

IN THE SUPREME COURT OF IOWA

CLERK SUPREME COURT

IN THE MATTER OF THE)
CLIENT SECURITY COMMISSION) 2021 ANNUAL REPORT
LEGAL EDUCATION)

The attached annual report of the Client Security Commission is submitted as required by Iowa Court Rule 39.4 for the reporting period January 1, 2021, through December 31, 2021.

Respectfully submitted,

OFFICE OF PROFESSIONAL REGULATION

By: Nicholas Critelli 
Nicholas (Tré) Critelli, Executive Director
Office of Professional Regulation
Iowa Judicial Branch Building
1111 E. Court Avenue
Des Moines, IA 50319-5003
Telephone: (515) 348-4670
Fax: (515) 348-4698
E-mail: tre.critelli@iowacourts.gov

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF THE (
CLIENT SECURITY COMMISSION (
 (
2021 Annual Report

This report of the Client Security Commission is submitted as required by Iowa Court Rule 39.4 for the period January 1, 2021, through December 31, 2021.

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. On December 3, 2021, 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, 2021, the actual cash balance of the fund totaled \$2,184,362.78, and the unrestricted balance totaled \$2,164,909.11. Because the unrestricted fund balance totaled more than \$900,000.00, a special assessment will not be payable during 2022 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 2022 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 Eric G. Seeman of Boone and Melvin Zischler of Des Moines. The lawyer members of the Commission during the period covered by this report were Lori Torgerson Chesser of Des Moines, Todd A. Geer of Grundy Center, the Honorable Myron L. Gookin of Fairfield, Karen A. Volz of Cedar Rapids, and Joel D. Vos of Sioux City. At the fall 2021 meeting, the Honorable Myron L. Gookin was elected Chair, Joel D. Vos was elected Vice Chair, and Eric G. Seeman was elected Treasurer.

ATTORNEY STATISTICS

As of December 31, 2021, there were 19,734 lawyers licensed or registered to practice law in Iowa, an increase of 572 lawyers from the previous year. Of these 19,734 attorneys, 9,782 were active in status and able to engage in the practice of law. This is 23 more than 2020's 9,759 active lawyers.

With regard to the active 9,782 attorneys, 7,405 or 76% 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.

Attorneys in Active Status (Resident & Non-Resident)				
Year	Resident Active	Non- Resident Active	Overseas Active	Total Active Lawyers
2021	7,405	2,363	14	9,782
2020	7,452	2,298	9	9,759
2019	7,488	2,229	12	9,729
2018	7,493	2,144	12	9,649
2017	7,454	2,068	9	9,531

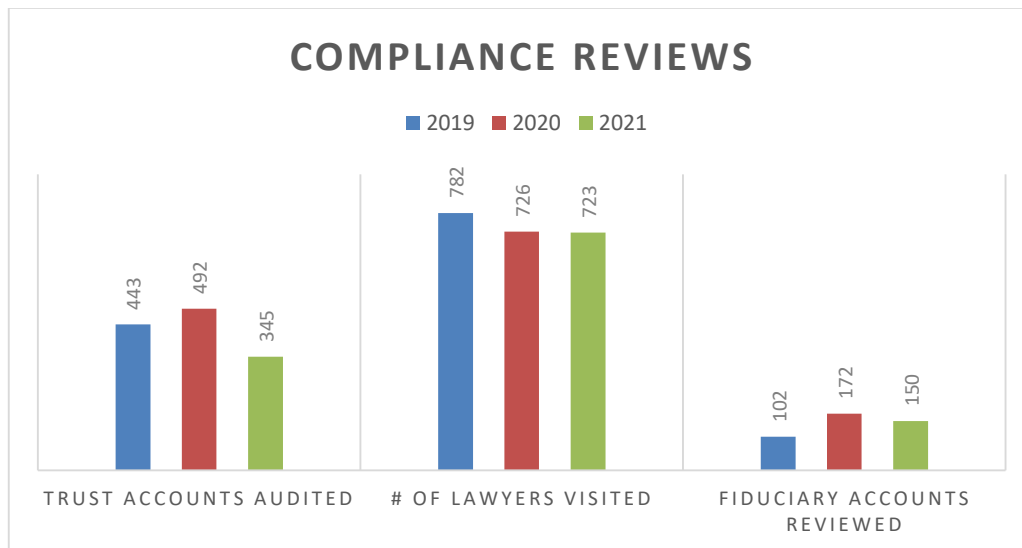
During the 2021 filing season¹, 252 attorneys went exempt and 65 attorneys relinquished their Iowa license. The licenses of thirty attorneys were suspended by the Court for failure to comply with the reporting and fee payment provisions of chapter 39 of the Iowa Court Rules. 375 lawyers paid a late filing penalty ranging from \$100 to \$250 during 2021.

¹ The Client Security Commission operates on three calendar systems. The calendar year and fiscal years are self-explanatory. The filing season calendar runs from December 15th through December 14th. It is during this time period that attorneys make changes to their status as they file their annual reports. OPR's database now allows for a filing season calendar data pull, which previously had not been possible. This should be considered when comparing this year's numbers to prior reports.

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 2021, auditors employed by the Client Security Commission conducted trust account compliance examinations as shown in the following chart. Also during 2021, the auditors reviewed accounts in which lawyers were serving as fiduciaries as shown in the chart.



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. Due to the pandemic, all audits were switched from in-person to correspondence-based in 2020, with attorneys scanning and uploading the requested information over a secure Sharefile site. This allowed trust account audits not only to continue, but also to expand in number as the auditors were no longer limited by drive times and scheduling issues.

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 executive director and director of client security 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.

In calendar year 2021, \$10,712.82 of audit costs were recovered pursuant to Iowa Court Rule 39.10. The Commission will continue to assess audit costs to the audited attorney or firm when circumstances warrant.

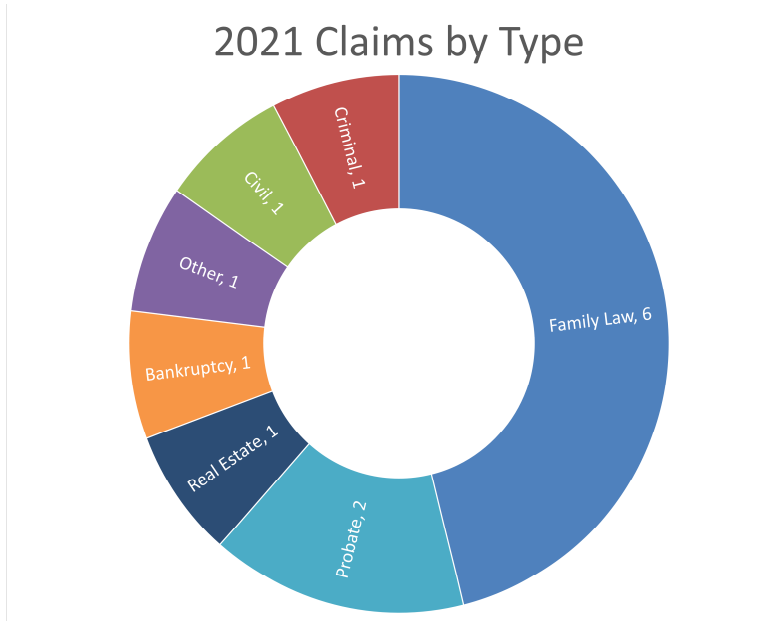
CLIENTS' SECURITY TRUST FUND

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, 2021. Thirteen new claims were received by the Commission during 2021. No previously closed requests for reimbursement were reopened.

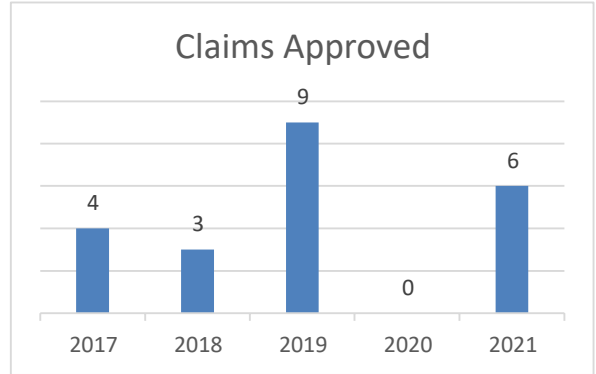
The graph below shows the case type of each of the claims received during calendar year 2021.



The disposition of the twenty-one pending and new matters during 2021 was as follows:

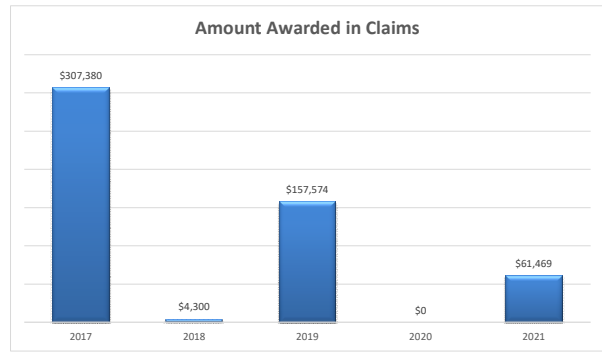
<u>Disposition</u>	<u>Number</u>
Payment authorized	6
Administratively dismissed	4
Reimbursement denied	6
Pending on December 31, 2021	5

During 2021, the Commission authorized payment on six requests for reimbursement, totaling \$61,469.09. The claims approved during 2021 are summarized as follows:



- The Commission authorized payment on one claim in the amount of \$31,709.23 based on the actions of lawyer Barry M. Anderson. Mr. Anderson’s license to practice law in Iowa was suspended on March 18, 2021.
- The Commission authorized payment on one claim in the amount of \$23,159.86 based on the actions of lawyer Scott E. Smith. Mr. Smith’s license to practice law in Iowa was revoked on November 13, 2019.
- The Commission authorized payment on three claims totaling \$5,600.00 based on the actions of lawyer Curtis W. DenBeste. Mr. Den Beste’s license to practice law in Iowa was revoked on April 14, 2021.
- The Commission authorized payment on one claim in the amount of \$1,000.00 based on the actions of lawyer Angela R. Hill. Ms. Hill’s license to practice law in Iowa was suspended on January 22, 2021.

Commission rules in effect during calendar year 2021 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. \$61,469 were paid in claims during 2021. The total sum requested for the claims pending on December 31, 2021, as limited by per claim and per lawyer caps, was \$22,453.67.

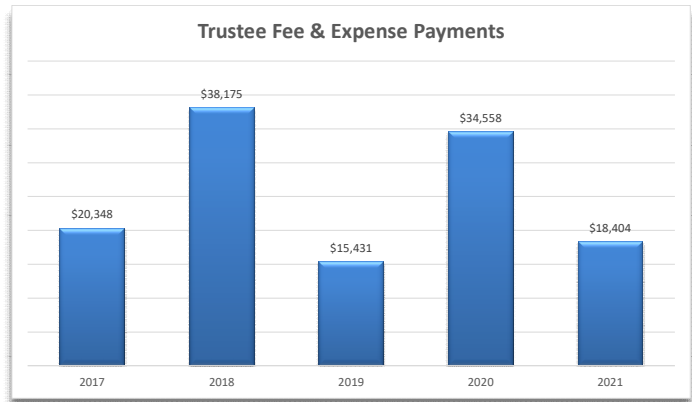
Substantially all of the claims denied in recent years failed to qualify for reimbursement because they did not arise from the dishonest conduct of a member of the bar of Iowa while acting as an attorney or fiduciary. The Commission is not authorized to approve requests for payment arising out of voluntary 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 fee disputes.

Trustee Compensation & Expenses

Iowa Court Rule 34.17 provides for disability suspension and permits the chief judge of the judicial district in which the attorney practiced 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 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 assist 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 \$18,404.05 were authorized for payment from the fund during 2021.



This amount would have been much

higher but for the assistance of trustees who volunteered their services as a *pro bono* service to the Iowa legal profession.

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 2021 was \$200.00. 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. Staff is reviewing the annual fee to be paid by each attorney to support the attorney disciplinary system for calendar year 2023 and may be making a recommendation to the Court that the fee be increased to \$225. The disciplinary system fee was last increased in 2016 for the 2017 calendar year.

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 of Commission Funds

The audit report prepared by Brooks Lodden, P.C., Certified Public Accountants, for the accounting period ending June 30, 2021, 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

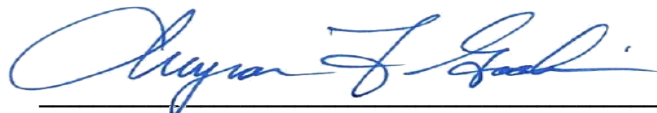
Commission funds used to be deposited in accounts at Wells Fargo Bank, Des Moines, Iowa. In 2021, however, all Commission funds have been transferred to Community State Bank. All checks drawn upon the investment checking account require the signature of two authorized signatories. The executive

director and the 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, 2021, 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: 24th of February, 2022.

CLIENT SECURITY COMMISSION OF
THE SUPREME COURT OF IOWA



The Honorable Myron L. Gookin, Chair

IN THE SUPREME COURT OF IOWA

FILED

JUN 24 2021

CLERK SUPREME COURT

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

ORDER

On June 9, 2021, the Director of the Office of Professional Regulation met with the Court regarding the proposed fiscal year 2021–2022 budgets for those boards and commissions subject to the provisions of Iowa Court Rule 49.2.

Pursuant to Iowa Court Rule 49.2, the fiscal year 2021–2022 budgets for the following named 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
- Grievance Commission
- Lawyer Trust Account Commission
- Commission on the Unauthorized Practice of Law

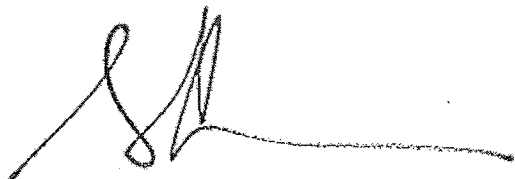
A copy of each approved budget is attached to this order.

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, 2021, the Attorney Disciplinary Board (the Board) will have a remaining unobligated balance in its bank operating account, representing that portion of the fiscal year 2020-2021 budget authorization it will not expend during the period July 1, 2020 through June 30, 2021. 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, 2021 through June 30, 2022. The Client Security Commission is authorized and directed to pay to the Board during the period July 1, 2021 through June 30, 2022, 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, 2021, 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 24th day of June, 2021.

THE SUPREME COURT OF IOWA

By 

Susan Larson Christensen, Chief Justice

Copies to:
Members of the Court
Court of Appeals
Members of Each Board or Commission
State Court Administrator
Director, Office of Professional Regulation
Iowa State Bar Association

CLIENT SECURITY COMMISSION

FISCAL YEAR 2021-2022 BUDGET

OPERATING EXPENSES

Salary and Salary Expenses	
Director	\$28,225.03
Assistant Director	\$127,706.41
Auditors	\$140,400.00
Clerical - Bookkeeping	\$70,285.38
Vacation/Sick Leave Payout	\$0.00
Part-Time Data / Call Center Support	\$0.00
Employee Insurance	\$32,471.48
Deferred Compensation	\$2,250.00
FICA	\$28,046.19
IPERS	\$34,608.63
Travel Expenses - Staff, Commission	\$5,250.00
Travel Expenses - Auditor	\$25,000.00
Rent	\$15,000.00
Auditing	\$2,500.00
Telephone	\$450.00
Office Supplies	\$1,400.00
Printing	\$1,000.00
Postage	\$6,000.00
Copier Lease	\$1,200.00
Repairs & Maintenance	\$200.00
Employer Insurance	\$1,200.00
Unemployment Insurance	\$1,300.00
Banking Fees	\$1,000.00
Miscellaneous, Including Moving	\$1,000.00
Automation Support	\$600.00
Internet App. Maint. & Development	\$75,250.00
Internet Payment Charges	\$20,000.00
Payroll Processing	\$750.00
Staff Communications Support	\$1,800.00
TOTAL OPERATING EXPENSES	<u>\$624,893.11</u>
CAPITAL EXPENDITURES	\$7,000.00
TOTAL PROJECTED EXPENDITURES	<u>\$631,893.11</u>