	1,007,058	1,005,118	(1,940)	100%	1,337,742	75%
General & Administrative	91,764	110,044	79,996	(30,048)	138%	117,414	94%
Building Overhead	50,697	62,024	49,049	(12,975)	126%	67,067	92%
Total Expenses	1,104,862	1,186,548	1,140,507	(46,041)	104%	1,534,494	77%
Net Profit (Loss)	\$ (1,078,790)	\$ (1,168,822)	\$ (1,104,744)	\$ (64,079)	106%	\$ (1,472,881)	79%

**Utah State Bar
CLE
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4052 · Meeting - Sponsor Revenue	11,675	33,700	15,000	18,700	225%	15,000	225%
4053 · Meeting - Vendor Revenue	-	-	-	-	#DIV/0!	-	-
4054 · Meeting - Material Sales	-	-	-	-	#DIV/0!	-	-
4081 · CLE - Registrations	165,474	282,735	190,229	92,506	149%	315,000	90%
4082 · CLE - Video Library Sales	55,886	63,162	39,868	23,294	158%	146,835	43%
4084 · Business Law Book Sales	-	-	-	-	#DIV/0!	-	-
4093 · Law Day Revenue	-	500	-	500	#DIV/0!	2,500	-
4095 · Miscellaneous Income	-	100	-	100	#DIV/0!	-	-
4200 · Seminar Profit/Loss	52,394	56,656	1,133	55,523	5001%	1,380	4105%
Total Revenue	285,430	436,852	246,230	190,622	177%	480,715	91%
Expenses							
Program Services	153,613	295,461	112,104	(183,357)	264%	219,317	135%
Salaries & Benefits	128,381	114,206	177,512	63,306	64%	242,485	47%
General & Administrative	32,202	43,209	28,585	(14,624)	151%	42,364	102%
Building Overhead	11,277	11,041	11,703	662	94%	15,310	72%
Total Expenses	325,473	463,916	329,904	(134,012)	141%	519,476	89%
Net Profit (Loss)	\$ (40,043)	\$ (27,064)	\$ (83,674)	\$ 56,610	32%	\$ (38,761)	70%

**Utah State Bar
Summer Convention
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4051 · Meeting - Registration	142,248	82,125	168,064	(85,939)	49%	168,064	49%
4052 · Meeting - Sponsor Revenue	14,750	33,700	30,000	3,700	112%	30,000	112%
4053 · Meeting - Vendor Revenue	13,800	11,300	20,600	(9,300)	55%	20,600	55%
4055 · Meeting - Sp Ev Registration	13,235	1,200	1,800	(600)	67%	1,800	67%
4095 · Miscellaneous Income	13,192	-	-	-	-	-	-
Total Revenue	197,225	128,325	220,464	(92,139)	58%	220,464	58%
Expenses							
Program Services	166,793	228,042	179,276	(48,766)	127%	179,276	127%
Salaries & Benefits	15,956	2,022	23,761	21,739	9%	25,030	8%
General & Administrative	5,109	7,939	12,118	4,179	66%	16,158	49%
Building Overhead	-	-	-	-	#DIV/0!	-	-
Total Expenses	187,858	238,003	215,154	(22,848)	111%	220,464	108%
Net Profit (Loss)	\$ 9,367	\$ (109,678)	\$ 5,310	\$ (114,987)	-2066%	\$ 0	-65806554%

**Utah State Bar
Fall Forum
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4051 · Meeting - Registration	86,005	42,875	75,994	(33,119)	56%	76,260	56%
4052 · Meeting - Sponsor Revenue	-	1,000	-	1,000	#DIV/0!	-	-
4053 · Meeting - Vendor Revenue	1,000	3,400	8,221	(4,821)	41%	8,400	40%
4055 · Meeting - Sp Ev Registration	-	-	-	-	#DIV/0!	-	-
Total Revenue	87,005	47,275	84,215	(36,940)	56%	84,660	56%
Expenses							
Program Services	21,269	72,460	69,434	(3,026)	104%	69,543	104%
Salaries & Benefits	3,413	2,060	3,467	1,407	59%	3,583	57%
General & Administrative	6,386	6,067	11,440	5,373	53%	11,534	53%
Building Overhead	-	-	-	-	#DIV/0!	-	-
Total Expenses	31,068	80,587	84,341	3,754	96%	84,660	95%
Net Profit (Loss)	\$ 55,937	\$ (33,312)	\$ (126)	\$ (33,186)	26438%	\$ -	#DIV/0!

**Utah State Bar
Spring Convention
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4051 · Meeting - Registration	51,225	81,545	78,440	3,105	104%	97,895	83%
4052 · Meeting - Sponsor Revenue	-	16,000	9,000	7,000	178%	13,500	119%
4053 · Meeting - Vendor Revenue	4,750	7,550	10,950	(3,400)	69%	10,950	69%
4055 · Meeting - Sp Ev Registration	-	1,400	1,271	129	110%	1,907	73%
Total Revenue	55,975	106,495	99,661	6,834	107%	124,252	86%
Expenses							
Program Services	1,743	93,886	52,184	(41,702)	180%	93,276	101%
Salaries & Benefits	1,110	4,362	11,380	7,018	38%	17,070	26%
General & Administrative	1,732	4,799	9,272	4,473	52%	13,906	35%
Building Overhead	-	-	-	-	#DIV/0!	-	-
Total Expenses	4,586	103,048	72,836	(30,212)	141%	124,252	83%
Net Profit (Loss)	\$ 51,389	\$ 3,447	\$ 26,825	\$ (23,378)	13%	\$ -	#DIV/0!

**Utah State Bar
Member Services
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4010 · Section/Local Bar Support fees	84,399	85,344	86,087	(743)	99%	86,087	99%
4052 · Meeting - Sponsor Revenue	-	-	-	-	#DIV/0!	-	#DIV/0!
4061 · Advertising Revenue	170,924	168,069	168,730	(661)	100%	211,916	79%
4062 · Subscriptions	30	30	15	15	200%	30	100%
4071 · Mem Benefits - Lexis	979	1,054	960	94	110%	1,279	-
4072 · Royalty Inc - Bar J, MBNA, LM,M	8,853	8,064	10,526	(2,462)	77%	11,438	71%
Total Revenue	265,185	262,533	266,318	(3,785)	99%	310,750	84%
Expenses							
Program Services	192,567	258,725	212,374	(46,351)	122%	306,471	84%
Salaries & Benefits	117,316	144,402	129,609	(14,793)	111%	173,775	83%
General & Administrative	125,149	152,924	129,349	(23,575)	118%	201,043	76%
Building Overhead	13,518	12,847	14,200	1,353	90%	18,481	70%
Total Expenses	448,550	568,898	485,533	(83,365)	117%	699,770	81%
Net Profit (Loss)	\$ (183,366)	\$ (306,365)	\$ (219,215)	\$ (87,151)	140%	\$ (389,020)	79%

**Utah State Bar
Public Services
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4063 · Modest Means revenue	8,700	6,800	7,614	(814)	89%	10,000	68%
4093 · Law Day Revenue	-	-	-	-	#DIV/0!	-	#DIV/0!
4095 · Miscellaneous Income	20	10	15	(5)	67%	20	50%
4120 · Grant Income	27,178	39,500	-	39,500	#DIV/0!	-	#DIV/0!
4200 · Seminar Profit/Loss	4,349	(6,394)	9,113	(15,507)	-70%	7,271	-
Total Revenue	40,247	39,916	16,742	23,174	238%	17,291	231%
Expenses							
Program Services	118,338	141,612	131,622	(9,990)	108%	155,087	91%
Salaries & Benefits	259,258	280,522	293,558	13,036	96%	401,716	70%
General & Administrative	38,297	56,183	40,895	(15,288)	137%	57,675	97%
Building Overhead	9,285	11,359	8,990	(2,369)	126%	12,283	92%
Total Expenses	425,179	489,677	475,065	(14,612)	103%	626,761	78%
Net Profit (Loss)	\$ (384,931)	\$ (449,762)	\$ (458,323)	\$ 8,561	98%	\$ (609,470)	74%

**Utah State Bar
Bar Operations
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4031 · Enhanced Web Revenue	-	-	-	-	-	-	-
4052 · Meeting - Sponsor Revenue	-	-	-	-	#DIV/0!	-	#DIV/0!
4053 · Meeting - Vendor Revenue	-	-	-	-	#DIV/0!	-	#DIV/0!
4060 · E-Filing Revenue	5,741	6,483	16,741	(10,258)	39%	16,741	39%
4103 · In - Kind Revenue - UDR	-	-	-	-	#DIV/0!	-	#DIV/0!
4095 · Miscellaneous Income	547	2,035	399	1,636	510%	918	222%
4200 · Seminar Profit/Loss	-	-	-	-	#DIV/0!	-	-
Investment Income	(3,021)	164,739	7,051	157,688	2336%	10,301	-29%
Total Revenue	3,267	173,257	24,191	149,066	716%	27,960	12%
Expenses							
Program Services	116,435	229,779	156,093	(73,686)	147%	201,456	114%
Salaries & Benefits	907,050	990,616	1,100,261	109,645	90%	1,462,204	68%
General & Administrative	218,039	239,146	195,124	(44,022)	123%	282,481	85%
In Kind	1,342	1,134	1,449	315	78%	1,836	62%
Building Overhead	38,195	48,627	35,479	(13,148)	137%	50,103	97%
Total Expenses	1,281,060	1,509,302	1,488,407	(20,895)	101%	1,998,080	76%
Net Profit (Loss)	\$ (1,277,793)	\$ (1,336,045)	\$ (1,464,216)	\$ 128,170	91%	\$ (1,970,120)	68%

**Utah State Bar
Facilities
March 31, 2023**

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4039 · Room Rental-All parties	27,671	41,305	36,638	4,667	113%	51,387	80%
4042 · Food & Beverage Rev-All Parties	16,060	39,351	36,521	2,830	108%	62,654	63%
4043 · Setup & A/V charges-All parties	945	1,124	701	423	160%	701	160%
4090 · Tenant Rent	13,688	14,274	14,284	(10)	100%	19,252	74%
4095 · Miscellaneous Income	-	-	-	-	#DIV/0!	-	#DIV/0!
4103 · In - Kind Revenue - UDR	-	-	-	-	#DIV/0!	-	#DIV/0!
Total Revenue	58,364	96,055	88,144	7,911	109%	133,994	72%
Expenses							
Program Services	17,632	38,356	34,986	(3,370)	110%	60,507	63%
Salaries & Benefits	112,538	120,035	134,137	14,102	89%	179,278	67%
General & Administrative	(18,057)	(23,519)	12,406	35,925	-190%	833	-2823%
In Kind	12,642	14,557	9,853	(4,704)	148%	12,927	113%
Building Overhead	126,007	119,225	137,521	18,296	87%	177,255	67%
Total Expenses	250,763	268,654	328,903	60,249	82%	430,800	62%
Net Profit (Loss)	\$ (192,399)	\$ (172,599)	\$ (240,759)	\$ 68,159	72%	\$ (296,806)	58%

Utah State Bar
Income Statement - Consolidated By Account
March 31, 2023

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
Revenue							
4001 - Admissions - Student Exam Fees	140,800	132,225	145,005	(12,780)	91%	146,421	90%
4002 - Admissions - Attorney Exam Fees	65,325	52,975	66,954	(13,979)	79%	68,697	77%
4003 - Admissions - Retake Fees	24,750	26,500	29,361	(2,861)	90%	38,199	69%
4004 - Admissions - Laptop Fees	72,055	38,130	75,152	(37,022)	51%	83,288	46%
4005 - Admissions - Application Forms	(850)	5,450	641	4,809	850%	(867)	-
4006 - Transfer App Fees	46,100	40,050	47,059	(7,009)	85%	65,994	61%
4008 - Attorney - Motion	60,350	107,950	61,486	46,464	176%	87,465	123%
4009 - House Counsel	21,250	26,350	25,500	850	103%	28,560	92%
4010 - Section/Local Bar Support fees	102,279	102,492	104,268	(1,776)	98%	104,439	98%
4011 - Admissions LPP	950	1,200	911	289	132%	1,739	69%
4012 - Admissions Military Spouse	-	-	-	-	#DIV/0!	-	#DIV/0!
4020 - NLTP Fees	46,050	41,250	56,041	(14,791)	74%	65,535	63%
4021 - Lic Fees > 3 Years	3,811,030	3,831,800	3,909,585	(77,785)	98%	3,932,691	97%
4022 - Lic Fees < 3 Years	196,365	195,330	219,634	(24,304)	89%	231,657	84%
4023 - Lic Fees - House Counsel	49,615	53,380	54,120	(740)	99%	56,901	94%
4024 - Lic Fees LPP	3,600	3,850	2,874	976	134%	3,672	105%
4025 - Pro Hac Vice Fees	148,450	137,750	157,827	(20,077)	87%	227,384	61%
4026 - Lic Fees - Inactive/FS	117,815	119,845	120,680	(835)	99%	120,987	99%
4027 - Lic Fees - Inactive/NS	221,550	222,810	225,789	(2,979)	99%	227,348	98%
4029 - Prior Year Lic Fees	-	-	-	-	#DIV/0!	-	#DIV/0!
4030 - Certs of Good Standing	14,540	14,880	17,900	(3,020)	83%	23,440	63%
4039 - Room Rental-All parties	27,671	41,305	36,638	4,667	113%	51,387	80%
4042 - Food & Beverage Rev-All Parties	16,060	39,351	36,521	2,830	108%	62,654	63%
4043 - Setup & A/V charges-All parties	945	1,124	701	423	160%	701	160%
4051 - Meeting - Registration	279,478	206,545	322,498	(115,953)	64%	342,219	60%
4052 - Meeting - Sponsor Revenue	26,425	84,400	54,000	30,400	156%	58,500	144%
4053 - Meeting - Vendor Revenue	19,550	22,250	39,771	(17,521)	56%	39,950	56%
4054 - Meeting - Material Sales	-	-	-	-	#DIV/0!	-	-
4055 - Meeting - Sp Ev Registration	13,235	2,600	3,071	(471)	85%	3,707	70%
4060 - E-Filing Revenue	5,741	6,483	16,741	(10,258)	39%	16,741	39%
4061 - Advertising Revenue	170,924	168,209	168,822	(613)	100%	212,038	79%
4062 - Subscriptions	30	30	15	15	200%	30	100%
4063 - Modest Means revenue	8,700	6,800	7,614	(814)	89%	10,000	68%
4071 - Mem Benefits - Lexis	979	1,054	960	94	110%	1,279	-
4072 - Royalty Inc - Bar J, MBNA, LM,M	8,853	8,064	10,526	(2,462)	77%	11,438	71%
4081 - CLE - Registrations	165,474	282,935	190,229	92,706	149%	315,000	90%
4082 - CLE - Video Library Sales	55,886	63,162	39,868	23,294	158%	146,835	43%
4090 - Tenant Rent	13,688	14,274	14,284	(10)	100%	19,252	74%
4093 - Law Day Revenue	-	500	-	500	#DIV/0!	2,500	20%
4095 - Miscellaneous Income	20,743	6,730	6,328	402	106%	10,211	66%
4096 - Late Fees	96,350	81,100	97,036	(15,936)	84%	102,450	79%
4103 - In - Kind Revenue - UDR	-	-	-	-	#DIV/0!	-	#DIV/0!
4200 - Seminar Profit/Loss	79,797	67,259	43,594	23,665	154%	65,371	103%
Investment income	(3,021)	164,739	7,051	157,688	2336%	10,301	1599%
Total Revenue	6,149,532	6,423,131	6,417,055	6,076	100%	6,996,114	92%
Program Service Expenses							
5001 - Meeting Facility-external only	37,340	129,130	35,739	(93,391)	361%	45,840	282%
5002 - Meeting facility-internal only	12,626	17,685	18,026	341	98%	26,020	68%
5013 - ExamSoft	32,816	17,623	33,527	15,904	53%	33,764	52%
5014 - Questions	45,386	73,983	66,579	(7,404)	111%	73,183	101%
5015 - Investigations	1,425	704	1,397	693	50%	1,600	44%
5016 - Credit Checks	1,350	922	1,230	308	75%	2,364	39%
5017 - Medical Exam	480	320	800	480	40%	800	-
5020 - Exam Scoring	-	-	-	-	#DIV/0!	-	-
5025 - Temp Labor/Proctors	90	3,522	91	(3,431)	3870%	90	3913%
5030 - Speaker Fees & Expenses	14,159	43,393	6,465	(36,928)	671%	12,887	337%
5031 - Speaker Reimb. - Receipt Req'd	-	1,367	10,203	8,836	13%	13,170	10%
5035 - Awards	8,455	11,093	2,520	(8,573)	440%	3,770	294%
5037 - Grants/ contributions - general	9,000	38,000	12,000	(26,000)	317%	18,500	205%
5040 - Witness & Hearing Expense	385	338	382	44	89%	389	87%
5041 - Process Serving	607	470	522	52	90%	607	77%
5046 - Court Reporting	15	30	16	(14)	188%	15	200%
5047 - Casemaker	40,755	38,157	36,585	(1,572)	104%	49,999	76%
5055 - Legislative Expense	45,000	47,134	45,000	(2,134)	105%	60,000	79%
5060 - Program Special Activities	4,581	-	-	-	#DIV/0!	-	-
5061 - LRE - Bar Support	64,182	60,000	64,182	4,182	93%	64,182	93%
5062 - Law Day	202	595	150	(445)	397%	9,400	6%
5063 - Special Event Expense	27,166	49,747	15,710	(34,037)	317%	21,223	234%
5064 - MCLE Fees Paid	37,127	27,230	33,900	6,670	80%	52,681	52%
5070 - Equipment Rental	7,258	9,718	38,732	29,014	25%	40,119	24%
5075 - Food & Bev-external costs only	161,219	382,203	235,228	(146,975)	162%	307,857	124%
5076 - Food & beverage - internal only	11,457	25,385	19,059	(6,326)	133%	32,964	77%
5079 - Soft Drinks	3,134	4,434	4,185	(249)	106%	5,680	78%
5085 - Misc. Program Expense	1,645	3,886	2,456	(1,431)	158%	2,890	134%
5090 - Commission Expense	24,495	28,764	25,452	(3,312)	113%	37,456	77%
5095 - Wills for Heroes	810	917	938	21	98%	1,250	73%
5096 - UDR Support	-	-	-	-	#DIV/0!	-	-
5099 - Blomquist Hale	67,236	101,679	67,500	(34,179)	151%	90,000	113%
5702 - Travel - Lodging	28,465	49,311	38,848	(10,464)	127%	51,020	97%
5703 - Travel - Transportation/Parking	7,328	29,378	9,924	(19,454)	296%	14,162	207%
5704 - Travel - Mileage Reimbursement	4,802	10,409	6,420	(3,989)	162%	8,886	117%
5705 - Travel - Per Diems	3,190	5,590	2,806	(2,784)	199%	4,327	129%
5706 - Travel - Meals	-	-	938	938	0%	1,250	0%
5707 - Travel - Commission Mtgs	37,945	63,935	39,375	(24,560)	162%	52,500	122%
5805 - ABA Annual Meeting	300	4,107	3,130	(978)	131%	4,173	98%
5810 - ABA Mid Year Meeting	2,738	4,780	6,004	1,223	80%	8,005	60%
5815 - Commission/Education	11,775	1,400	14,625	13,225	10%	19,500	7%
5820 - ABA Annual Delegate	1,234	7,019	4,950	(2,069)	142%	6,600	106%
5830 - Western States Bar Conference	1,505	7,526	6,719	(807)	112%	8,959	84%
5840 - President's Expense	13,500	13,000	15,003	2,003	87%	20,000	65%
5841 - President's Reimbursement	-	-	-	-	#DIV/0!	-	#DIV/0!
5845 - Reg Reform Task Force	-	-	-	-	#DIV/0!	-	-
5850 - Leadership Academy	8,056	9,664	7,653	(2,011)	128%	10,200	95%
5855 - Bar Review	3,490	53	-	(53)	#DIV/0!	-	#DIV/0!
5865 - Retreat	21,944	35,939	24,975	(10,964)	144%	33,300	108%
5866 - Wellbeing Committee	48,125	92,522	58,020	(34,502)	159%	76,311	121%

Utah State Bar
Income Statement - Consolidated By Account
March 31, 2023

	Actual LYTD	Actual YTD	Budget YTD	Fav (Unfav) variance	% of Budget	Total Budget	YTD % of Tot Budget
5867 - Bar Membership Survey	7,750	7,750	-	(7,750)	#DIV/0!	-	#DIV/0!
5868 - UCL Support	-	1,000	-	(1,000)	#DIV/0!	-	#DIV/0!
5960 - Overhead Allocation - Seminars	-	-	12,967	12,967	0%	17,115	0%
5970 - Event Revenue Sharing - 3rd Pty	30,084	38,418	24,312	(14,106)	158%	62,273	62%
Total Program Service Expenses	892,632	1,526,380	1,085,241	(441,140)	141%	1,437,281	105%
Salaries & Benefit Expenses							
5510 - Salaries/Wages	2,207,862	2,345,087	2,500,629	155,542	94%	3,326,637	70%
5605 - Payroll Taxes	175,600	181,587	201,779	20,192	90%	272,485	67%
5610 - Health Insurance	202,715	203,614	225,471	21,857	90%	305,955	67%
5620 - Health Ins/Medical Reimb	4,550	4,360	5,490	1,130	79%	6,728	65%
5630 - Dental Insurance	11,819	11,813	13,349	1,535	88%	18,527	64%
5640 - Life & LTD Insurance	14,225	14,573	17,732	3,158	82%	23,819	61%
5645 - Workman's Comp Insurance	2,097	1,675	2,956	1,281	57%	2,961	57%
5650 - Retirement Plan Contributions	185,868	199,315	226,749	27,433	88%	311,428	64%
5655 - Retirement Plan Fees & Costs	4,730	4,348	7,463	3,115	58%	14,000	31%
5660 - Training/Development	5,727	3,833	6,955	3,122	55%	7,004	55%
Total Salaries & Benefit Expenses	2,815,193	2,970,205	3,208,573	238,368	93%	4,289,544	66%
General & Administrative Expenses							
7025 - Office Supplies	13,822	13,019	12,256	(763)	106%	18,127	72%
7015 - Office Equip Repairs	-	-	-	-	#DIV/0!	-	#DIV/0!
7033 - Operating Meeting Supplies	2,006	2,038	7,572	5,534	27%	8,700	23%
7035 - Postage/Mailing, net	27,116	22,165	55,010	32,845	40%	49,646	45%
7040 - Copy/Printing Expense	95,143	103,339	117,263	13,923	88%	152,187	68%
7041 - Copy/Print revenue	(12,915)	(12,299)	(15,242)	(2,943)	81%	(18,595)	66%
7045 - Internet Service	16,145	19,974	15,345	(4,629)	130%	17,961	111%
7050 - Computer Maintenance	49,688	158,095	78,551	(79,544)	201%	143,658	110%
7055 - Computer Supplies & Small Equip	20,132	15,826	16,343	517	97%	20,989	75%
7089 - Membership Database Fees	40,312	42,744	57,056	14,312	75%	84,285	51%
7095 - Fax Equip & Supplies	(140)	-	(140)	-	0%	(140)	-
7100 - Telephone	45,014	49,206	50,453	1,247	98%	63,519	77%
7105 - Advertising	5,584	17,007	7,175	(9,832)	237%	45,444	37%
7106 - Public Notification	-	-	-	-	#DIV/0!	-	#DIV/0!
7107 - Production Costs	2,500	4,607	5,324	717	67%	7,500	61%
7110 - Publications/Subscriptions	19,467	18,496	19,071	575	97%	26,874	69%
7115 - Public Relations	-	-	-	-	#DIV/0!	-	#DIV/0!
7120 - Membership/Dues	15,429	21,851	14,716	(7,135)	148%	17,117	128%
7135 - Bank Service Charges	453	578	546	(32)	106%	800	72%
7136 - ILM Service Charges	16,245	15,538	15,930	392	98%	20,541	76%
7138 - Bad debt expense	-	-	-	-	#DIV/0!	-	-
7140 - Credit Card Merchant Fees	53,216	55,744	54,289	(1,455)	109%	122,848	45%
7141 - Credit Card surcharge	(21,957)	(19,632)	(23,631)	(3,999)	83%	(66,551)	29%
7145 - Commission Election Expense	3,013	3,050	3,013	(37)	101%	3,013	101%
7150 - E&O/Off & Dir Insurance	44,347	52,791	42,669	(10,122)	124%	56,894	93%
7160 - Audit Expense	38,143	41,031	38,143	(2,888)	108%	38,143	108%
7170 - Lobbying Rebates	61	55	161	105	34%	214	26%
7175 - O/S Consultants	76,798	14,263.48	9,277	(4,986)	154%	9,461	151%
7176 - Bar Litigation	16,130	22,743	7,138	(15,605)	81%	10,000	227%
7177 - UPL	-	10,434	-	(10,434)	#DIV/0!	20,000	52%
7178 - Offsite Storage/Backup	-	-	-	-	#DIV/0!	-	#DIV/0!
7179 - Payroll Adm Fees	2,212	2,858	2,225	(633)	128%	2,973	98%
7180 - Administrative Fee Expense	1,335	1,250	1,205	(45)	104%	1,580	79%
7190 - Lease Interest Expense	-	2,437	273	(2,164)	893%	364	699%
7191 - Lease Sales Tax Expense	-	-	-	-	#DIV/0!	-	#DIV/0!
7195 - Other Gen & Adm Expense	15,047	9,462	13,025	3,563	73%	16,019	59%
Total General & Administrative Expenses	584,345	688,672	605,014	(83,657)	114%	\$73,571	67%
In Kind Expenses							
7103 - InKind Contrib-UDR & all other	13,984	15,691	11,302	(4,389)	139%	14,763	106%
Total In Kind Expenses	13,984	15,691	11,302	(4,389)	139%	14,763	95%
Building Overhead Expenses							
6015 - Janitorial Expense	21,062	23,935	19,838	(4,097)	121%	26,681	90%
6020 - Heat	17,079	22,002	16,993	(5,009)	129%	22,269	99%
6025 - Electricity	32,349	33,187	33,152	(35)	100%	43,987	75%
6030 - Water/Sewer	4,604	6,117	4,911	(1,207)	125%	6,142	100%
6035 - Outside Maintenance	13,416	21,416	11,281	(10,134)	190%	17,290	124%
6040 - Building Repairs	17,681	10,745	24,443	13,698	44%	25,872	42%
6045 - Bldg Mtncn Contracts	19,590	19,281	20,174	892	96%	28,065	69%
6050 - Bldg Mtncn Supplies	-	-	-	-	#DIV/0!	-	#DIV/0!
6055 - Real Property Taxes	25,540	22,073	27,360	5,287	81%	35,074	63%
6060 - Personal Property Taxes	280	328	279	(49)	118%	387	85%
6065 - Bldg Insurance/Fees	15,750	17,312	16,016	(1,296)	108%	21,355	81%
6070 - Building & Improvements Depr	62,461	64,322	59,869	(4,453)	107%	80,543	80%
6075 - Furniture & Fixtures Depr	2,040	6,546	2,797	(3,749)	234%	4,198	156%
7065 - Computers, Equip & Sftwre Depr	41,433	47,592	43,468	(4,125)	109%	60,781	78%
Total Building Overhead Expenses	273,285	294,859	280,580	(14,279)	105%	372,644	73%
Total Expenses	4,579,439	5,495,806	5,190,710	(305,097)	106%	6,987,803	66%
Other							
4300 - Gain (Loss) - Disposal Of Assets	-	-	-	-	#DIV/0!	-	#DIV/0!
4120 - Grant Income	27,178	39,500	-	(39,500)	#DIV/0!	-	#DIV/0!
	27,178	39,500	-	(39,500)	#DIV/0!	-	#DIV/0!
Net Profit (Loss)	\$ 1,597,272	\$ 966,824.72	\$ 1,226,345	\$ (259,521)	79%	\$ 8,311	11633%

Utah State Bar Balance Sheets

	3/31/2023	6/30/2022
ASSETS		
Current Assets		
Petty Cash	\$ 625	\$ 625
Cash in Bank	446,624	1,278,654
Invested Funds	5,996,710	7,371,903
Total Cash/Investments	6,443,959	8,651,182
Accounts Receivable	42,475	97,588
Prepaid Expenses	308,982	241,574
A/R - Sections	71,275	48,211
Total Other Current Assets	422,732	387,373
Total Current Assets	6,866,691	9,038,555
Fixed Assets		
Property & Equipment	5,144,368	5,073,034
Accumulated Depreciation	(4,376,835)	(4,328,468)
Land	633,142	633,142
Total Fixed Assets	1,400,675	1,377,707
TOTAL ASSETS	\$ 8,267,366	\$ 10,416,263
LIABILITIES & EQUITY		
Liabilities		
Current Liabilities		
AP Trade	\$ 149,443	\$ 203,619
Other Accounts Payable	38,389	141,552
Accrued Payables	500,556	454,417
Cap Lease Oblig - ST	1,271	4,112
A/P - Sections	2,425	210,495
Deferred Revenue	2,880	2,684,077
Total Current Liabilities	694,964	3,698,272
Long Term Liabilities		
Capital Lease Oblig	9,608	(4,255)
Total Long Term Liabilities	9,608	(4,255)
Total Liabilities	704,572	3,694,016
Equity		
Unrestricted Net Assets (R/E)	6,602,126	6,528,232
Fund Balance - Current Year	960,668	194,014
Total Equity	7,562,794	6,722,247
TOTAL LIABILITIES & EQUITY	\$ 8,267,366	\$ 10,416,263

Balance Sheet Classification

Base Currency: USD As of 03/31/2023

ILM-UT ST BAR (3176)

Dated: 04/12/2023

CE

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
38141W273	GOLDMAN:FS GOVT INST	1,328,943.51	AAA	4.720	03/31/2023	4.720	4.720	1,328,943.51	0.00	1,000.00	0.00	1,328,943.51
CCYUSD	Cash	5,708.58	AAA	0.000	03/31/2023	0.000	0.000	5,708.58	0.00	1,000.00	0.00	5,708.58
---	---	1,334,652.09	AAA	---	03/31/2023	4.700	4.700	1,334,652.09	0.00	1,000.00	0.00	1,334,652.09

ST

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
064159VK9	BANK OF NOVA SCOTIA	164,000.00	A	1.625	05/01/2023	0.356	5.107	164,172.15	-650.70	99.7082	1,110.42	164,631.86
064159VK9	BANK OF NOVA SCOTIA	75,000.00	A	1.625	05/01/2023	0.351	5.107	75,079.07	-297.92	99.7082	507.81	75,288.96
74368CB99	PROTECTIVE LIFE GLOBAL FUNDING	167,000.00	AA-	0.502	04/12/2023	0.451	5.390	167,002.59	-252.25	99.8505	393.55	167,143.89
87165EUF2	Synchrony Bank	250,000.00	BBB	0.400	09/18/2023	0.450	0.449	249,941.62	0.00	99.9766	41.67	249,983.29
05580AD92	BMW Bank of North America	250,000.00	AA-	0.350	09/25/2023	0.400	0.400	249,939.22	0.00	99.9757	19.18	249,958.40
90348JT34	UBS Bank USA	250,000.00	A+	0.350	09/22/2023	0.400	0.400	249,940.41	0.00	99.9762	23.97	249,964.38
795451AU7	Sallie Mae Bank	250,000.00	BBB+	0.350	09/22/2023	0.400	0.400	249,940.41	0.00	99.9762	23.97	249,964.38
38149MZK4	Goldman Sachs Bank USA	250,000.00	A+	0.350	09/22/2023	0.400	0.400	249,940.41	0.00	99.9762	23.97	249,964.38
538036SD7	Live Oak Banking Company	250,000.00	NA	0.250	10/02/2023	0.300	0.300	249,938.81	0.00	99.9747	53.08	249,989.90
48133DE71	JPMORGAN CHASE FINANCIAL COMPANY LLC	200,000.00	A+	2.500	05/01/2023	2.500	6.428	200,000.00	-862.40	99.6688	2,111.11	201,448.71
38150AMC6	GOLDMAN SACHS GROUP INC	250,000.00	A	3.000	06/13/2023	3.049	6.803	249,976.91	-1,836.91	99.2560	2,875.00	251,015.00
64952WDP5	NEW YORK LIFE GLOBAL FUNDING	300,000.00	AAA	1.100	05/05/2023	3.248	5.047	299,404.31	-523.61	99.6269	1,338.33	300,219.03
78014RGL8	ROYAL BANK OF CANADA	250,000.00	A+	4.000	11/30/2023	4.004	5.081	250,000.00	-1,763.75	99.2945	861.11	249,097.36
3130ASR6	FEDERAL HOME LOAN BANKS	1,000,000.00	AAA	3.000	07/14/2023	4.169	5.060	996,901.44	-2,508.44	99.4393	1,416.67	995,809.67
3133ENY87	FEDERAL FARM CREDIT BANKS FUNDING CORP	500,000.00	AAA	5.050	11/09/2023	5.050	5.310	500,000.00	-792.50	99.8415	9,959.72	509,167.22
---	---	4,406,000.00	AA-	---	08/11/2023	2.429	3.679	4,402,175.35	-8,288.48	---	20,759.57	4,413,646.44

LT

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
525ESC1Y5	LEHMAN ESCROW	300,000.00	NA	0.000	01/01/2049	---	1,937.655	0.00	600.00	0.2000	0.00	600.00
89114X2E2	TORONTO-DOMINION BANK	250,000.00	A+	3.300	05/24/2024	4.232	6.008	251,879.10	-4,915.60	98.7854	847.92	247,811.42
---	---	550,000.00	A+	---	06/15/2024	4.232	10.673	251,879.10	-4,315.60	---	847.92	248,411.42

Summary

Identifier	Description	Current Units	Rating	Coupon	Effective Maturity	Book Yield	Yield	Base Book Value	Base Net Total Unrealized Gain/Loss	Market Price	Base Accrued Balance	Base Market Value + Accrued
---	---	6,290,652.09	AA	---	07/25/2023	3.009	4.196	5,988,706.54	-13,604.09	---	21,607.49	5,996,709.95

* Grouped by: BS Class 2. * Groups Sorted by: Base Market Value + Accrued, except Book Yield by Base Book Value + Accrued. * Holdings Displayed by: Lot.

UTAH STATE BAR
Membership Statistics
March 31, 2023

<u>STATUS</u>	<u>03/31/22</u>	<u>03/31/23</u>	<u>Change</u>
Active	8,957	9,014	57
Active under 3 years	830	882	52
Active Emeritus	270	301	31
In House Counsel	115	127	12
Foreign Legal Counsel	4	4	-
LPP	18	25	7
Military Spouse	-	-	-
Subtotal - Active	10,194	10,353	159
Inactive - Full Service	808	834	26
Inactive - No Service	2,059	2,072	13
Inactive Emeritus	418	472	54
Inactive House Counsel	10	12	2
Inactive LPP	-	-	-
Subtotal - Inactive	3,295	3,390	95
Total Active and Inactive	13,489	13,743	254
<u>Supplemental Information</u>			
Paralegals	156	147	(9)
<u>Active Attorneys by Region</u>			
1st Division (Logan - Brigham)	205	210	5
2nd Division (Davis - Weber)	999	1,013	14
3rd Division (Salt Lake)	5,559	5,588	29
4th Division (Utah)	1,393	1,412	19
5th Division (Southern Utah)	564	583	19
Out of State	1,474	1,547	73
Total Active Attorneys	10,194	10,353	159

OFFICE OF PROFESSIONAL CONDUCT

ANNUAL REPORT February 2023



INTRODUCTION

This report on the Office of Professional Conduct (“OPC”) will focus on the following areas: (I) staff composition; (II) Lawyer misconduct case process and procedure; (III) statistics for January 1, 2022 to December 31, 2022 (“year 2022”); (IV) progress and goals on cases; (V) performance metrics; and (VI) goals for January 1, 2023 to December 31, 2023 (“year 2023”).

Rule 11-501, as part of Article 5 of the Utah Supreme Court Rules of Professional Practice, authorizes the OPC Oversight Committee that reports to the Utah Supreme Court. This rule makes clear that the OPC is under the administrative oversight of that Committee.

The OPC Oversight Committee is required to have five voting members, including at least one judge, one member of the public, and one past chair or vice-chair of the Ethics and Discipline Committee. At least one of the members must have an accounting background. The Executive Director of the Bar is an ex-officio, non-voting member of the OPC Oversight Committee. The current voting members of the OPC Oversight Committee are:

- Art Berger – Chair, Attorney
- Margaret Plane – Attorney
- Judge Laura Scott – Third District Court
- Roger Smith – Accountant
- Magistrate Judge Brooke Wells – United States District Court for the District of Utah

The OPC has a separate website independent of the Bar at opcutah.org. The website is designed to provide the ease of obtaining information in the following specific areas: the purpose of the OPC, annual report archives, OPC directory, rules, filing a

Complaint, case status update, Lawyer public discipline, disciplinary history requests, OPC speaker requests, and OPC contacts.

In addition to the regulation of attorneys for professional misconduct, the Utah Supreme Court has promulgated Rules Governing Licensed Paralegal Practitioners (“LPPs”). The OPC also has regulatory authority over LPPs. LPPs are included in the definition of “Lawyer” for regulation so references in this report will be to “Lawyer” rather than “Attorney” to reflect the change of regulation of LPPs^A. Currently there are 27 LPPs who are licensed to practice in Utah (26 active and one suspended for non-payment of their license fees). The OPC did not have any cases regarding LPPs in this reporting period.

I. STAFF COMPOSITION

The staff for year 2022 consisted of 12 full-time employees. These 12 full-time employees include Chief Disciplinary Counsel, a Deputy Chief Disciplinary Counsel, four Assistant Disciplinary Counsel, four Paralegals^B, one Investigator, and one Intake Secretary.

II. LAWYER MISCONDUCT CASE PROCESS AND PROCEDURE

A) Rules

The Utah Supreme Court rules are set forth in its Rules of Professional Practice related to the Discipline, Disability and Sanctions Rules (“RDDS”) and are in Chapter 11, Article 5 regarding Lawyers and Chapter 15 regarding LPPs specifically. Rules 11-520

^A Rule 11-502(k) defines Lawyer to include those licensed to practice law in any jurisdiction in the United States, foreign legal consultants and LPPs. Since status as a Lawyer is based on licensing, the sanction of Disbarment is referred to as Delicensure and a readmission from Disbarment/Delicensure is referred to as Relicensure.

^B Additionally, the OPC is employing a part-time paralegal, however, this employment will end June 30 of year 2023.

and 11-521 of the RDDS are the overall authority for the OPC and Chief Disciplinary Counsel as head of the OPC.

B) Ethics and Discipline Committee

Pursuant to Rule 11-510 of the RDDS, a minimum of 21 and a maximum of 25 Lawyers and a minimum of four to a maximum of eight non-Lawyers are appointed by the Utah Supreme Court to serve on an administrative body called the Ethics and Discipline Committee (“Committee”). The Committee’s function is to consider Lawyer discipline cases that are appropriately referred to it under the RDDS.

The Utah Supreme Court appoints a paid full-time Committee Chair; the remaining Committee members are appointed as volunteers. Of the Lawyer members, three to four are designated as Committee Vice-Chairs. The Committee Chair is responsible for the oversight of the Committee and the Committee Vice-Chairs assist the Committee Chair in this task. The remaining Lawyers and non-Lawyers do their main work in subcommittees called Screening Panels. A Chair and a Vice-Chair is appointed to each Screening Panel. The year 2022 composition of the Committee was as follows:

Christine T. Greenwood, Chair, Ethics and Discipline Committee

Katherine E. Venti (Parsons Behle & Latimer), Vice-Chair, Ethics and Discipline Committee

Mark F. James (James Dodge Russell & Stephens, PC), Vice-Chair, Ethics and Discipline Committee

Bryan J. Pattison (Blanchard Pattison LLC), Vice-Chair, Ethics and Discipline Committee

Brady Whitehead, Clerk, Ethics and Discipline Committee

Panel A

J. Gregory Hardman (Snow Jensen & Reece), Chair
 Kimberly A. Neville (Dorsey & Whitney LLP), Vice-Chair
 Matthew J. Hansen (Davis County Attorney's Office)
 Beth E. Kennedy (Zimmerman Booher)
 Derek Williams (Campbell Williams Ference & Hall)
 Jonathan Bone, Public Member
 Sarah Sandberg, Public Member

Panel B

Lara Swensen (James Dodge Russell & Stephens PC), Chair
 Cassie J. Medura (Jennings & Medura, LLC), Vice-Chair
 Michael C. Barnhill (Michael Best & Friedrich, LLP)
 J. Thomas Beckett (Parsons Behle & Latimer)
 Lynda L. Viti (Utah Attorney General's Office)
 Joel Campbell, Public Member
 Daphne Williams, Public Member

Panel C

Kasey L. Wright (Wright Law Firm, PC), Chair
 Jennifer Fraser Parrish (Magleby Cataxinos & Greenwood PC), Vice-Chair
 Debra M. Nelson (Utah Indigent Defense Services)
 Scott R. Sabey (Fabian VanCott)
 Mitchell A. Stephens (James Dodge Russell & Stephens PC)
 William D. Johnson, Public Member
 Kari Stuart Jones, Public Member

Panel D

Mark E. Hindley (Stoel Rives, LLP), Chair
 David W. Tufts (Dentons Durham Jones Pinegar PC), Vice-Chair
 Darcy Goddard (Salt Lake County District Attorney's Office)
 Ruth J. Hackford-Peer (US Attorney's Office)
 Robert R. Harrison (Stilling & Harrison PLLC)
 Charles Haussler, Public Member
 Jane Olsen, Public Member

The majority of Screening Panel work is done by conducting hearings. The Screening Panel hearings must be presided over by either the Screening Panel Chair or the Screening Panel Vice-Chair. All Panel hearings must have five members present.

C) How the OPC Addresses Information That Comes to Its Attention

Specifically addressing the processing of cases, the pertinent provisions of Rule 11-521(a) of the RDDS state that OPC has the power and duty to:

- (1) Screen all information coming to the attention of the OPC to determine whether it is within the jurisdiction of the OPC in that it relates to misconduct by a Lawyer or to the incapacity of a Lawyer;
- (2) Investigate all information coming to the attention of the OPC which, if true, would be grounds for discipline or transfer to disability status and investigate all facts pertaining to petitions for reinstatement or relicensure;
- (3) Choose to dismiss, decline to prosecute, refer non-frivolous and substantial Complaints to the Committee for hearing, or petition the District Court for transfer to disability status;
- (4) Prosecute before the Screening Panels, the District Courts and the Supreme Court all disciplinary cases and proceedings for transfer to or from disability status.

Pursuant to Rule 11-530 of the RDDs, a person can start a Complaint by delivering it to the OPC in hard copy or electronic form, or through the OPC's website at opcutah.org. The Complaint must be signed by the Complainant, include his/her address and contain an unsworn declaration as to the accuracy of the information contained in the Complaint. If the OPC receives information that does not have the unsworn declaration requirement, the OPC notifies the Complainant that this is needed. The substance of the Complaint does not have to be in any particular form, however, the OPC does provide a form that can be used through its website.

Additionally, pursuant to Rule 11-521(a) and Rule 11-530 of the RDDs, the OPC can start Lawyer misconduct investigations and Complaints on its own initiative based on information that comes to its attention. The most common circumstance where this happens is when the OPC reviews information that has been disseminated through the media or is part of a published court case. The OPC categorizes these cases as Media/Court. Other circumstances where the OPC becomes the Complainant is where information is submitted by a judge where the judge does not want to be the Complainant, or where the Complainant stops cooperating and there is enough information to proceed.

An OPC initiated Complaint filing is complete when OPC delivers the Complaint to the Lawyer in hard copy or electronic form. The OPC initiated Complaint does not have to have an unsworn declaration.

1) **Summary Review**

Process

The OPC's Summary Review is staffed by three attorneys who are assigned to review all Complaints received to determine whether the matter should be appropriately closed by a declination to prosecute or a dismissal, or whether the matter should be processed for further investigation. The criteria used is looking at the "four corners" of the Complaint: whether OPC has jurisdiction, whether the Complaint states a claim, whether the Complaint lacks merit in that the alleged conduct even if true is not an ethical violation, or whether the matter should be addressed in another forum. This criteria, including the other forum review, looks at the totality of the allegations presented by the Complaint and determines the likelihood that evidence can be produced to find by a preponderance that there has been a violation of the Rules of Professional Conduct for sanctions.

The OPC at the end of this Summary Review will summarily dismiss the case if this criteria is not met. There is no need to contact the Lawyer for information. Both the Complainant and the Lawyer receive a dismissal letter and a copy of the Complaint is sent to the Lawyer. Summary Review dismissals are not reviewed at weekly case meetings described below, however, Complainants have a right to appeal Summary Review dismissals as detailed below.

Based upon the Summary Review criteria, if the Complaint cannot be dismissed without, at minimum a response from the Lawyer or other documentation, the Complaint moves to OPC's further investigation stage. The case is kept and proceeds like other

investigative cases where responses are needed as described below.

2) **Investigations**

Complaints not resolved by Summary Review and the further decisions made on these cases are made jointly by the OPC attorneys at weekly staff meetings. Therefore, notwithstanding individual case assignments, all the attorneys in the office are actually involved in the investigation and prosecution decisions of most of the cases received by the OPC.

Preliminary Investigation

For Complaints that are not dismissed through the Summary Review process, the OPC conducts a preliminary investigation. The preliminary investigation is to ascertain whether the Complaint is sufficiently clear as to the allegations. If it is not, the OPC will seek additional facts from the Complainant. Thereafter, the OPC will usually proceed to obtain an informal response from the Lawyer.

Settlement

At any point during the investigation, the OPC is willing to conduct settlement discussions with the Lawyer; however, once the OPC files an Action as explained below, by policy the OPC will not conduct settlement discussions until an Answer is made to that Action.

Notice

After the preliminary investigation and the request for informal responses, if the OPC determines that an official response is needed from the Lawyer to reach an appropriate resolution of the Complaint in accordance with the RDDS, including the possibility of a Screening Panel hearing, the OPC will serve on the Lawyer a "Notice." The Notice will contain a true copy of the signed Complaint. The Notice will also identify

with particularity the possible violations of the Rules of Professional Conduct raised by the Complaint as preliminarily determined by the OPC. The Lawyer has 21 days after service of the Notice to file with the OPC a written and signed answer setting forth in full an explanation of the facts surrounding the Complaint, together with all defenses and responses to the claims of possible misconduct.

The OPC sends the Complainant a copy of the Lawyer's response to the Notice and, in most cases, continues its investigation by obtaining a reply from the Complainant to the Lawyer's response. Further, where appropriate to ascertain the facts necessary to assess the charges, the OPC will seek additional responses and/or contact witnesses. The OPC always examines all documents submitted by all participants. Upon completion of the investigation as outlined above, the OPC determines whether the Complaint sets forth facts which by their very nature should be brought before a Screening Panel or if good cause otherwise exists to bring the matter before a Screening Panel. These are "non-frivolous" and "substantial" Complaints within the meaning of RDDS 11-521(a)(3) and are required to be presented to Screening Panels consistent with RDDS 11-530(e).

Dismissal/Declination to Prosecute

If upon completion of this investigation the OPC determines that the Complaint is not substantial or is frivolous (i.e., the factual allegations made by the Complainant that can be proven do not constitute a violation of the Rules of Professional Conduct or the evidence is insufficient to establish probable cause that the Lawyer violated the Rules of Professional Conduct), the OPC dismisses the Complaint consistent with RDDS 11-530(g)(1). Additionally, as part of its dismissal authority, consistent with the language in Rule 11-530(g)(1) of the RDDS, the OPC can determine that a Complaint is barred by the statute of limitations based on discovery of the acts allegedly constituting a violation of

the Rules of Professional Conduct, or is more adequately addressed in another forum, or the OPC can decline to prosecute a Complaint.

The OPC does not arbitrarily decide to decline to prosecute a Complaint. Occasionally, due to the nature of a Complaint (i.e., the remedy sought by a Complainant; ongoing proceedings and the possible disruption of those proceedings that a disciplinary case could have; the OPC resources needed to process a Complaint compared to the OPC resources needed if the matters are first addressed elsewhere), it is in everyone's best interests to resolve the disciplinary matter by declining to prosecute the Complaint. Generally, the OPC standards for declining to prosecute Complaints are as follows:

- The OPC may decline to prosecute Complaints where there is a question as to the nexus between the allegations and the Lawyer's practice.
- The OPC may decline to prosecute Complaints where the Lawyer has already been disciplined in a Lawyer discipline matter for similar misconduct committed during the same period. In these Complaints, it is unlikely the misconduct will result in discipline greater than what has already been imposed in a Lawyer discipline matter.
- The OPC may decline to prosecute Complaints where the Lawyer has taken immediate action to remedy the alleged misconduct and that remedy has likely negated a violation of the Rules of Professional Conduct.
- The OPC may decline to prosecute a Complaint by a referral to the Professionalism Counseling Board. The Professionalism Counseling Board is a Utah Supreme Court Committee charged with addressing violations of the Standards of Professionalism and Civility set forth in Chapter 14, Article 3 of the Utah Supreme Court Rules of Professional Practice.

3) **Diversions**

Diversion is an alternative to discipline that is entered into by agreement in Lawyer discipline cases. Pursuant to Rule 11-550 to 11-555 of the RDDS, diversions are authorized as a resolution of a Lawyer discipline matter. If the Lawyer consents to a Diversion Agreement, the OPC may dismiss Complaints involving minor violations of the Rules of Professional Conduct. The specific types of Complaints that are not appropriate for diversion are: when the Lawyer is accused of misappropriating client funds; the Lawyer's behavior will, or is likely to, result in substantial prejudice to a client or other person absent adequate provisions for restitution; the Lawyer has previously been sanctioned in the immediately preceding three years; the current misconduct is of the same type for which the Lawyer has previously been sanctioned; the misconduct involved dishonesty, deceit, fraud, or misrepresentation; the misconduct constitutes a substantial threat of irreparable harm to the public; the misconduct is a felony or a misdemeanor that reflects adversely on the Lawyer's honesty, trustworthiness, or fitness as a Lawyer; or, the Lawyer has engaged in a pattern of similar misconduct.

To be eligible for diversion, the presumptive sanction must not be more severe than a public reprimand. Further, all involved must make an assessment of whether participation in diversion is likely to improve the Lawyer's future behavior, whether aggravating or mitigating factors exist, and whether diversion already has been attempted. The OPC by policy is enhancing its use of diversions by implementing a Lawyer wellness/wellbeing component to all of the Complaints it feels are appropriate to be resolved by diversion.

Possible program areas of diversion are as follows: Fee Arbitration; Mediation; Law Office Management Assistance; Psychological and Behavioral Counseling; Monitoring;

Restitution; Continuing Legal Education Programs, including Ethics or Law Practice Management/Trust Accounting School; and, any other program or corrective course of action agreed to by the responding Lawyer necessary to address an Lawyer's conduct.

The OPC notifies a Lawyer of the diversion option when a Complaint is received. A Complainant is notified of any proposed decision to refer a Lawyer to diversion and that Complainant may comment, however, a decision to divert is not appealable by a Complainant.

Upon entering into the diversion contract, the Complaint against the Lawyer is stayed pending completion of diversion. If diversion is successful, the Complaint is dismissed and all information regarding the terms of the diversion is kept confidential. Further, successful completion of diversion is a bar to disciplinary prosecution based on the same allegations. However, a material breach (as determined by the OPC) of the diversion contract is cause for terminating the agreement and subjects the Lawyer to appropriate discipline as if diversion had never been an option.

4) Informal Appeals

Pursuant to Rule 11-530(g)(2) of the RDDS, a Complainant can appeal within 21 days to the Committee Chair the OPC's dismissals and declinations to prosecute, of any Complaint, including those Complaints resolved by Summary Review. When the OPC dismisses a Complaint after investigation or declines to prosecute a Complaint, it gives notice to the Complainant of the language in Rule 11-530(g)(2) of the RDDS and allows the Complainant the opportunity to appeal the decision. If the Complainant files an appeal, the Committee Chair or a Vice-Chair conducts a de novo review of the OPC file and either affirms the dismissal or remands the matter and the OPC will prepare the Complaint for a Screening Panel hearing.

5) **Screening Panel**

If after investigation, the OPC determines that the allegations of the Complaint are non-frivolous and substantial, or if the Chair or Vice-Chair of the Committee remands a case after an informal appeal, the OPC refers the Complaint to a Screening Panel. The Notice described in section 2 above is the official notice that is required for the OPC to bring the case before a Screening Panel.

A Screening Panel reviews all the facts developed by the Complaint, the Lawyer's answer, the OPC's investigation and the information obtained during the Screening Panel hearing. After this review, the Screening Panel may make any of the following determinations or recommendations:

- Dismissal for lack of merit;
 - Dismissal with a letter of caution;
 - Dismissal by referral to Professionalism Counseling Board;
 - Recommendation that the Lawyer be (privately) admonished or publicly reprimanded;
- If the Screening Panel recommends an admonition or public reprimand, the Lawyer can file an exception to the recommendation with the Committee Chair.
 - Additionally, if the Screening Panel recommends a public reprimand, a Lawyer may elect a trial de novo with the District Court by notifying the Committee Chair which authorizes the OPC to file an Action consistent with section 6 below.
 - The OPC can file an exception to any of the determinations or recommendations with the Committee Chair.
 - Following the Screening Panel Hearing, or upon completion of the Exception Hearing if an exception has been filed, the Committee Chair issues a formal determination and can either sustain, dismiss, or modify the Screening Panel's determination or recommendation of discipline.
 - After final written determination of the Committee Chair, where an exception has been filed, the OPC or a Lawyer can appeal by filing a request for review

with the Supreme Court for reversal or modification. The OPC refers to these as Administrative Appeals.

- A finding of probable cause that an Action be filed with the District Court.
 - A determination that an Action be filed is not appealable.

If the Screening Panel determines that the Complaint should be filed as an Action, Rule 11-536 of the RDDS requires the OPC, in accordance with the Rules of Civil Procedure, to file the Action in the District Court and give notice of the Screening Panel recommendation and a copy of the pleadings to the Committee Chair. Often the Lawyer has more than one Complaint pending against him/her. If there is more than one Complaint involved, a Complaint may also pass through the Screening Panel process and can be combined into a single Action (“Combined with Action”). Once an Action is filed, if a Lawyer has other Complaints, in lieu of the Screening Panel process the OPC may elect to hold the cases for presentation at any sanctions hearing resulting from the Action (“Hold for Sanctions”), pursuant to Rule 11-561(a)(3) of the RDDS.

6) Actions

An Action must be filed in the county where the alleged misconduct occurred, or in the county where the Lawyer resides or practices law or last practiced law. Once an Action is filed with the District Court, if no settlement can be reached, the case is prepared for a bench trial. The bench trial is bifurcated, the first portion of which involves the adjudication of misconduct (i.e., Rules of Professional Conduct violations). If the judge does not dismiss the case and finds misconduct, the second stage of the trial is a sanctions hearing. At the end of the sanctions hearing, the judge can order sanctions and remedies that may include, but are not limited to, the following dispositions:

- Admonition
- CLE or Ethics School
- Public Reprimand
- Restitution
- Probation
- Suspension
- Delicensure
- Diversion

7) **Formal Appeals**

All appeals from District Court orders are directed to the Utah Supreme Court. Only the Lawyer or the OPC can appeal from the District Court order. The Utah Supreme Court under its constitutional authority to regulate the practice of law has the responsibility to consider appeals of all Lawyer discipline cases.

8) **Monitored Cases**

Monitored cases include probation cases, disability cases and trusteeship cases. Where appropriate, probation cases require someone to docket reminder dates, and follow-up to ensure that the Lawyer meets the probation requirements. Disability cases generally require someone to investigate the extent of the disability, to process the case through District Court, and to monitor the continuing status of the Lawyer. Trusteeship cases generally require that someone inventory the Lawyer's files, notify the Lawyer's clients of the trusteeship, and assist with distribution of client files to the clients. Additionally, trusteeship cases require someone to inventory unclaimed files, prepare a notice for publication of potential destruction of the files, prepare a request to the District Court to approve destruction of unclaimed files, and ultimately to destroy the files.

When the OPC has to undertake a trusteeship, it takes a significant amount of resources and time. It is preferable to the OPC that a Lawyer or firm outside of the OPC be appointed to manage trusteeships. However, since in most trusteeship cases there is little or no money for the recoupment of costs and fees, there are not always Lawyers or firms that are willing and able to oversee a trusteeship.

9) **Interim Discipline/Suspension and Disability**

Pursuant to Rule 11-563 of the RDDS as determined by the OPC, if a Lawyer poses a threat of serious harm to the public and has committed a violation of the Rules of Professional Conduct, the OPC will file a petition for interim discipline. The remedies available could be an interim suspension from the practice of law or an order limiting the Lawyer's practice area or placing the Lawyer on supervision pending disposition of the disciplinary proceeding.

Additionally, pursuant to Rule 11-564 of the RDDS as determined by the OPC, if a Lawyer has been found guilty of or has entered a plea of guilty or no contest for a felony or misdemeanor that reflects adversely on the Lawyer's honesty, trustworthiness or fitness as a Lawyer, the OPC will file a petition for interim suspension. And finally, pursuant to Rule 11-568 of the RDDS as determined by the OPC, if the Lawyer is under a disability as defined in the RDDS, the OPC may file a petition for disability. All of these petitions described under Rules 11-563, 11-564 and 11-568, are immediate filings in the District Court and need not go through the Screening Panel process outlined above.

10) **Abeyances**

Lawyer discipline Complaints may be continued, stayed and held in abeyance when there is related pending litigation (i.e., criminal or civil) and the alleged misconduct is substantially similar to the issues of the pending litigation. The request for abeyance can be made by either the OPC or the Lawyer. The request has to be filed with the Committee Clerk pursuant to Rule 11-533(c) of the RDDS if the discipline Complaint is pending prior to the filing of an Action ("Informal Abeyance"). These Informal Abeyances must be made before any Screening Panel hearing is held. The request is made to the judge pursuant to Rule 11-542(d) of the RDDS if the discipline case is pending in the

District Court as part of an Action ("Formal Abeyance").

11) Special Prosecutor Complaints

Special Prosecutor Complaints are Complaints filed against either OPC staff, Bar staff, Bar Commissioners or Committee members. Pursuant to Rule 11-542(f) of the RDDS, these Complaints have to be prosecuted outside of the OPC.

12) Final Dispositions

Until a Complaint reaches a "final" disposition, the OPC considers it an active Complaint. Final dispositions are Complaints where the result has been determined to be dismissal, declination to prosecute, dismissal with caution, admonition, public reprimand, delicensure, resignation with discipline pending, time-specified suspension, trusteeship where the OPC is not the trustee, probation and Complaints in which no appeal is pending.

III. STATISTICS – Year 2022

A) Case Activity

Active cases as of January 1, 2022.....455
(against 337 Lawyers)

1)	<u>Cases opened</u>	<u># of Lawyers</u>
	Complaint	660 (531)
	Media/Court Information	1 (1)
	Notice of Insufficient Funds	33 (33)
	Reinstatement	4 (3)
	Special Prosecutor	14 (10)
	Cases opened during period	712 (578)
	Total cases processed during period	1,167
2)	<u>Complaints Closed Without Discipline</u>	
	By Dismissal	543
	By Dismissal with Caution	39
	By Declination to Prosecute	28
	By Declination to Prosecute w/Caution	1
	By Dismissal – Duplicate	1

	By Declination to Prosecute (Hold for Reinstatement).....	12
	Total.....	624
3)	<u>Requests for Assistance Closed Without Discipline^C</u>	
	By Dismissal	3
	By Dismissal with Caution	1
	By Declination to Prosecute	3
	By Declination to Prosecute (Hold for Reinstatement).....	12
	Total.....	19
4)	<u>Media/Court Information Closed Without Discipline</u>	
	By Dismissal	1
	By Declination to Prosecute	2
	Total.....	3
5)	<u>Special Prosecutor Closed Without Discipline</u>	
	By Dismissal	13
	Total.....	13
6)	<u>Notice of Insufficient Funds Closed Without Discipline</u>	
	By Dismissal	1
	By Declination to Prosecute	13
	By Declination to Prosecute with Caution	17
	Total.....	31
7)	<u>Reinstatement Closed</u>	
	Petition Withdrawn by Respondent.....	1
	Total.....	1
8)	<u>Orders Entered (39 Orders for 38 Closed Cases)^D</u>	<u># of Lawyers</u>
	Admonition.....	4 (4)
	Public Reprimand	4 (4)
	Interim Suspension.....	1 (1)
	Suspension.....	7 (6)
	Delicensure.....	5 (5)
	Probation	4 (4)
	Reinstatement	2 (2)
	Reinstatement Denied	2 (1)
	Relicensure.....	1 (1)
	Resignation with Discipline Pending.....	6 (6)
	Formal Appeal Denied	1 (1)

^C As reported in the previous two annual reports, prior to December 15, 2020, the OPC would address both Complaints and Requests for Assistance. Requests for Assistance were not official Complaints. These Requests for Assistance were still being processed after January 1, 2022, the beginning of the reporting period for this annual report and subsequently closed during the period.

^D In one case, an order of Interim Suspension was entered prior to the attorney Resigning with Discipline Pending.

Trustee Appointed	1	(1)
Trusteeship Terminated	1	(1)
Total	39	(37)

9) **Cases Combined with Actions and Part of Global Settlements**

Complaints	11
Requests for Assistance	22
Total	33

Total case closures during period 762

Active cases as of January 1, 2023 405
 (Open cases minus closures for year 2022) (against 321 Lawyers)

10) **During the Year 2022, the OPC had case activity as follows**

Diversions	8
Informal Abeyances	11
Informal Appeals	71 ^E
Informal Appeals Granted	4 ^F
Informal Appeals Denied	63 ^G
Screening Panel Exception by OPC	3
Screening Panel Exception by Respondent	1
Actions in Court	16
Complaints Combined with Actions	5
Formal Appeals	1

11) <u>Stipulations</u>		<u># of Lawyers</u>
Stipulation to Withdraw Reinstatement Petition	1	(1)
Stipulation to Public Reprimand	2	(2)
Stipulation to Suspension	3	(3)
Stipulation to Delicensure	2	(2)
Stipulation to Resignation with Discipline Pending	6	(6)
Stipulation to Probation	2	(2)
Total	16	(16)

12) **Screening Panel Outcomes**

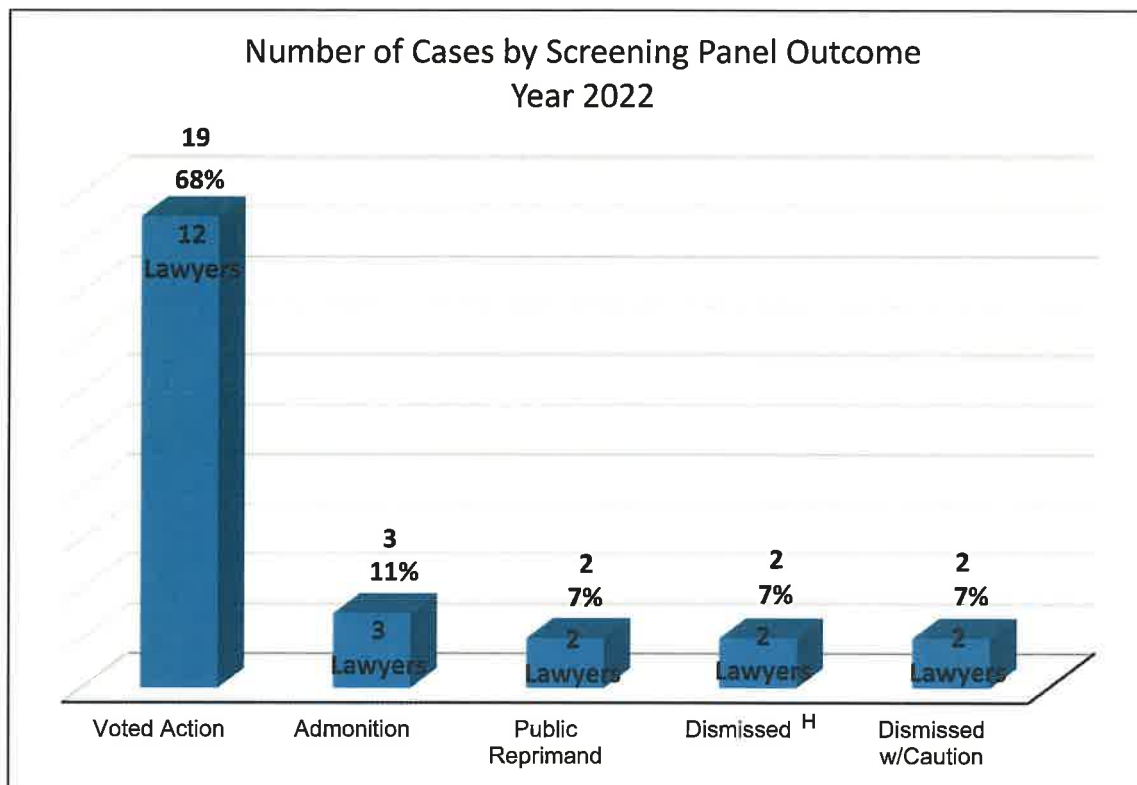
For the year 2022, the OPC referred 28 matters, involving 21 Lawyers, to the Ethics and Discipline Committee for a Screening Panel hearing. The outcomes of those

^E 34 of the 71 appeals were for Complaints that were summarily dismissed and 37 were dismissed after further investigation by the OPC.

^F One of the rulings granting an appeal was for a Complaint that was summarily dismissed and the remaining 3 were dismissed after further investigation by the OPC.

^G 34 of the rulings denying the appeals were for Complaints that were summarily dismissed and 29 were dismissed after further investigation by the OPC.

hearings were:



13) **Notice of Insufficient Funds**

As part of the OPC case activity, Rule 1.15(a) of the Rules of Professional Conduct requires that Lawyers maintain their trust accounts in financial institutions that agree to report to the OPC “in the event any instrument in properly payable form is presented against a Lawyer trust account containing insufficient funds (NSF), irrespective of whether the instrument is honored.” Pursuant to this rule the OPC opened 33 new NSF cases, and dismissed 31 NSF cases in year 2022. The usual reasons for dismissals of NSF cases are accounting errors, bank errors, depositing errors, or drawing on the account before a deposit clears.

^H The two dismissed cases were Informal Appeal granted cases.

14) **Summary**

Of the 1,167 cases the OPC processed in year 2022, 724 or approximately 62% were resolved by dismissals, declinations to prosecute or combined with Action. Of the 1,167 cases, approximately 2.6% of the cases resulted in 31 Orders of Discipline (for 30 cases). 48.4% of the Orders of Discipline were by stipulation. Finally, approximately 2.6% of the cases that could have been referred to a Screening Panel in year 2022 were heard by Screening Panels.

B) **Miscellaneous**

1) **CLE**

Rule 11-521(a)(11) of the RDDS requires that the OPC provide informal guidance to promote ethical conduct by Bar members. The OPC attorneys make Continuing Legal Education (“CLE”) ethics presentations. During year 2022, the OPC’s CLE presentations totaled 33 hours.

Two of the CLE presentations are usually at the Ethics School conducted by the OPC. The OPC titles the Ethics School the Adam C. Bevis Memorial Ethics School (What You Didn’t Learn in Law School). Some Lawyers are required to be there as a condition of a disciplinary case, but the OPC usually opens it to the entire Bar. At the school, the OPC covers a number of topics, including the Lawyer discipline process, law office management, malpractice, conflicts of interests, Lawyer trust fund accounting and hot topics of ethical issues. The OPC also usually tries to have at least one judge as a guest speaker to talk about civility and professionalism or a qualified Lawyer to make a Lawyer wellness presentation. The Ethics School was held virtually in March and September of year 2022 for six CLE hours each. In March 2022, Ethics School was attended by 226 Lawyers; and in September 2022, Ethics School was attended by 165 Lawyers.

Included in OPC CLE presentations this reporting year, the OPC also held a six-hour Law Practice Management and Trust Account Seminar. This seminar was held in January 2022. In addition to law practice management as the overall focus, the seminar specifically covered how to handle fees and trust accounting. It was attended by 148 Lawyers. The OPC plans to continue to hold this seminar every year.

Finally, with respect to ethical guidance, in the past the OPC has provided written guidance to Lawyers through publication of Utah Bar Journal articles on common ethics topics, and in brochures available to Bar members and the public. As the need arises, the OPC anticipates continuing to publish articles on ethics topics.

The rule requiring the OPC to give ethical guidance makes clear that the OPC provides informal guidance to Lawyers through seminars, the formulation of diversion programs, the monitoring of probations and the dissemination of disciplinary results through the Utah Bar Journal while maintaining the confidentiality of Lawyers subject to private discipline.

2) Committees

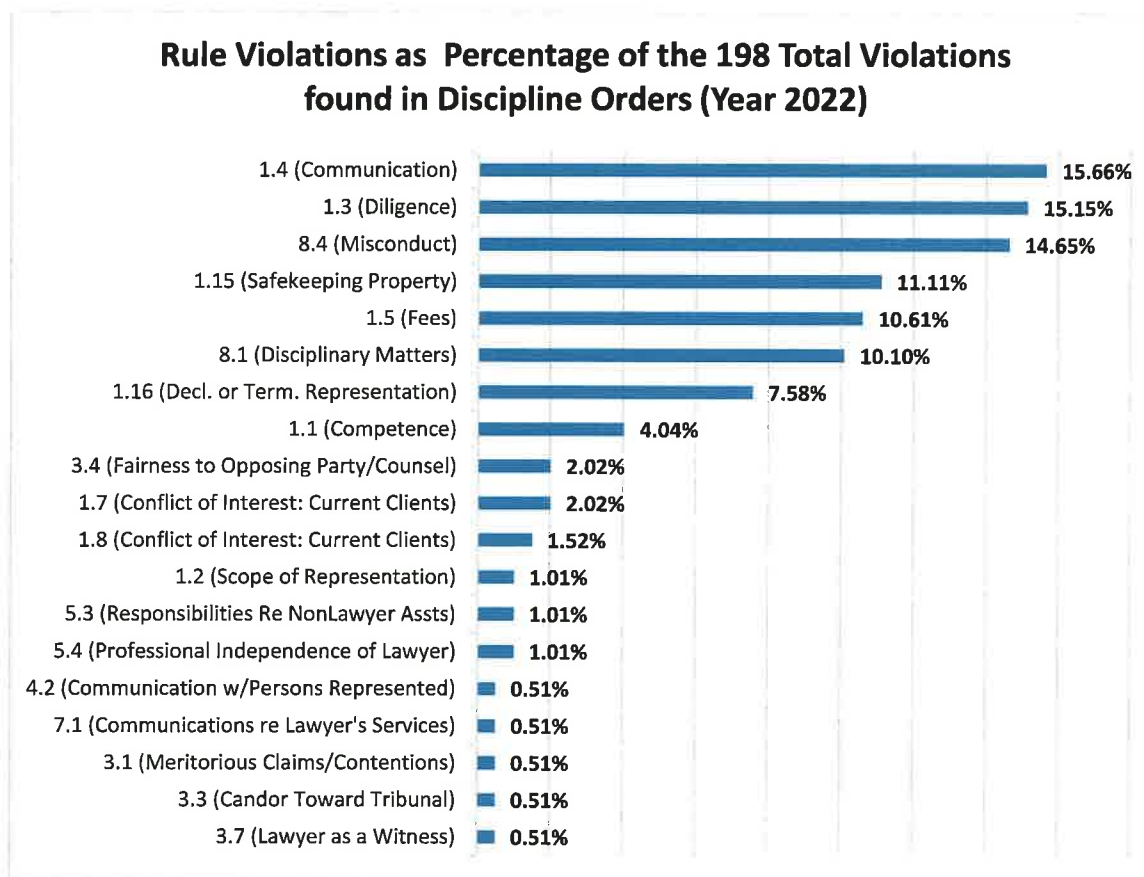
The OPC participates in committees with respect to Lawyer conduct. Chief Disciplinary Counsel of the OPC sits as a voting member of the Utah Supreme Court's Advisory Committee on the Rules of Professional Practice. OPC counsel sits as a voting member on the Utah State Bar's Ethics Advisory Opinion Committee.

3) Rule Violations and Source of Information

The OPC has collected and categorized other data regarding its cases. Specifically, the data collected provide statistics on the rule violations.

(a) For example, using data from the 39 orders of discipline entered in the year 2022, which resulted in a finding of 198 total rule violations, we can see

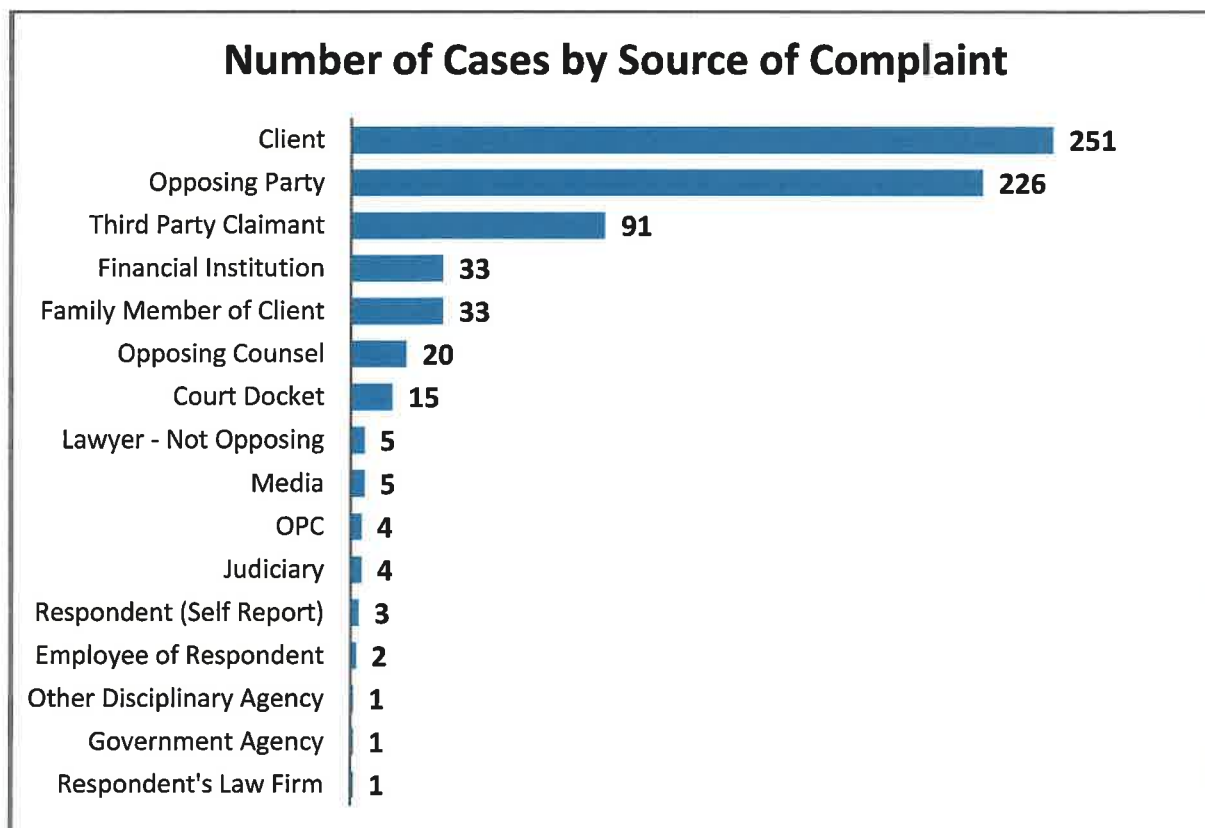
the frequency with which various rules were violated:



The OPC's impression is that violations of Rule 1.1 (Competence) commonly derive from Lawyers missing court appearances; that violations of Rule 1.3 (Diligence) commonly derive from Lawyers failing to meet deadlines; that violations of Rule 1.4 (Communication) commonly derive from Lawyers not keeping clients apprised of the work that they are doing and/or responding to reasonable requests for information; that violations of Rule 1.5 (Fees) commonly arise from Lawyers collecting fees without performing meaningful work; that violations of Rule 1.15 (Safekeeping Property) often arise from Lawyers failing to keep their earned money separate from clients' money or failing to promptly provide an accounting of how fees were used; that violations of Rule 1.16

(Declining or Terminating Representation) commonly result from Lawyers withholding the client file upon termination of the representation; violations of Rule 8.1(b) (Bar Admission and Disciplinary Matters) usually are based upon Lawyers failing to respond to the OPC's lawful requests for information in the course of disciplinary investigations with the most common failure as a violation of this Rule being the failure to timely respond to the Notice; and violations of Rule 8.4 (Misconduct) commonly arise from criminal conduct, deceitful or fraudulent conduct or conduct prejudicial to the administration of justice. Accordingly, the OPC's CLE presentations often focus on helping practitioners avoid these particular problems.

(b) In year 2022, information regarding possible Lawyer misconduct was received from the following sources:

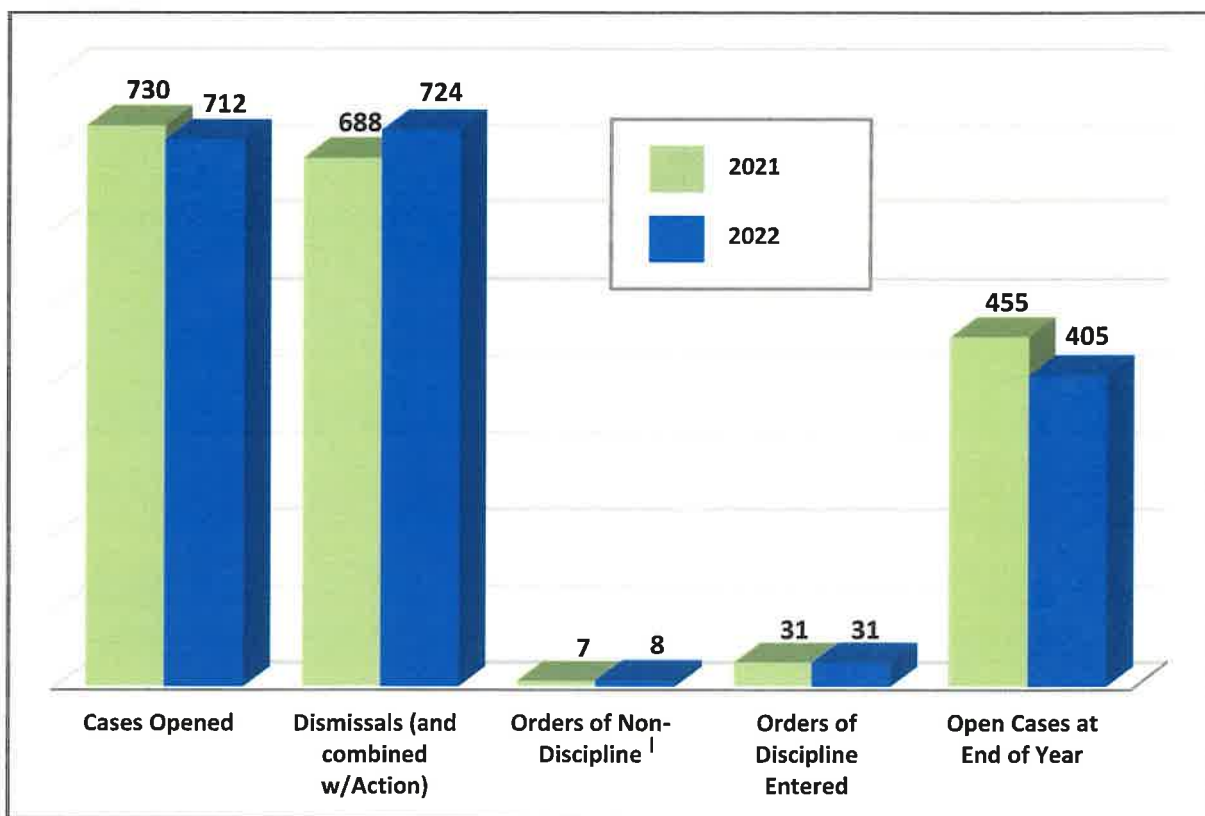


IV. PROGRESS AND GOALS ON CASES

The OPC, like every other state bar disciplinary authority, has and will continue to have unfinished work. Furthermore, the OPC, like every other Lawyer disciplinary authority, has and will continue to have a percentage of its unfinished work accumulate at the informal stage. The reason for this is the nature of the work. In this regard, the OPC processes disciplinary Complaints against Lawyers who are often determined to use every means at their disposal to protect their license to practice law. This sometimes makes investigating and processing cases analogous to a criminal proceeding. In these cases, it tends to lengthen the processing at both the informal and post-informal stages. Notwithstanding the nature of the work, it should be noted that the OPC's overriding mission is to perform its responsibility in a professional and civil manner.

The OPC case progress goal is to have a system in place that keeps Complaints moving so the unfinished work at the informal stage is in percentage numbers as small as possible. This goal must be accomplished while simultaneously, and as expeditiously as possible, moving to resolution the larger percentage of Complaints that are at the post-informal stage (i.e., cases before Screening Panels or the District Court; cases on appeal; cases holding for resolution of a companion Action; or Complaints held in abeyance pending related litigation).

As progress points of comparison of year 2021 with year 2022:



As can be seen from the chart:

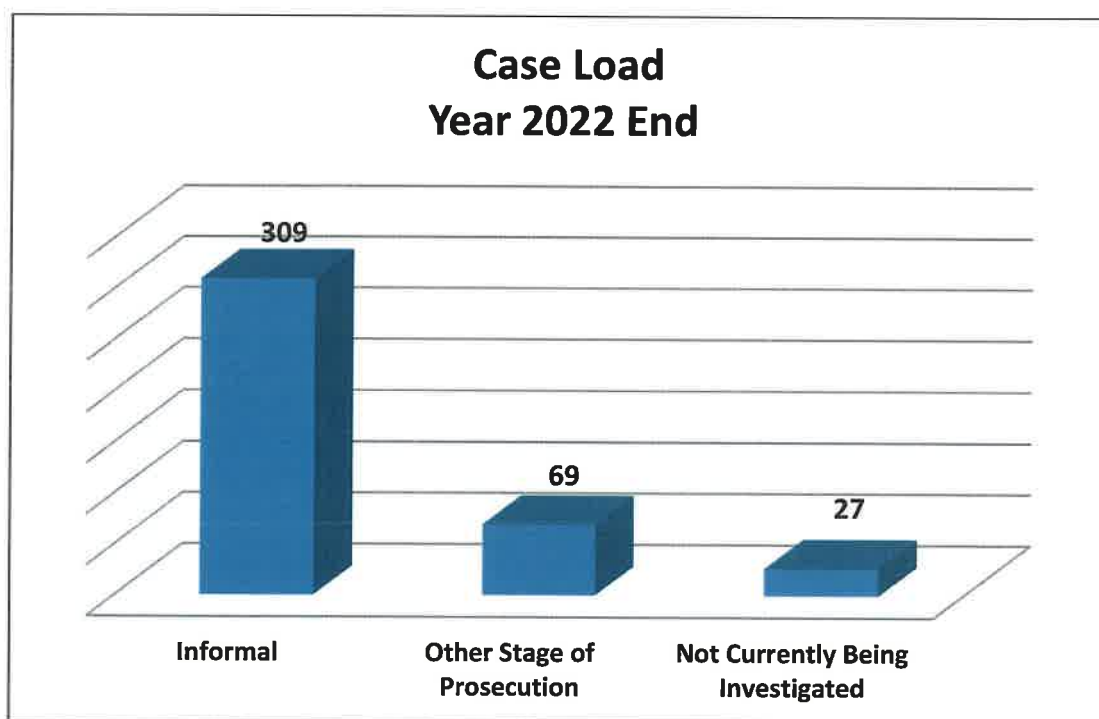
- (1) Cases opened this year decreased by approximately 2.5%;
- (2) Dismissals (and combined with Action) this year increased by approximately 5.2%;
- (3) Orders of non-discipline entered this year increased by only one (from seven in 2021 to eight in 2022);
- (4) Orders of discipline entered this year stayed exactly the same; and
- (5) Active case numbers at the end of this year decreased by approximately 10.9%.

The OPC has a baseline goal to not have an increase of its active case number

¹ 2 Reinstatements, 2 Reinstatements Denied, 1 Relicensure, 1 Formal Appeal Denied, 1 Trustee Appointed, and 1 Trusteeship Terminated.

each year by closing at least as many cases in a year as the office receives in that year. This year, the OPC accomplished this goal because it opened 712 cases and closed 762^J cases.

Of the OPC's case load as of year 2022 end (405), 309 were at the informal stage^K, 69 were at other stages of investigation/prosecution^L, and 27 were not currently being investigated by the OPC^M.



Of the 309 cases at the informal stage, 80 or approximately 26% have been in the informal stage for over 180 days. Further breaking down the 80 cases that have been at the informal stage for over 180 days; approximately 59% (47) of those cases have been at that stage for less than a year; and approximately 32% (26) of those

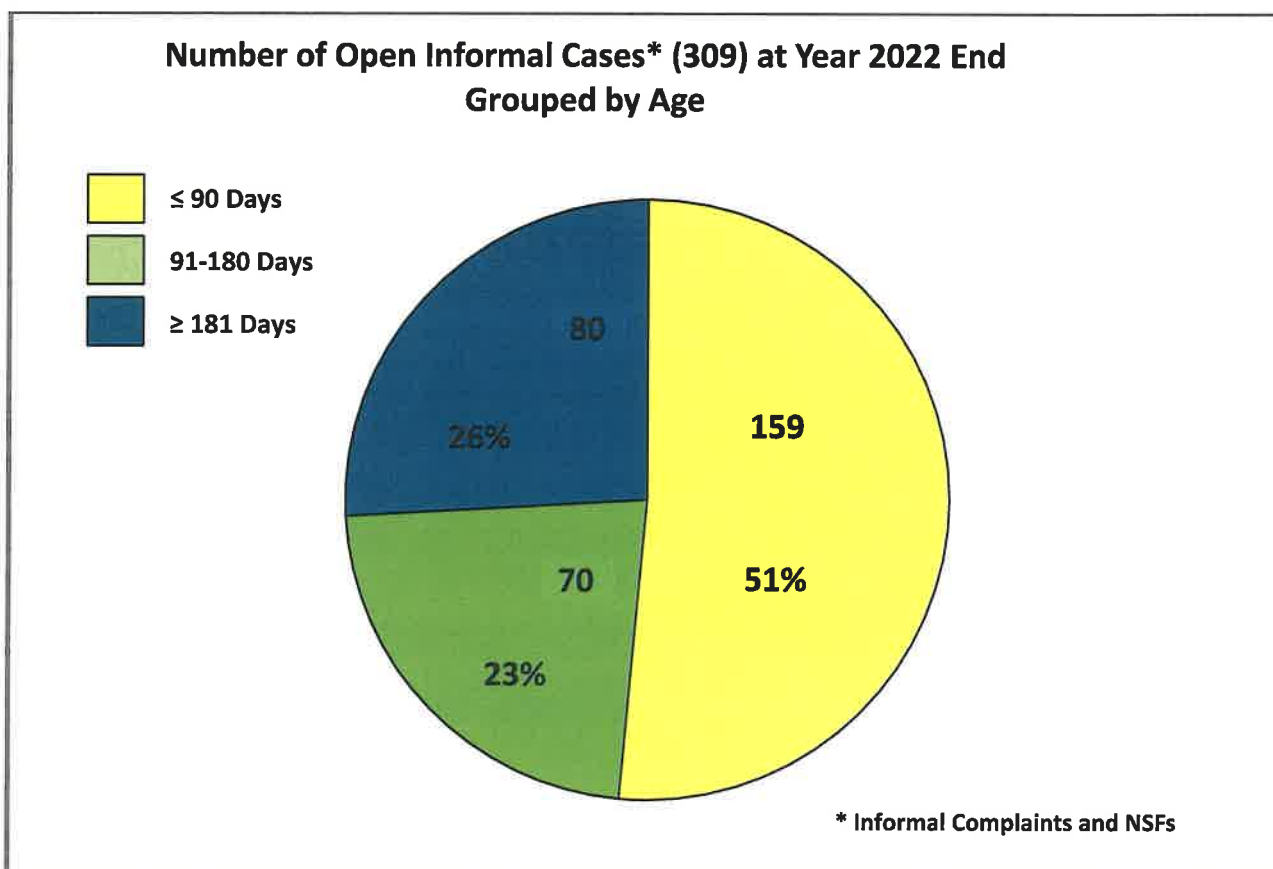
^J The total of Dismissals (and Combined w/Action) and all Orders (discipline and non-discipline).

^K Complaints and NSF's.

^L Combined with Action, Exceptions, Actions, Action Appeals, Complaint Appeals, Rule 11-563 and Rule 11-564.

^M Abeyances and Special Prosecutor.

cases have been at that stage for between one and two years. So only approximately 9% (or seven) of the total cases have been at that stage for over two years^N.



It should also be noted that the OPC filed or defended a significant number of new Actions with the District Court. In this respect, the OPC defended four reinstatements, filed two trusteeships, and filed ten new Actions with the District Court (the ten Actions include an additional four underlying Complaints).

V. PERFORMANCE METRICS

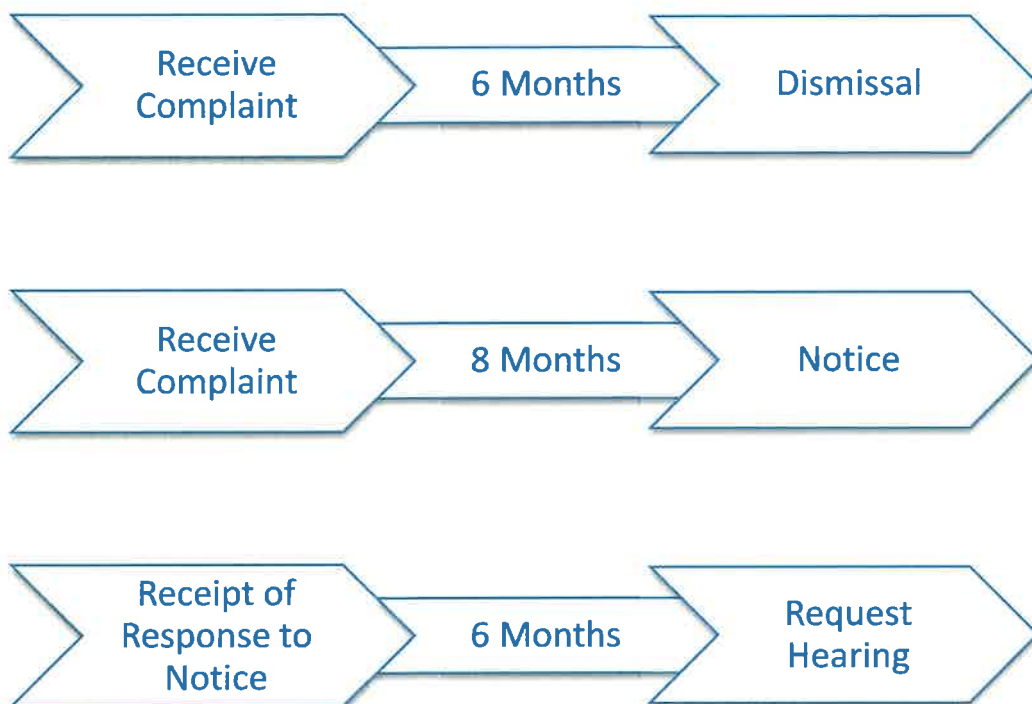
Consistent with the responsibilities of the OPC Oversight Committee and specifically Rule 11-503(b)(2)(A) of the RDDs, the OPC has developed and implemented

^N One of the seven cases at this stage involves a Lawyer for whom the OPC already has two Actions in progress; the OPC has been directed by Screening Panels of the Ethics and Discipline Committee to file Actions for the remaining six cases.

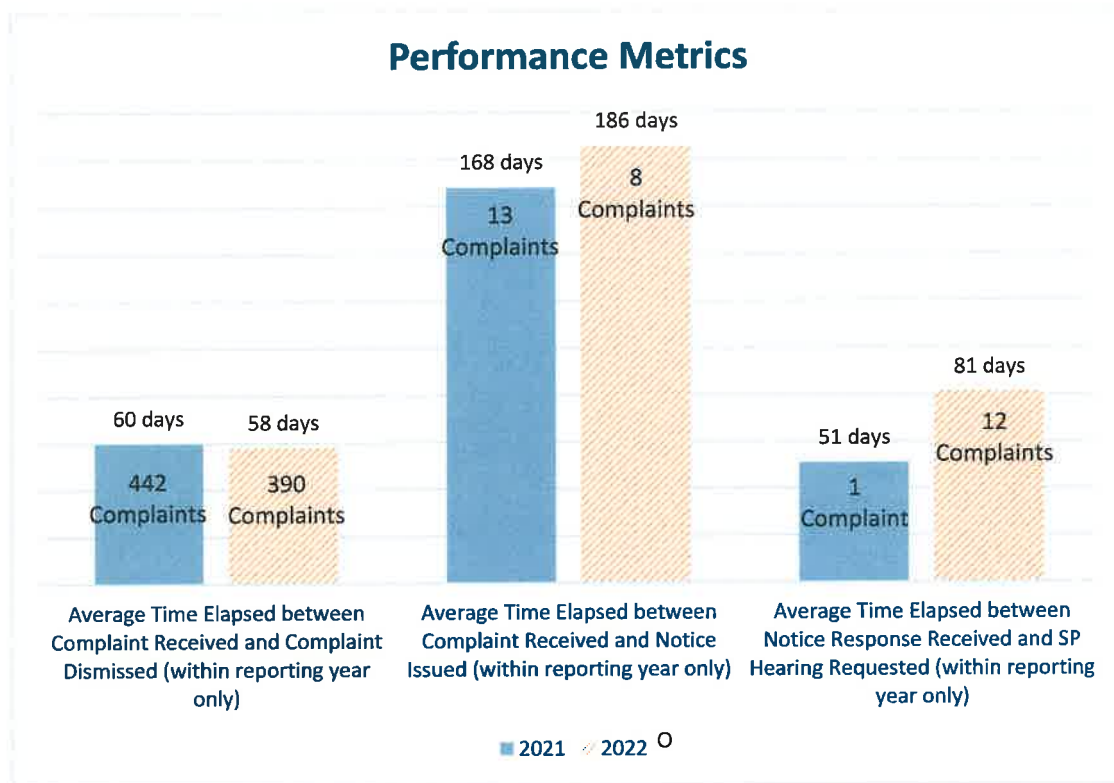
realistic performance metrics for tracking individual case processing.

In each matter the OPC receives, the procedural process is guided by the RDDS as the OPC determines several factors: Does the initial Complaint have merit or should it be summarily dismissed or declined? Does more investigation need to be conducted? Does the Lawyer need to submit a reply? Should the matter be presented to a Screening Panel?

Each case is different but the OPC has attempted to create proposed metrics which capture reasonable time frames for most Complaints. Initially, the OPC attempted to create performance metrics based upon time periods which were solely in the OPC's control. For example, the time between when the OPC makes a determination to dismiss a case and when the case is actually dismissed. However, due to the complexity of the system, this approach led to overly complicated metrics with too many individual segments. Ultimately the OPC determined that time periods which also capture events outside the OPC's control (for example, the weeks it may take to locate a witness or obtain a reply from a Lawyer) are better metrics for generally tracking the OPC's Complaint processing and are more in line with metrics the ABA Center for Professional Responsibility gathers for caseload statistics. The guidelines are charted below.



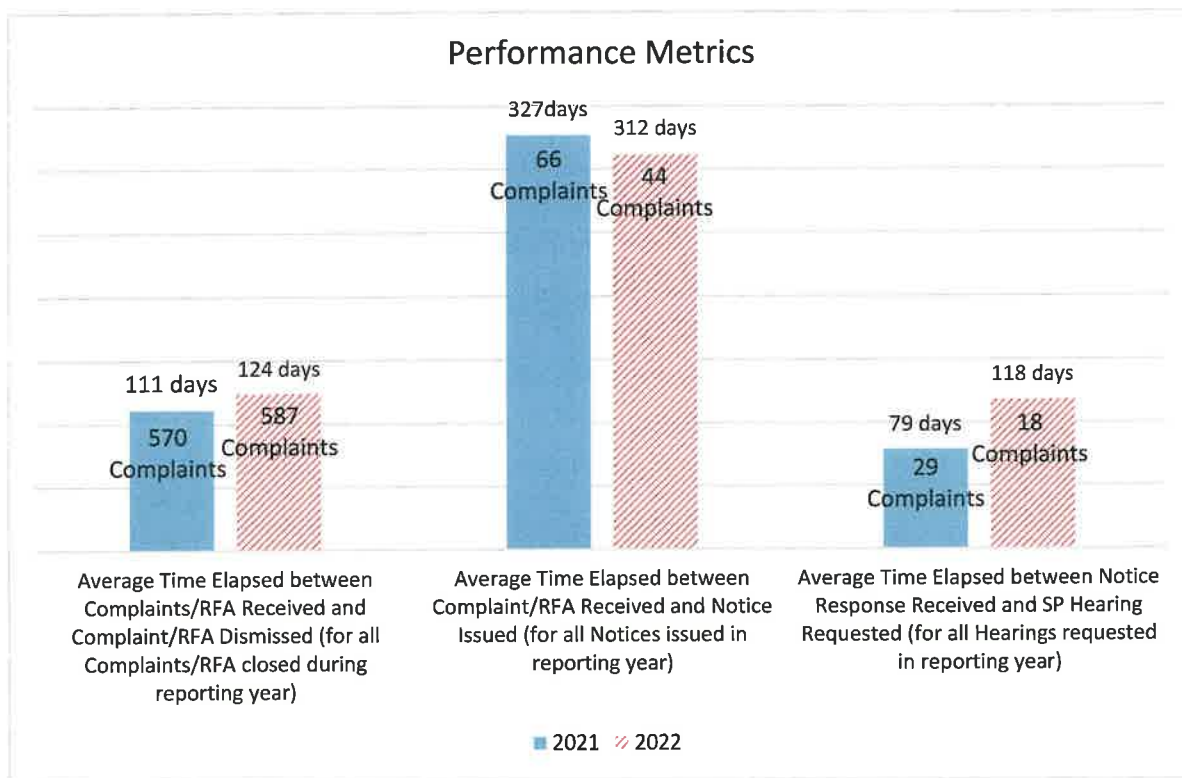
The OPC performance metric statistics for this reporting period are below. Additionally, for comparison purposes the OPC is providing performance metric statistics for the previous annual reporting period.



Please note the above chart focuses on the reporting year metrics, which means we are talking about Complaints received on or after January 1 and number of days to reach the respective stage before December 31. The chart below focuses on the number of days to reach the respective stage each year based on when the Complaint/Request for Assistance (“RFA”) was received even though the Complaint/RFA may have been received outside the reporting year^P.

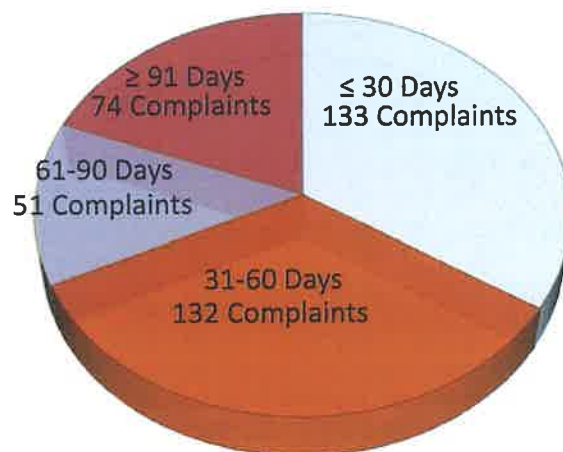
^o For the remaining Complaints that the OPC received during this reporting year (262) that do not either make it to a dismissal, a Notice, or request for hearing, 3.8% (10) were received in January; 2.7% (7) were received in February; 1.9% (5) were received in March; 1.5% (4) were received in April; 5% (13) were received in May; 2.7% (7) were received in June; 3.8% (10) were received in July; 8.4% (22) were received in August; 15.3% (40) were received in September; 13.7% (36) were received in October; 21.4% (56) were received in November; and 19.8% (52) were received in December. Thus, approximately 82% of the Complaints in this category were not received until July of this reporting year.

^P As reported in the previous annual report, prior to December 15, 2020, the OPC would address Complaints and RFAs. The RFAs were not official Complaints. These RFAs were still being processed during 2021 and 2022 and were subsequently closed during those years.



**YEAR 2022
(390 CASES)**

**NUMBER OF DAYS ELAPSED BETWEEN
COMPLAINT RECEIPT DATE AND DISMISSAL DATE**



VI. GOALS FOR YEAR 2023

The OPC does not simply concentrate its efforts on older cases: it attempts to


provide expedited and efficient work on all cases, new and old. This work method is intended to keep cases progressing.

The Summary Review System greatly aids case processing goals. Summary Review enables the OPC to address all information coming to its attention and to quickly and efficiently determine the appropriate track for the Complaints. Evidence of this is that of the 660 Complaints OPC received in 2022, 300 were summarily dismissed and 360 went on to further investigation. This leaves more resources to address Complaints raising more serious ethical allegations, resulting in quicker Complaint processing for all cases.

The OPC will continue to work toward the goals outlined in this report. Specifically, the OPC has a responsibility to resolve disciplinary Complaints in a uniform, expeditious, professional, civil and systematic way to protect the public, clients, and the legal profession from the professional misconduct of Lawyers. The overriding goal is to continue to develop the OPC Complaint processing system to ensure that the majority of resources are utilized to more quickly prosecute those Complaints where it is appropriate to address Actions with the District Court.

CONCLUSION

The OPC staff is excellent and continues its hard work. The OPC will continue its efforts towards efficiency in the expedition of cases. The OPC looks forward to another productive year.



Billy L. Walker
Chief Disciplinary Counsel
Office of Professional Conduct

**REPORT OF THE
UTAH STATE BAR®**

Fund for Client Protection

Fiscal Year July 2022 – June 2023

History of the Fund for Client Protection

The Fund for Client Protection was approved and established by the Utah Supreme Court effective April 9, 1977. The fund was established to provide meaningful cost reimbursements to clients injured by a lawyer's dishonest acts. In 1990, the Committee adopted the Rules for Lawyers' Fund for Client Protection. The Supreme Court approved the rules August 3, 1990.

Mission of the Fund

The purpose of the Fund for Client Protection 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 and Licensed Paralegal Practitioners (LPPs) admitted and licensed to practice law in this state.

The Committee reviews claims to the Fund for Client Protection to make sure they are valid and meet the eligibility criteria stated in the rules of the program. When several valid cases are available, hearings are scheduled to determine the amount of award, if any, that will be granted to any claimant.

Every lawyer and LPP has an obligation to the public to participate in the collective effort of the Bar to reimburse persons who have lost money or property as a result of the dishonest conduct of another lawyer or LPP. Contribution to the Lawyers' Fund for Client Protection is an acceptable method of meeting this obligation.

Each year during the licensing of Utah State Bar members, each attorney and LPP is assessed a small fee of up to \$20.00, dependent on the amount needed to keep the fund solvent.

COMMITTEE MEMBERS

Stephen W. Farr, Chair
Stephen W. Farr, LLC

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Stephanie Chipley
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Kaitlyn Gibbs
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Holland & Hart

David E. Leta
Snell & Wilmer, LLP

Smith D. Monson
BlueSource

Linda Barclay Mount
Lexis Nexis

Bradley N. Mumford
Olson & Hoggan PC

Christine Critchley,
Bar Staff Liaison

Recent Changes to the Rules of the Fund for Client Protection

Changes to Fund rules 14-904 and 14-912 were made as part of an overhaul of all Bar rules that mention the Office of Professional Conduct (OPC). The Court changed OPC rules to reflect that OPC is now under the supervision of the Court's OPC Oversight Committee and to make changes recommended by the ABA's disciplinary process review committee. These changes were effective December 15, 2020. The Court also changed all deadlines to be divisible by 7.

Fiscal Year July 2022 – June 2023

As contemplated by the Utah Supreme Court Rules of Professional Practice 14-904(c) from the Fund for Client Protection a/k/a Client Security Fund, the Committee submits the following report of its activity this past year and the claims which are pending but have not yet been reviewed.

During the past fiscal year, the Committee held four meetings to hear and make recommendations regarding twenty-four claims concerning a total of seven attorneys. The number of claims filed against any one attorney ranged from one to sixteen. The Committee has filed reports after each of its meetings. The reports detailed the claims which the Committee has reviewed and the recommendations as to those claims. Following is a brief summary of the past year's activity.

Utah State Bar Fund for Client Protection PROFIT & LOSS July 2021 through June 2022

INCOME

Fund for Client Protection Fees	\$0
Donation from Utah State Bar	\$101,780
Restitution Revenue	42,770
Investment Income	506

Total Income **\$145,056**

EXPENSE

Claims Expenses	\$85,650
Bank Service Charges	626

Total Expense **\$86,276**

Net Income **\$58,780**

Total Claims Paid for Fiscal Year 2022-2023

Attorney	# of claims made to the fund	# of claims recommended for approval	total \$ claimed	total \$ paid from the fund
Aaron D. Banks	1	1	\$750.00	\$750.00
J. Cole Cooper	3	3	\$1,600.00 \$2,100.00 \$1,000.00	\$1,600.00 \$2,100.00 \$1,000.00
Joshua P. Eldredge	1	1	\$10,794.00	\$1,003.50
Shawn J. Foster	1	1	\$4,725.00	\$4,500.00
David A. Goodwill	1	1	\$5,000.00	\$5,000.00
Matthew L. Nebeker	16	16	\$2,200.00 \$325.00 \$2,450.00 \$3,800.00 \$2,000.00 \$5,000.00 \$1,000.00 \$2,500.00 \$1,450.00 \$1,000.00 \$2,700.00 \$2,900.00 \$600.00 \$5,200.00 \$2,300.00 \$1,650.00	\$2,200.00 \$325.00 \$2,450.00 \$3,800.00 \$2,000.00 \$5,000.00 \$1,000.00 \$2,500.00 \$1,450.00 \$1,000.00 \$2,700.00 \$2,900.00 \$600.00 \$1,200.00 \$1,000.00 \$750.00
J. Bruce Savage	1	1	\$3,000.00	\$3,000.00
TOTAL	24	24	\$66,014.00	\$49,828.50

Prospective Claims

In order to establish the appropriate amount to be assessed to its membership, the Board also needs to be made aware of the number and amounts of prospective claims. As of the date of this report, there are sixteen claims pending that have not been heard by the Fund for Client Protection Committee.

Utah State Bar Fund for Client Protection Fiscal Year 2022-2023 Request	
Bank Balance (as of 03/06/2023)	\$285,680
Less: Approved Claims awaiting final paperwork from claimant & payment	10,652
Prospective Claims	146,279
Projected Fund Balance	\$128,749
Targeted Fund Balance	\$200,000
Projected Fund Deficiency	\$(71,251)
Current Active Attorneys/LPPs (as of 02/28/2022)	10,336
Client Security Fund Required per Attorney	(\$6.89)
Preliminary Request	\$7.00
Actual Request	—
Estimated amt to be collected	\$72,352

Conclusion

Because the Fund for Client Protection Committee recognizes its responsibility to the Court, the Bar, and its members, it carefully reviews each claim for both eligibility for payment as well as to determine the appropriate amount to be recommended for payment for each claimant. This can be seen in the information presented above.

The Fund for Client Protection provides meaningful relief to those victimized by dishonest lawyers or Licensed Paralegal Practitioners and elevates the overall integrity of the profession. These results demonstrate that the Fund remains “simply, the right thing to do.”

Supreme Court Rules of Professional Practice

Article 9. Lawyers' Fund for Client Protection

Rule 14-901. Definitions.

As used in this article:

- (a) "Bar" means the Utah State Bar;
- (b) "Board" means the Board of Commissioners of the Utah State Bar;
- (c) "Committee" means the Committee on Fund for Client Protection;
- (d) "Dishonest conduct" means either wrongful acts committed by a lawyer or a licensed paralegal practitioner in the nature of theft or embezzlement of money or the wrongful taking of or conversion of money, property or other things of value, or refusal to refund unearned fees received in advance where the lawyer or licensed paralegal practitioner performed no service or such an insignificant service that the refusal to return the unearned fees constitutes a wrongful taking or conversion of money; and
- (e) "Fund" means the Fund for Client Protection; and
- (f) "Supreme Court" means the Utah Supreme Court.

Rule 14-902. Purpose and scope; establishment of Fund.

- (a) The Fund is established to reimburse clients for losses caused by the dishonest conduct committed by lawyers admitted to practice in Utah or licensed paralegal practitioners licensed in Utah.
- (b) 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 admitted and licensed to practice law in Utah or licensed paralegal practitioners licensed in Utah, occurring in the course of the lawyer/client, licensed paralegal practitioner/client or fiduciary relationship between the lawyer or licensed paralegal practitioner and the claimant.
- (c) Every lawyer and licensed paralegal practitioner have an obligation to the public to participate in the collective effort of the Bar to reimburse persons who have lost money or property as a result of the dishonest conduct of another lawyer or licensed paralegal practitioner. Contribution to the Fund is an acceptable method of meeting this obligation.
- (d) These rules shall be effective for claims filed after August 1990, and the Committee, which was previously authorized under the former resolution, may act under the terms of the former resolution on claims filed prior to the effective date of these rules.

Rule 14-902 Note.

By resolution of the Board of Commissioners of the Utah State Bar, a Client Security Fund was approved and established by the Supreme Court, effective April 9, 1977. The Fund was established to provide meaningful, prompt cost reimbursements to clients who had been injured by a lawyer's dishonest act. The original resolution did not provide sufficient rules and/or guidelines for the Committee that was embodied by the resolution to utilize in making its recommendations to the Board of Bar Commissioners. The American Bar Association has adopted, as of August 9, 1989, Model Rules for Lawyers' Fund for Client Protection. The following Rules adopt many of the principles from the American Bar Association Model Rules, as well as features from other states and from the prior resolution of the Board of Commissioners of the Utah State Bar, as approved by the Supreme Court.

Licensed Paralegal Practitioners were included in the Fund in 2019 after the Utah Supreme Court exercised its constitutional authority to govern the practice of law and authorized Licensed Paralegal Practitioners to provide limited legal services in the practice areas of: (1) temporary separation, divorce, parentage, cohabitant abuse, civil stalking and custody and support; (2) forcible entry and detainer; and (3) debt collection matters in which the dollar amount in issue does not exceed the statutory limit for small claims cases.

Rule 14-903. Committee membership and terms; Board approval of Committee recommendations.

(a) The Committee shall consist of five lawyers, each to function for a period of five years. The initial membership of the Committee shall be comprised of those individuals who are members of the Committee existing under the former resolution at the time of the adoption of these rules. Subsequent appointments shall be for a term of three years or the term uniformly determined for all Committee members by the Board. Vacancies shall be filled by appointment by the president of the Bar, with the approval of the Board, for the unexpired term.

(b) The Board shall retain the capacity to make any final determination after considering the recommendations of the Committee. The Board, functioning with regard to the Fund, is under the supervision of the Supreme Court.

Rule 14-904. Funding.

(a) The Supreme Court will provide for funding by the lawyers licensed in this state in amounts adequate for the proper payment of claims and costs of administering the Fund subject to paragraph (c).

(b) All determinations regarding funding will be within the discretion of the Board, subject to the Supreme Court's approval.

(c) The Bar has authority to assess its members for purposes of maintaining the Fund at sufficient levels to pay eligible claims in accordance with these rules. The Committee must report annually to the Commission on a timely basis as to known prospective claims as well as total claims paid to date so that an appropriate assessment can be made for the upcoming fiscal year. After the assessment at the beginning of the fiscal year is determined, the Fund balance must be set in an amount of at least \$200,000. The Bar will then report to the Supreme Court as to known prospective claims as well as total claims paid to date after which the final assessment and fund balance will be set with the Court's approval.

(d) A lawyer's failure to pay any fee assessed under paragraph (c) is cause for administrative suspension from practice until payment is received.

(e) Any lawyer whose actions have caused payment of funds to a claimant from the Fund must reimburse the Fund for all monies paid out as a result of the lawyer's conduct with interest at legal rate, in addition to payment of the assessment for the procedural costs of processing the claim and reasonable attorney fees incurred by the Office of Professional Conduct or any other attorney or investigator engaged by the Committee to investigate and process the claim as a condition of continued practice.

(1) In lawyer discipline cases for which the Fund pays an eligible claim, the lawyer's license to practice will be administratively suspended for non-payment until the lawyer has reimbursed the Fund.

Rule 14-905. Segregated bank account.

All monies or other assets of the Fund including accrued interest thereon shall be held in the name of the Fund in a bank account segregated from all other accounts of the Bar or any committees or sections, subject to the direction of the Board.

Rule 14-906. Committee meetings.

(a) The Committee 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 Committee members.

(c) A quorum of any meeting of the Committee shall be three members.

(d) Minutes of the meeting shall be taken and permanently maintained.

Rule 14-907. Duties and responsibilities of the committee.

The Committee shall have the following duties and responsibilities:

(a) to receive, evaluate, determine and make recommendations to the Board relative to the individual claims;

(b) to promulgate rules of procedure not inconsistent with these rules;

- (c) to provide a full report, at least annually, to the Board and to make other reports as necessary;
- (d) to publicize its activities to the public and the Bar, subject to approval of the Board;
- (e) to appropriately utilize Bar staff to assist in the Committee's performance of its functions effectively and without delay;
- (f) to engage in studies and evaluations of programs for client protection and the prevention of dishonest conduct by lawyers and licensed paralegal practitioners; and
- (g) to perform all other acts necessary or proper for the fulfillment of the purposes of the Fund and its effective administration.

Rule 14-908. Conflict of interest.

- (a) A Committee member who has or has had a lawyer-client relationship or a 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, lawyer or licensed paralegal practitioner.
- (b) A Committee member with a past or present relationship, other than as provided in paragraph (a), with a claimant, the lawyer or the licensed paralegal practitioner whose alleged conduct is the subject of a claim, shall disclose such relationship to the Committee and, if the Committee deems appropriate, that Committee member shall not participate in any proceeding relating to such claim.

Rule 14-909. Immunity.

The Committee members, employees and agents of the Bar and claimant and lawyers who assist claimants are absolutely immune from civil liability for all acts in the course of their duties.

Rule 14-910. Eligible claim.

- (a) The loss must be caused by the dishonest conduct of the lawyer or the licensed paralegal practitioner and shall have arisen out of the course of a lawyer/client, licensed paralegal practitioner/client, or fiduciary relationship between the lawyer or the licensed paralegal practitioner and the claimant and by reason of that relationship.
- (b) The claim for reimbursement shall be filed within one year after the date of the final order of discipline.
 - (b)(1) In cases of the lawyer's or licensed paralegal practitioner's death, the claim for reimbursement shall be filed within one year of the lawyer's or licensed paralegal practitioner's date of death.
 - (b)(2) In cases of the lawyer's or licensed paralegal practitioner's formal disability, the claim for reimbursement shall be filed within one year of the date of the order of disability.
- (c) If the subject of the application for reimbursement from the Fund is or arises out of loss occasioned by a loan or an investment transaction with a lawyer or licensed paralegal practitioner, each loss will not be considered reimbursable from the Fund unless it arose out of and in the course of the attorney/client relationship or licensed paralegal practitioner/client relationship; and but for the fact that the dishonest lawyer or licensed paralegal practitioner enjoyed an attorney/client or licensed paralegal practitioner/client relationship with the claimant, such loss could not have occurred. In considering whether that standard has been met the following factors will be considered:
 - (c)(1) the disparity in bargaining power between the lawyer or the licensed paralegal practitioner and the client in their respective educational backgrounds in business sophistication;
 - (c)(2) the extent to which the lawyer's or the licensed paralegal practitioner's status overcame the normal prudence of the claimant;
 - (c)(3) the extent to which the lawyer or licensed paralegal practitioner, by virtue of the attorney/client or licensed paralegal practitioner/client relationship with the claimant, became privy to information as to the client's financial affairs. It is significant if the lawyer or licensed paralegal practitioner knew of the fact that the client had available assets or was expecting to receive assets which were ultimately wrongfully converted by the lawyer or licensed paralegal practitioner;

(c)(4) whether a clear majority of the service arose out of a relationship requiring a license to practice law in Utah, as opposed to one that did not. In making this evaluation, consideration will be given to:

(c)(4)(A) whether the transaction originated with the lawyer or licensed paralegal practitioner;

(c)(4)(B) the reputation of the lawyer or licensed paralegal practitioner as to scope and nature of his/her practice and/or business involvement;

(c)(4)(C) the amount of the charge made for legal services, if any, compared to that for a finder's fee, if any; and

(c)(4)(D) the number of prior transactions of either a similar or different nature in which the client participated, either with the lawyer or licensed paralegal practitioner involved or any other lawyer, licensed paralegal practitioner, person or business organization;

(c)(5) the extent to which the lawyer or licensed paralegal practitioner failed to make full disclosure to the client in compliance with the Utah Rules of Professional Conduct, including disclosure of the lawyer's or licensed paralegal practitioner's financial condition and his/her intended use of the funds.

(d) Exceptions. Except as provided by paragraph (e), the following losses shall not be reimbursed:

(d)(1) loss incurred by spouses, children, parents, grandparents, siblings, partners and associates of the lawyer or licensed paralegal practitioner;

(d)(2) losses covered by any bond, surety, agreement or insurance contract to the extent covered thereby, including any loss to which any bonding agent, surety or insurer is subrogated to the extent of that subrogated interest;

(d)(3) losses of any financial institution which are recoverable under a "Banker's Blanket Bond" or similar commonly available insurance or surety contract;

(d)(4) any business entity controlled by the lawyer, licensed paralegal practitioner or any person or entity described in paragraph (d)(1);

(d)(5) any governmental entity or agency;

(d)(6) any assigned claims, third party claims, claims of heirs or estates of deceased claimants;

(d)(7) any claims where claimant has failed to exhaust all other reasonably available services or recovery methods;

(d)(8) any investment losses, as distinguished from legal fees, which might reasonably be characterized as:

(d)(8)(A) any pyramid or ponzie scheme;

(d)(8)(B) any investment in or loan to any offshore entity;

(d)(8)(C) any investment in or loan to an entity that claims that a benefit to the investor would be the evasion, avoidance, reduction or other sheltering of taxes that would be otherwise assessed on the investment; or

(d)(8)(D) any investment that promises such a high rate of return that a reasonable and prudent person would suspect that the venture is of unusually high risk.

(e) In cases of extreme hardship or special and unusual circumstances, the Committee may, in its discretion, recognize a claim which would otherwise be excluded under these rules.

Rule 14-911. Procedures and form; responsibilities of claimants to complete form.

(a) The Committee shall prepare and approve a form of claim for reimbursement.

- (b) The form shall include at least the following information provided by the claimant under penalty of perjury:
- (b)(1) the claimant's name and address, home and business telephone, occupation and employer, and social security number for purposes of subrogation and tax reporting;
 - (b)(2) the name, address and telephone number of the lawyer or licensed paralegal practitioner who has dishonestly taken the claimant's money or property;
 - (b)(3) the legal or other fiduciary services the lawyer or licensed paralegal practitioner was to perform for the client;
 - (b)(4) how much was paid to the lawyer or licensed paralegal practitioner;
 - (b)(5) the copy of any written agreement pertaining to the claim;
 - (b)(6) the form of the claimant's loss involved (e.g. money, securities or other property) and the attachment of any documents that evidence the claimed loss such as cancelled checks, title instruments, deeds or stock certificates;
 - (b)(7) the amount of loss and the date when the loss occurred;
 - (b)(8) the date when the claimant discovered the loss and how the claimant discovered the loss;
 - (b)(9) the lawyer's or licensed paralegal practitioner's dishonest conduct and the names and addresses of any persons who have knowledge of the loss;
 - (b)(10) identification of whom the loss has been reported to (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;
 - (b)(11) the source, if any, from which the loss could be reimbursed, including any insurance, fidelity or surety agreement;
 - (b)(12) the description of any steps taken to recover the loss directly from the lawyer, licensed paralegal practitioner or any other source;
 - (b)(13) 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 Committee of any reimbursements the claimant receives during the pendency of the claim;
 - (b)(14) the existence of facts believed to be important to the Committee's consideration of the claim;
 - (b)(15) the manner in which the claimant learned about the Fund;
 - (b)(16) the name, address and telephone number of the claimant's present lawyer or licensed paralegal practitioner, if any;
 - (b)(17) the claimant's agreement to cooperate with the Committee in reference to the claim, as required by the Utah or Federal Rules of Civil Procedure, in reference to civil actions which may be brought in the name of the Bar, pursuant to a subrogation and assignment clause, which shall also be contained within the claim;
 - (b)(18) the name and address of any other state fund to which the claimant has applied or intends to apply for reimbursement, together with a copy of the application; and
 - (b)(19) the 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) The claimant shall have the responsibility to complete the claim form and provide satisfactory evidence of a reimbursable loss.
- (d) The claim shall be filed with the Committee by providing the same to the Utah State Bar, Fund for Client Protection at the Law and Justice Center, 645 South 200 East, Salt Lake City, Utah 84111.

Rule 14-912. Processing claims.

- (a) Whenever it appears that a claim is not eligible for reimbursement pursuant to these rules, the claimant must be advised of the reasons why the claim may not be eligible for reimbursement, and that unless additional facts to support eligibility are submitted to the Committee, the claim file will be closed. The Fund chair may appoint themselves or any Committee member to determine the eligibility of claims.
- (b) A certified copy of an order disciplining a lawyer for the same dishonest act or conduct alleged in the claim, or a final judgment imposing civil or criminal liability therefor, is evidence that a lawyer committed such dishonest act or conduct.
- (c) The Office of Professional Conduct must be promptly notified of each and every claim.
- (d) The lawyer alleged to have engaged in dishonest conduct must be provided a copy of the claim and given an opportunity to respond to the Committee in writing within 21 days of receiving the claim.
- (e) The Committee may request that testimony be presented. If desired, the lawyer or lawyer's representative must request an opportunity to be heard within 21 days of receiving a notice from the Committee that the Committee will process the claim.
- (f) The Committee may make a finding of dishonest conduct for purposes of adjudicating a claim. Such a determination is not a finding of dishonest conduct for the purposes of professional discipline and further, represents only a recommendation to the Board. A claim may only be considered if the individual lawyer involved has been disciplined to a threshold level of a public reprimand or is no longer in practice.
- (g) The claim will be determined on the basis of all available evidence, and notice must be given to the claimant and the lawyer of the final decision by the Board after a recommendation has been made by the Committee. The recommendation for approving or denying a claim requires the affirmative votes of a majority of the Committee members and a quorum of the voting Board members.
- (h) Any proceeding on a claim will not be conducted according to technical rules relating to evidence, procedure, and witnesses. Any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of any common law or statutory rule that may make improper the admission of such evidence over objection in court proceedings. The claimant has the duty to supply relevant evidence to support the claim.
- (i) The Board must determine the order and manner of payment and pay those claims it deems meritorious. Unless the Board directs otherwise, no claim will be approved during a pending disciplinary proceeding involving the same act or conduct as alleged in the claim. No determination or hearing will take place until all disciplinary proceedings are complete.
- (j) The Board must advise both the claimant and the lawyer of the status of the Board's consideration of the claim and after having received the recommendation of the Committee, must also be informed of the final determination.
- (k) The claimant may request reconsideration within 28 days of the denial or determination of the amount of the claim.

Rule 14-913. Payment of reimbursement.

- (a) The Board may, from time to time, fix a maximum amount of reimbursement that is payable by the Fund. Initially, the maximum amount shall be \$10,000 per claim and \$25,000 total dollars within any given calendar year with regard to an individual lawyer or licensed paralegal practitioner.
- (a)(1) There shall be a lifetime claim limit of \$425,000 per lawyer or licensed paralegal practitioner.
- (b) Claimant shall be reimbursed for losses in amounts to be determined by the Board after recommendations by the Committee. Reimbursement shall not include interest and other incidental and out-of-pocket expenses.
- (c) Payment of reimbursement shall be made in such amounts and at such time as the Board approves and may be paid in lump sum or installment amounts. In the event that the Committee determines that there is a substantial likelihood that

claims against the lawyer or licensed paralegal practitioner may exceed either the annual or lifetime claim limits, claims may be paid on a pro rata basis or otherwise as the Board and the Committee determine is equitable under the circumstances.

(d) If a claimant is a minor or an incompetent, the reimbursement may be paid to any proper and legally recognized person or authorized entity for the benefit of the claimant.

Advisory Committee Notes

Rule 14-913 Amendment Note: The Bar changed from a calendar year to a fiscal year (July 1 to June 30) in 1990.

The Board approved increasing the yearly per claim award limit from \$10,000 to \$20,000 and to eliminate the yearly per lawyer claim limit of \$25,000 on December 1, 2000.

The Board voted to reinstate the yearly lawyer cap of \$25,000 on June 8, 2001.

The Board voted to raise the yearly per lawyer cap to \$50,000 from the previously reinstated \$25,000 cap on December 7, 2001.

The Board voted to raise the yearly per lawyer cap to \$75,000 on October 29, 2010.

Rule 14-914. Reimbursement from the fund as a matter of grace.

No person shall have a legal right to reimbursement from the Fund, whether as claimant, beneficiary or otherwise, and any payment is a matter of grace.

Rule 14-915. Restitution and subrogation.

(a) A lawyer or licensed paralegal practitioner whose dishonest conduct results in reimbursement to a claimant shall be liable to the Fund for restitution, and the Bar may bring such action as it deems advisable to enforce such obligation.

(b) As a condition of reimbursement, a claimant shall be required to provide the Fund with a pro tanto transfer of the claimant's rights against the lawyer or licensed paralegal practitioner and their legal representative, estate or assigns; and of claimant's rights against any third party or entity who may be liable for the claimant's loss.

(c) Upon commencement of an action by the Bar 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.

(d) In the event the claimant commences an action to recover unreimbursed losses against the lawyer, licensed paralegal practitioner or any other entity who may be liable for the claimant's loss, the claimant shall be required to notify the Bar of such action.

(e) The claimant shall be required to agree to cooperate in all efforts that the Bar undertakes to achieve restitution for the Fund.

Rule 14-916. Confidentiality.

Claims, proceedings and reports involving claims for reimbursement are confidential until the Committee recommends, and final determination is made by the Board, authorizing reimbursement to the claimant, except as provided below. After payment of the reimbursement, the Board may publicize the nature of the claim, the amount of reimbursement and the name of the lawyer or licensed paralegal practitioner. The name and address of the claimant shall not be publicized by the Bar, unless specific permission has been granted by the claimant.

Updated December 15, 2020