

**July 1, 2009 – June 30, 2010**

**2010 ANNUAL REPORT**



**LAWYERS' FUND FOR CLIENT PROTECTION  
OF THE SUPREME COURT OF DELAWARE**  
820 N. FRENCH STREET, 11<sup>TH</sup> FLOOR  
WILMINGTON, DELAWARE 19801

**ANNUAL REPORT OF THE TRUSTEES OF THE LAWYERS' FUND FOR CLIENT  
PROTECTION OF THE SUPREME COURT OF DELAWARE  
PURSUANT TO SUPREME COURT RULE 66(c)(ii)**

The Trustees of the Lawyers' Fund for Client Protection (LFCP) hereby make the following report to the Supreme Court for July 1, 2009 through June 30, 2010.

**Claims**

The chart below summarizes the claims data for the period.

Lawyer	Pending as of 7/1/2009		Newly Filed		Paid		Denied		Withdrawn		Pending as of 6/30/2010	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
HHR	1	418,535.00			1	118,535.00						
FTD	2	3,750.00			1	500.00	1	3,000.00				
KMJ	1	300.00					1	300.00				
WMM	1	3,000.00					1	3,000.00				
FHG			1	7,500.00	1	6,450.00						
CJA			1	875,000.00							1	875,000.00
<b>Totals</b>	<b>5</b>	<b>425,585.00</b>	<b>2</b>	<b>882,500.00</b>	<b>3</b>	<b>125,485.00</b>	<b>3</b>	<b>6,300.00</b>			<b>1</b>	<b>875,000.00</b>

Of the six lawyers listed above, two have been disbarred and one has been suspended. Most were guilty, to a greater or lesser degree, of violations of Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct (Recordkeeping).

**Rule Changes**

An Order amending Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct and Rule 11 of the Lawyers' Fund for Client Protection pertaining to lawyer bank accounts was signed on February 16, 2010 effective May 1, 2010. The amendment deleted subsection (1) of the Rule 1.15(d) and substituted the following: "All bank statements, cancelled checks (or images and/or copies thereof as provided by the bank), records of electronic transfers, and duplicate deposit slips relating to fiduciary and non-fiduciary accounts must be preserved. Records of all electronic transfer from fiduciary accounts shall

include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.” Fiduciary Funds Audit Objective B2(1)a of Rule 11 of the Rules of the Lawyers’ Fund for Client Protection (“RLFCP”) is hereby amended by deleting the present language and substituting the following: “Bank statements, deposit tickets, records of electronic transfer, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfers from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.” Fiduciary Funds Audit Objective B1(14)c of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following: “Examine cancelled checks (or images and/or copies thereof as provided by the bank) and records of electronic transfers to verify disbursements.” Real Estate Funds Audit Objective B2(1)(a) of Rule 11 of the RLFCP is hereby amended by deleting the present language and substituting the following: “Bank statements, deposit tickets, records of electronic transfers, and cancelled checks (or images and/or copies thereof as provided by the bank). Records of all electronic transfer from fiduciary accounts shall include the name of the person authorizing transfer, the date of transfer, the name of recipient and confirmation from the banking institution confirming the number of the fiduciary account from which the funds are withdrawn and the date and time the request for transfer was completed.”

### **Compliance Audits**

Approximately sixty lawyers and law firms were audited in Fiscal Year 2010. In addition to random audits, lawyers are sometimes referred for audit by the Office of Disciplinary Counsel (ODC). Audits were also performed on the books and records of lawyers who were found to be non-compliant on their Certificates of Compliance. The Certificates of Compliance are reviewed every year by the LFCP executive director. Some of the Certificates of Compliance are reviewed by the LFCP auditor, and/or ODC.

The books and records of lawyers selected for audits were examined by the LFCP Auditor in order to determine compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct. Lawyers found to have material items of non-compliance are reported to ODC. If a re-audit is required, the cost of the re-audit becomes the responsibility of the non-compliant attorney pursuant to Rule 9(4) of the LFCP.

Of the 60 lawyers and law firms randomly audited in the period ended June 30, 2010, 53% were found to be in compliance and 47% were not in compliance. Most of the instances of non-compliance were not material and corrected without the need for further action by the LFCP or ODC. There were numerous follow-up audits, investigative audits, and forensic audits on new and ongoing matters.

**Financial Statements**

The LFCP financial statements for the year ended June 30, 2010, show Net Assets of \$4,580,557.00. The Trustees review on a regular basis the investment policies and performance of the LFCP with representatives of Wilmington Trust Company which manages the LFCP's investment. The basic investment strategy of the LFCP remains the same: To keep the funds invested in a conservative balance of equities 30% and fixed income securities 70% so as to preserve the Fund's assets.<sup>1</sup>

**Board**

Currently, the following persons serve on the Board of Trustees:

<b><u>Trustees and Associate Trustees</u></b>		<b><u>Expiration Date</u></b>
Francis J. Jones, Jr. (Chair)	Lawyer Member	10/01/10
Larry Bainter	Public Member	01/07/12
Crystal L. Carey	Lawyer Member	11/29/12
Teresa A. Cheek (Secretary)	Lawyer Member	05/05/11
Jennifer W. Davis	Public Member	04/19/13
Rachel Anne Dwares	Lawyer Member	10/24/10
Theresa McQuaid Hayes	Lawyer Member	10/24/10
Heather Doheny Jefferson	Lawyer Member	05/08/11
Robert J. Leoni	Lawyer Member	01/27/11
Ricardo Palacio	Lawyer Member	10/24/10
John L. Reed	Lawyer Member	01/27/11
Dennis L. Schrader	Lawyer Member	01/18/11
D. Benjamin Snyder	Lawyer Member	11/29/12

**Supreme Court Liaison**

The Honorable Randy J. Holland

**Office of Disciplinary Counsel Liaison**

Patricia Schwartz, Esquire

**Auditor**

Judith Scarborough, CPA, Master, Sidlow & Associates, P.A.

**Executive Director**

Bunny J. Christopher

Respectfully submitted,

**TRUSTEES OF THE LAWYERS' FUND FOR CLIENT PROTECTION**

By:

  
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FRANCIS J. JONES, JR., CHAIR

Dated:

9/13/10

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<sup>1</sup> In June 2010, the investment portfolio guidelines were changed due to the Investment Committees' desire to protect principal.