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FEB 27 2020

IN THE SUPREME COURT OF IOWA

CLERK SUPREME COURT

IN THE MATTER OF THE (
CLIENT SECURITY COMMISSION (**2019 Annual Report**
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This report of the Client Security Commission is submitted as required by Iowa Court Rule 39.4 for the period January 1, 2019, through December 31, 2019.

The Client Security Trust Fund (the fund) and the Client Security Commission (the Commission) were activated on January 1, 1974, with a \$20,000.00 grant from the Iowa State Bar Foundation. That grant since has been repaid. On December 2, 2019, the Commission filed a certificate with the Court regarding the sufficiency of the fund, under the provisions of Iowa Court Rule 39.6(3). As of December 1, 2019, the actual cash balance of the fund totaled \$1,803,324.37, and the unrestricted balance totaled \$1,638,578.59. Because the unrestricted fund balance totaled more than \$900,000.00, a special assessment will not be payable during 2020 by members of the bar of Iowa who have paid assessments in the total sum of at least \$200.00 to the Client Security Trust Fund in past years. A regular assessment of \$50 will be payable during 2020 as provided by Iowa Court Rule 39.6(2).

THE COMMISSION

Chapter 39 of the Iowa Court Rules provides for the Commission and the fund. Iowa Court Rule 39.1 provides for the appointment of seven members to the Commission, two of whom are not to be lawyers. During the period covered by this report, the non-lawyer members of the Commission were Kenneth H. Boeke of Des Moines and Melvin Zischler of Des Moines. The lawyer members of the Commission during the period covered by this report were JoAnn L. Barten of Ames, Todd A. Geer of Grundy Center, the Honorable Myron L. Gookin of Fairfield, Jenny L. Weiss of Dubuque, and Joel D. Vos of Sioux City. At the fall 2019 meeting, the Honorable Myron L. Gookin was elected Chair, Joel D. Vos was elected Vice Chair, and Todd A. Geer was elected Treasurer.

PROFESSIONAL REGULATION

As of December 31, 2019, there were 18,624 lawyers licensed to practice law in Iowa, an increase of 496 lawyers from the previous year. Of these 18,624 licensed attorneys, 9,729 were in active status in Iowa and able to engage in the practice of law. This is 80 more than 2018's 9,649 active lawyers.

Table of Attorney Count As of End of Each Calendar Year								
Year	Total Licensed To Practice	Exempt from Reporting	Net Active	Difference from Previous Year in Net Active	Total In Database	Deceased, Revoked, Retired, Terminated	Legacy Inactive (No Filing or Fee)	Exempt (Annual Filing and \$50 fee)
2010	14,945	9,062	8,981	237	18,043	3,098		
2011	15,259	9,367	9,091	110	18,458	3,199		
2012	15,656	9,589	9,326	235	18,915	3,259		
2013	16,021	9,854	9,486	160	19,340	3,319	6,124	
2014	16,355	10,157	9,582	96	19,739	3,384	6,344	
2015	16,678	10,482	9,644	62	20,126	3,448	6,597	
2016	16,922	10,796	9,653	9	20,449	3,527	6,809	
2017	17,494	11,564	9,531	(122)	21,095	3,601	7,187	
2018	18,128	12,139	9,649	118	21,842	3,714	7,128	180
2019	18,624	12,800	9,729	80	22,529	3,905	7,022	386

As is evident in the above table, in 2017 there was a marked decrease in the number of attorneys that were active in status. This was primarily due to the implementation of a new exempt status which required inactive attorneys to pay an annual \$50 fee. A substantial number of attorneys (462) chose to go inactive before the start of 2018 so as to avoid the exemption fee requirement. During 2019, 211 attorneys went exempt and 50 attorneys relinquished their Iowa law license.

With regard to the active 9,729 attorneys, 77% of them reside within the State of Iowa. This has been consistent for the past half-decade. There also was a slight increase in Iowa lawyers taking residence outside of the State of Iowa. The chart below shows the geographic distribution of active Iowa lawyers for the last five years.

Active Attorney Breakdown (Resident versus Non-Resident)				
Year	Resident Active	Non- Resident Active	Overseas Active	Total Active Lawyers
2019	7,488	2,229	12	9,729
2018	7,493	2,144	12	9,649
2017	7,454	2,068	9	9,531
2016	7,574	2,070	9	9,653
2015	7,610	2,043	7	9,660

During 2019, lawyers admitted within the past two years were exempt from payment of assessments into the fund. Lawyers in active duty military service status or emeritus status were also exempt from payment of assessments into the fund. Lawyers categorized as full-time practitioners, government employees, full-time corporate employees, judges, multijurisdictional practitioners, or part-time practitioners contributed an assessment of \$50.00 to the fund.

During calendar year 2019, the licenses of eighteen attorneys were suspended by the Court for failure to comply with the reporting and fee payment provisions of chapter 39 of the Iowa Court Rules. Failure to file the required annual questionnaire and statement with the Commission by March 10th of the year resulted in payment of a late filing penalty ranging from \$100 to \$250 under the Commission's rules by 451 lawyers during 2019.

COMPLIANCE REVIEWS

The Commission’s audit staff conducts routine audits of all lawyers in active practice in Iowa and examines their trust accounts, with the goal of examining each trust account every three to four years. The fact that a routine examination is made does not indicate any violations are suspected on the part of the lawyer or lawyers involved. Cooperation by members of the bar continues to be excellent, and the majority of Iowa lawyers properly use their trust accounts.

During 2019, auditors employed by the Client Security Commission conducted trust account compliance examinations as shown in the following table. Also during 2019, the auditors reviewed accounts in which lawyers were serving as fiduciaries as shown in the table.

Trust Account Compliance Examinations	443
# of Lawyers Subject to Compliance Exams	782
Fiduciary Account Examinations	102

These examinations encourage lawyers to maintain their trust accounts and fiduciary accounts in accordance with the requirements of Iowa Rule of Professional Conduct 32:1.15 and chapter 45 of the Iowa Court Rules.

The Commission’s staff has published an outline on trust account procedures and made it available to all Iowa lawyers on the Commission web page. In addition, the director and assistant directors of the Office of Professional

Regulation periodically appear at continuing legal education events to discuss proper trust accounting procedures. Also the Commission auditors and staff are happy to share their knowledge and experience to assist any lawyers who have questions regarding trust account management.

Iowa was the first state to periodically examine lawyers' trust accounts and continues to be the leader in that field. It is the Commission's belief that routine examinations of lawyers' trust accounts help deter that small number of lawyers who might otherwise make use of the funds of others, and also help limit losses resulting from attorney diversion of client monies through early detection. Also, as has been the case every year since the inception of the audit program, routine examinations confirm that the vast majority of Iowa attorneys diligently adhere to the trust account rules.

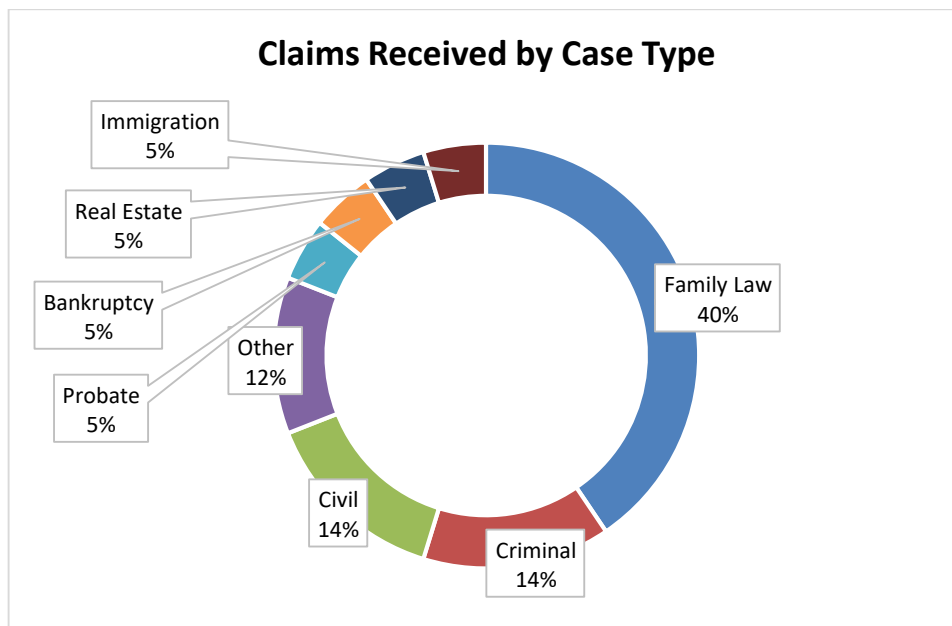
CLIENTS' SECURITY TRUST FUND

The Client Security Commission manages a fund generated by contributions from Iowa lawyers and judges, and advises the court on policies involving the administration of the fund. The purpose of the fund is to prevent defalcations by members of the Iowa bar, and insofar as practicable, to provide indemnification by the profession for losses caused to the public by the dishonest conduct of members of the bar of this state. The fund also separately

administers the cost of administering the lawyer disciplinary system and other programs which impact the disciplinary system.

Claims Considered

Eight requests for reimbursement were pending before the Commission on January 1, 2019. The number of claims received by the Commission during 2019, thirty-four, was higher than most prior years. No previously closed requests for reimbursement were reopened. The graph below shows the case type of each of the claims received during calendar year 2019.



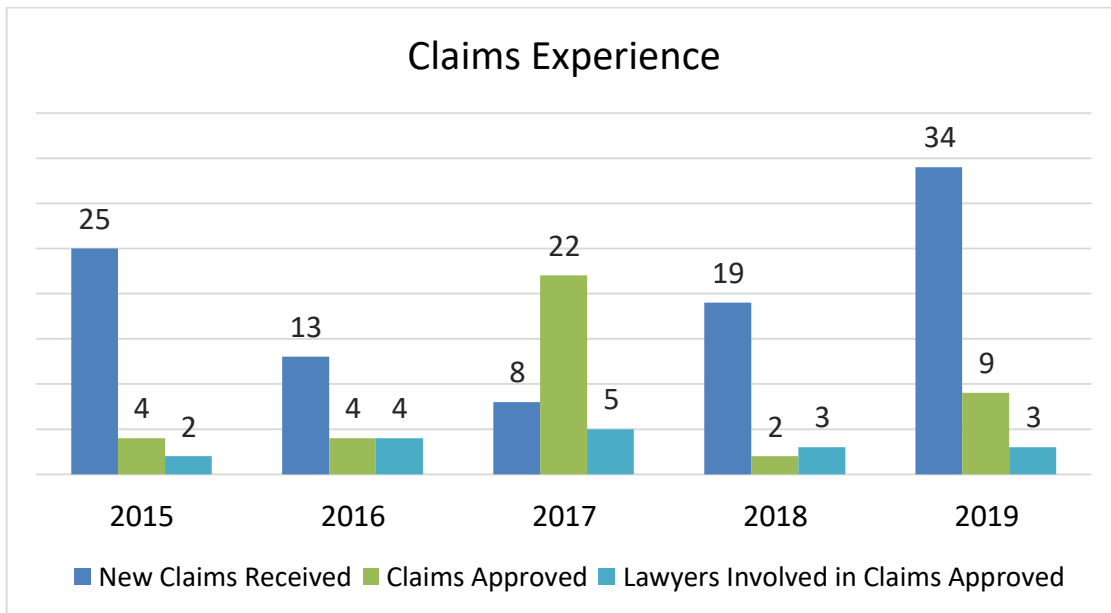
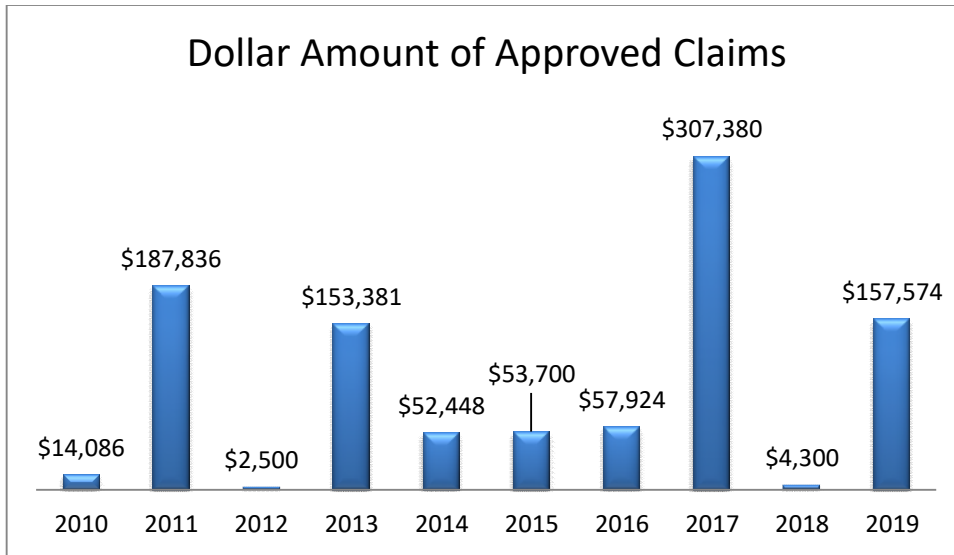
The disposition of the forty-two pending and new matters during 2019 was as follows:

<u>Disposition</u>	<u>Number</u>
Payment authorized	9
Administratively dismissed	6
Reimbursement denied	12
Pending on December 31, 2019	15

During 2019, the Commission authorized payment on nine requests for reimbursement, totaling \$157,573.56. The claims approved during 2019 are summarized as follows:

- The Commission authorized payment on six claims totaling \$146,153.56 based on the actions of lawyer Todd W. Kowalke. Mr. Kowalke’s license to practice law in Iowa was revoked on September 14, 2018.
- The Commission authorized payment on one claim in the amount of \$7,500.00 based on the actions of lawyer Tina H. Muhammad. Ms. Muhammad’s license to practice law in Iowa was revoked on October 25, 2019.
- The Commission authorized payment on one claim in the amount of \$3,020.00 based on the actions of lawyer David D. Butler. Mr. Butler relinquished his Iowa law license on January 3, 2019.
- The Commission authorized payment on one claim in the amount of \$900.00 based on the actions of lawyer Kyle L. Earley. Mr. Earley’s license to practice law in Iowa was revoked on September 6, 2019.

The following charts give an overview of the Fund’s claims experience over time:



Commission rules in effect during calendar year 2019 for conduct before January 1, 2014, provided \$50,000.00 as the maximum reimbursement one claimant may receive from the fund, and \$150,000.00 as the maximum aggregate amount payable from the fund because of the dishonest conduct of any one attorney. For claims arising from lawyer conduct on or after January 1, 2014, the commission rules provided \$100,000.00 as the maximum reimbursement one

claimant may receive from the fund, and \$300,000.00 as the maximum aggregate amount payable from the fund because of the dishonest conduct of any one attorney. The total sum requested for the claims pending on December 31, 2019, as limited by per claim and per lawyer caps, was \$165,745.78.

Substantially all of the claims denied in recent years failed to qualify for reimbursement because they did not arise from the dishonest conduct of a member of the bar of Iowa while acting as an attorney or fiduciary. The Commission is not authorized to approve requests for payment arising out of voluntary joint ventures with lawyers or the personal lending of money to lawyers. The Client Security Trust Fund is not intended and is not authorized to provide protection against malpractice or to resolve disputes about the amount of a lawyer's charges.

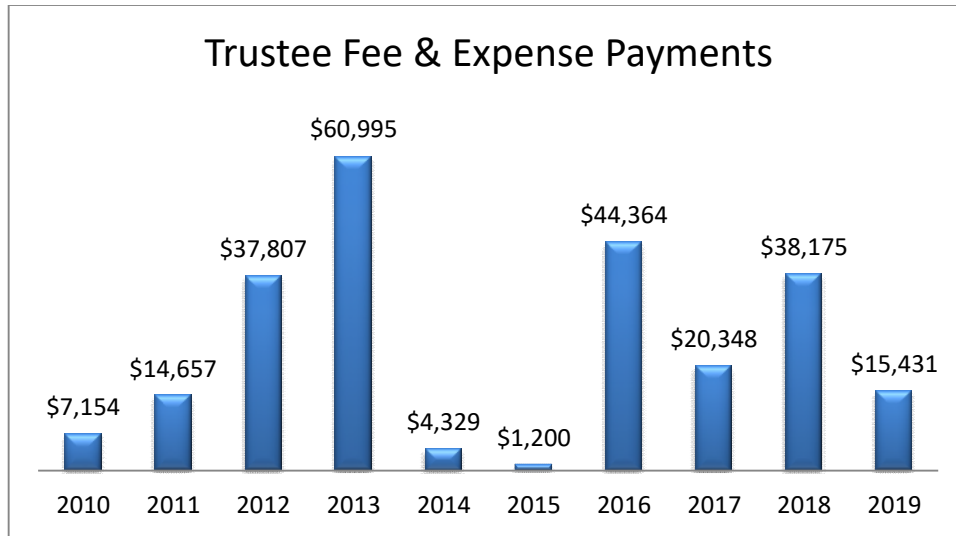
No reimbursements were recovered during calendar year 2019 on prior claims paid by the fund. The Commission will continue its policy of seeking reimbursement of paid claims when circumstances warrant.

Trustee Compensation & Expenses

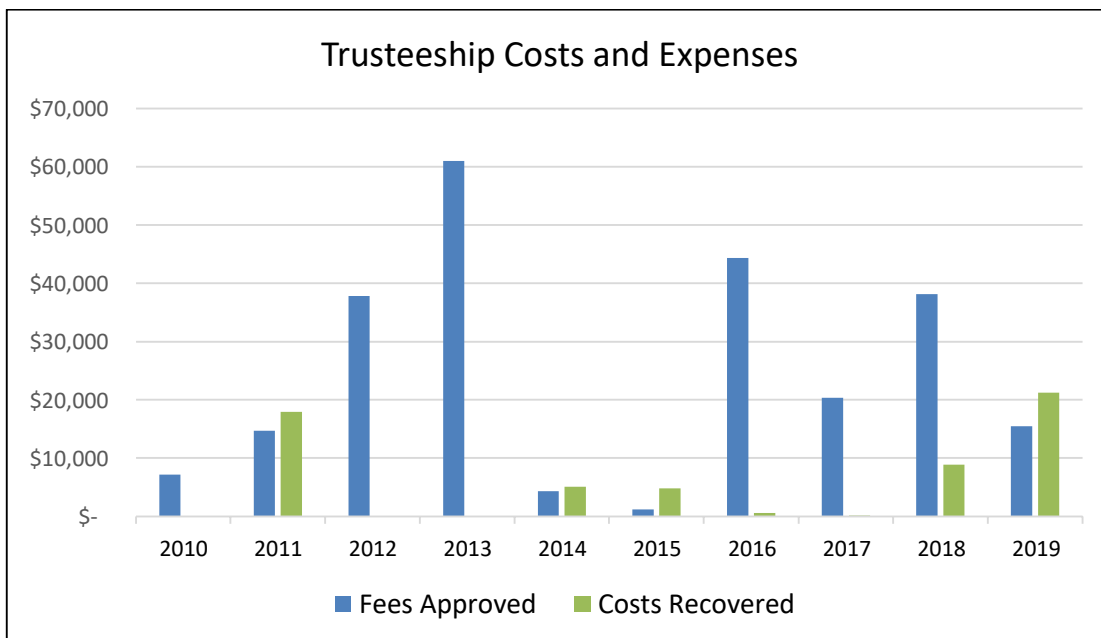
Iowa Court Rule 34.17 provides for disability suspension pursuant to a sworn application on behalf of a county bar association or the Attorney Disciplinary Board, and requires the chief judge of the judicial district in which

the attorney has been practicing to appoint a lawyer or lawyers to serve as trustee in connection with matters in progress in the office of the lawyer suspended under the rule. Iowa Court Rule 34.18 provides for appointment of a trustee by the district chief judge upon application of a county bar association or the Attorney Disciplinary Board if a practicing lawyer has died or been suspended or disbarred from practice, provided reasonable necessity exists. Appointment of a trustee to inventory files, sequester client funds, and take other appropriate action to protect the interests of the clients and other affected persons helps identify and assists management of claims for reimbursement filed with the Commission.

Iowa Court Rules 34.17 and 34.18 also provide that a trustee may seek reasonable fees and reimbursement of costs in connection with these matters from the suspended attorney. If unsuccessful, the trustee may submit a fee and expense claim to the Commission. The Commission, in its sole discretion, determines the merits of the claim and the amount of any payment from the fund. Trustee claims for fees and expenses in the total amount of \$15,431.05 were authorized for payment from the fund during 2019. This relatively low amount was due in large part to the trustees who volunteered their services as a *pro bono* service to the Iowa legal profession.



During calendar year 2019, \$21,204.41 was recovered on prior trustee fees and expenses paid by the fund. The Commission will continue its policy of seeking reimbursement of paid trustee fees and expenses when circumstances warrant.



FINANCIAL OVERVIEW

In addition to providing indemnification for losses caused to the public by the dishonest conduct of members of the bar of this state, the fund also supports administration of the lawyer disciplinary system and other programs that impact the disciplinary system, including but not limited to the Iowa Lawyers Assistance Program.

As a condition to continuing membership in the bar, every bar member is required to pay to the Commission an annual fee as determined by the Court to finance the disciplinary system, unless exempt. The annual fee during 2019 was \$200.00. Annual fees received to finance the disciplinary system totaled \$1,854,485 during 2019. The fees received to finance the disciplinary system were expended to pay operating expenses of the Iowa Supreme Court Attorney Disciplinary Board, the Grievance Commission of the Supreme Court of Iowa, the Iowa Supreme Court Commission on the Unauthorized Practice of Law, and a portion of the operating expenses of the Iowa Lawyers Assistance Program. The annual fee to be paid by each attorney to support the attorney disciplinary system for calendar year 2020 remained at \$200.

The Commission has established separate bookkeeping records and accounts for funds received to finance the disciplinary system. A disciplinary fund checking account has been established for disciplinary operations. The

annual fees received from attorneys to finance the disciplinary system are deposited in the investment account of the Commission as part of the online reporting system for lawyers, and then transferred to the disciplinary fund checking account. Funds deposited in the disciplinary fund checking account are diverted to interest-bearing certificates of deposit or a deposit savings account to the extent not necessary to support current operations of the entities supported by the annual fee.

AUDIT

The audit report prepared by Brooks Lodden, P.C., Certified Public Accountants, for the accounting period ending June 30, 2019, previously has been submitted to the Court. The financial report includes a section entitled *Management Discussion & Analysis*, which was prepared by Commission staff. Examination of the *Management Discussion & Analysis* is recommended in lieu of any separate analysis the Commission might provide regarding financial operations of the Commission.

The Commission continues to adhere to its longstanding investment philosophy of safety. The Commission's policy is to invest only in United States government or United States government-related securities or fully FDIC-insured brokered certificates of deposit. Commission funds otherwise are placed in

deposit accounts covered by FDIC insurance or the Iowa public funds statute, Iowa Code chapter 12C.

OPERATIONS

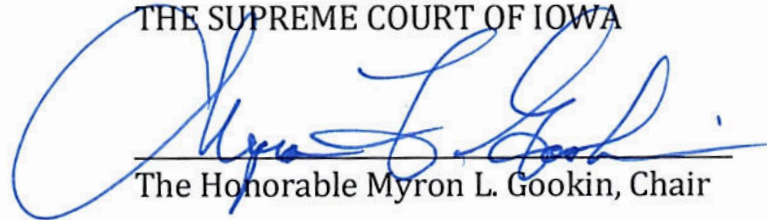
Commission funds are deposited in accounts at Wells Fargo Bank, Des Moines, Iowa. All checks drawn upon the investment checking account require the signature of two authorized signatories. The operating funds are deposited in a separate checking account with a maximum of one-half of the monthly operating budget being transferred into the account at any one time. The director and the assistant directors of the Office of Professional Regulation are authorized to sign checks from that account up to a maximum of \$2,000.00, with checks over \$2,000.00 requiring the signature of two authorized signatories. A \$200,000.00 dishonesty insurance policy covers the director, all employees of the Commission, and all Commission members.

The Client Security Commission and seven other boards, commissions, or functions administered by the main office of the Office of Professional Regulation share staff, files, and equipment to minimize operating expenses. The accounting and budget years for the boards and commissions are standardized on the same fiscal year as state government generally. For the fiscal year beginning July 1, 2019, the Court approved the attached operating budget for the Client Security

Commission. Continued cooperation between all of the boards and commissions administered by the Office of Professional Regulation makes it possible to operate within this budget.

Dated: 26th of February, 2020.

CLIENT SECURITY COMMISSION OF
THE SUPREME COURT OF IOWA



The Honorable Myron L. Gookin, Chair

In the Supreme Court of Iowa

CLERK SUPREME COURT

In the Matter of Budgets)	
for the Boards and)	
Commissions of the)	Order
Office of Professional)	
Regulation)	

The Director of the Office of Professional Regulation has proposed fiscal year 2019-2020 budgets for the boards and commissions subject to the provisions of Iowa Court Rule 49.2.

Pursuant to Iowa Court Rule 49.2, the fiscal year 2019-2020 budgets for the following boards and commissions of the Office of Professional Regulation are approved as proposed:

- Attorney Disciplinary Board
- Board of Examiners of Shorthand Reporters
- Board of Law Examiners
- Client Security Commission
- Commission on Continuing Legal Education
- Office of Professional Regulation, Court Interpreter Function
- Grievance Commission
- Lawyer Trust Account Commission
- Commission on the Unauthorized Practice of Law

A copy of each approved budget is attached to this order.

These boards and commissions are authorized and directed to expend monies and other receipts collected under the provisions of the Iowa Court Rules in execution of the approved budgets, in each case in an amount up to but not exceeding the applicable budget total as approved.

The court is advised that as of June 30, 2019, the Attorney Disciplinary Board (the Board) will have a remaining unobligated balance

in its bank operating account, representing that portion of the fiscal year 2018-2019 budget authorization it will not expend during the period July 1, 2018 through June 30, 2019. The Board is authorized and directed to expend this remaining unobligated bank operating account balance, as verified by independent audit, against the Board's authorized budget for the period July 1, 2019 through June 30, 2020. The Client Security Commission is authorized and directed to pay to the Board during the period July 1, 2019 through June 30, 2020, a sum equal to the Board's total approved budget for that period, reduced by the Board's unobligated bank operating account balance as of June 30, 2019, as verified by independent audit. Such payment shall be divided into equal semimonthly installments, which the Client Security Commission shall be authorized to adjust to reflect the remaining operating account balance already available to the Board.

Dated this 30th day of May, 2019.

THE SUPREME COURT OF IOWA

By Mark S. Cady
Mark S. Cady, Chief Justice

CLIENT SECURITY COMMISSION

FISCAL YEAR 2019-2020 BUDGET

OPERATING EXPENSES

Salary and Salary Expenses	
Director	\$27,207.67
Assistant Director	\$118,391.32
Auditors	\$135,600.00
Clerical - Bookkeeping	\$64,829.28
Vacation/Sick Leave Payout	\$0.00
Part-Time Data / Call Center Support	\$0.00
Employee Insurance	\$39,166.65
Deferred Compensation	\$2,160.00
FICA	\$26,471.16
IPERS	\$32,665.07
Travel Expenses - Director, Commissic	\$3,000.00
Travel Expenses - Auditor	\$27,000.00
Rent	\$15,000.00
Auditing	\$2,400.00
Telephone	\$450.00
Office Supplies	\$1,400.00
Printing	\$1,000.00
Postage	\$2,500.00
Copier Lease	\$1,200.00
Repairs & Maintenance	\$200.00
Employer Insurance	\$1,200.00
Unemployment Insurance	\$210.00
Banking Fees	\$700.00
Miscellaneous, Including Moving	\$1,000.00
Automation Support	\$600.00
Internet App. Maint. & Development	\$100,250.00
Internet Payment Charges	\$20,000.00
Payroll Processing	\$900.00
Staff Communications Support	\$1,800.00
TOTAL OPERATING EXPENSES	<u>\$627,301.15</u>
CAPITAL EXPENDITURES	\$3,500.00
TOTAL PROJECTED EXPENDITURES	<u>\$630,801.15</u>