

Record Payouts for Client Security Board

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Reprinted from MSBA *Public Law News* (Spring 2004)

The Minnesota Client Security Board^{[Ftn1](#)} has dealt with a wide variety of issues lately. The most significant of the Board's recent actions is the record dollar amount of claims approved against disbarred lawyer Stephen Rondestvedt. In September 2003, Mr. Rondestvedt walked into the lawyer disciplinary agency and revealed that he had misappropriated approximately \$700,000 in client funds and was prepared to surrender his license. He was promptly disbarred by the Minnesota Supreme Court and charged criminally by the United States Attorney. He entered a guilty plea and was awaiting sentencing at the time this article was written.

The Client Security Board staff contacted potential victims shortly after Rondestvedt's misappropriations became known and claims were soon pouring in, seeking reimbursement of the amount that Rondestvedt had taken. Fourteen such claims were approved at the Board's January 2004 meeting, with another seven claims approved at the recent March meeting. One claim was withdrawn after an insurance company renegotiated a workers compensation settlement with the victim. Four more claims against Rondestvedt remain to be resolved. The claims approved in January totaled \$498,166.09. The March claims totaled an additional \$134,167.99, for a total thus far of \$632,334.08. This overwhelmingly has made Rondestvedt the attorney against whom the highest dollar amount of claims has been approved in Board history, even with more claims left to resolve. The second highest total is almost \$100,000 behind^{[Ftn2](#)}.

The amount paid out on Rondestvedt's behalf likely also will result in the Board paying out the highest dollar amount for claims in one year in the Board's fifteen-year history. The current record is \$705,524 in 1996.^{[Ftn3](#)} Because the payments thus far this year far exceed the Board's projected annual budget for claims, special approval from the Supreme Court was obtained in order to pay Rondestvedt's victims in the current fiscal year, so as not to require them to wait longer.

In addition to its primary function of paying victims of lawyer dishonesty, the Board also approved a resolution to support a malpractice insurance disclosure rule that is being considered by the Minnesota State Bar Association's Rules of Professional Conduct committee. Essentially, such a rule will create an obligation to provide information concerning whether an attorney maintains malpractice insurance on the annual attorney registration form, which then would be public information available to

prospective clients upon request. Government lawyers would be exempt from the requirement.

The ABA Standing Committee on Client Protection has urged adoption of such a rule by the ABA and by the states. Several states, including South Dakota and Michigan and Illinois, either have a rule or are in the process of adopting one. The MSBA Rules of Professional Conduct Committee established a subcommittee to study the issue, and they invited the Client Security Board to become an *ex-officio* member.

Even though paying malpractice claims is outside the scope of the Client Security Board's authority, the Board regularly receives such claims and must deny them. In many instances it is clear that a malpractice victim will have no realistic means of recovery. Thus, the issue is one of client protection in general. Passage of such a disclosure requirement may yet prove premature in Minnesota, but the Board hopes to continue to assist in the push for its adoption.

Finally, in the area of subrogation, a surprising payment was received recently. Many years ago the Board paid one claim against disbarred attorney Richard Batdorf. Although Batdorf misappropriated approximately \$200,000 from an elderly couple, the Board paid \$50,000 to the victims, which was the maximum amount authorized under the Board's rules at the time (it is currently \$150,000 per claim). The Board obtained a judgment against Batdorf in 1993, but had been successful in collecting only a few hundred dollars from Batdorf over the years. Recently the Attorney General, on the Board's behalf, sought to renew the judgment, even though it was perceived as being somewhat futile. In response to being notified, Batdorf unexpectedly offered to pay the Board in full plus interest (\$71,000)! Needless to say, this was acceptable. Occasionally it pays to be persistent...and patient.

Endnotes

¹ Margaret Westin, a former Public Law Section chair and an attorney for the Minneapolis School District, is the Board's current chair.

² The attorneys on whose behalf the Board has paid the highest amounts are:

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| 1. | Stephen J. Rondestvedt | \$632,334.08 (21 claims) |
| 2. | Dennis J. Morgeson and
Bruce C. Wyant (jointly) | \$547,922.67 (8 claims) |
| 3. | Peter I. Orlins | \$419,843.39 (11 claims) |
| 4. | Mark A. Sampson | \$404,742.04 (20 claims) |
| 5. | Steve C. Samborski | \$231,829.50 (23 claims) |

³ The Client Security Board operates on a fiscal year basis. Thus 1996 refers to the period from July 1, 1995 to June 30, 1996.