



OFFICE OF THE GENERAL COUNSEL
STATE BAR OF GEORGIA
ANNUAL REPORT FOR OPERATIONAL YEAR 2004-2005

Index

I.	Report of the General Counsel	1-3
II.	State Disciplinary Board	
	Investigative Panel	4-7
	Review Panel.....	8-10
III.	Formal Advisory Opinion Board.....	11-16
IV.	Overdraft Notification Program.....	17
V.	Fee Arbitration Post-Decision.....	18
VII.	Clients' Security Fund	19-24
VIII.	Disciplinary Orders of Supreme Court of Georgia	25-36
	Formal Letters of Admonition.....	25
	Review Panel Reprimands	26
	Public Reprimands.....	27
	Suspensions	28-30
	Disbarments/Voluntary Surrenders.....	31-33
	Reinstatements	34-35
	Inactive.....	36

ANNUAL REPORT OF THE GENERAL COUNSEL
FOR OPERATIONAL YEAR 2004-2005

By: William P. Smith, III, General Counsel

I am pleased to present the 2004-2005 Report of the Office of the General Counsel. Enclosed herein are reports from the Investigative and Review Panels of the State Disciplinary Board, the Clients' Security Fund, the Formal Advisory Opinion Board, and the Trust Account Overdraft Notification Program. Following the reports is a compilation of Supreme Court Orders issued in disciplinary cases between May 1, 2004 and April 30, 2005.

The enclosed reports document an impressive array of cases handled and services rendered to the Bar and to the public; however, they represent only a fraction of the work done by you and other dedicated Bar volunteers along with the staff of the Office of the General Counsel each year. The Office is indebted to each of you, and to every Georgia lawyer who volunteers his or her time in service to the legal profession.

Staff

The staff of the Office of the General Counsel continues to be its greatest asset. Robert E. McCormack, Deputy General Counsel for the Bar Counsel unit, is responsible for drafting changes to the Bar Rules and for staffing the Clients' Security Fund. Paralegal Betty Derrickson conducts the initial review of Clients' Security Fund files and coordinates the work of the Fund. John Shiptenko is Assistant General Counsel for all Bar Counsel matters. He acts as staff liaison to the Formal Advisory Opinion Board and the Fellows Foundation and handles insurance, contractual and employment matters for the Bar.

Deputy General Counsel Paula Frederick continues to serve in the managing attorney role for the OGC in addition to handling her disciplinary caseload. Senior Assistant General Counsel Jenny K. Mittelman helps manage the office and supervises the lawyers who handle

disciplinary cases in addition to her duties as ethics and disciplinary counsel. Senior Assistant General Counsel Jonathan Hewett supervises the grievance counsel in addition to prosecuting disciplinary cases. Aided by Staff Investigator Dan O’Sullivan, Assistant General Counsel Elizabeth Williamson, Gene Chapman, and Kellyn O. McGee continue to serve as ethics and disciplinary counsel to the Bar. Grievance Counsel Rebecca Hall conducts the preliminary investigation of the grievances that the office receives each year. Connie Henry, Clerk of the State Disciplinary Board, continues to coordinate the activity of the disciplinary boards. Regina Putnam Kelly serves as Trust Account Overdraft Notification Coordinator. Paralegal Carolyn Williams, legal secretaries Deborah Grant, Cathe Payne, Bobbie Kendall, and Receptionist Valerie Daniel round out the OGC staff.

Lawyer Helpline

The Office of the General Counsel operates a Lawyer Helpline for members of the State Bar of Georgia to discuss ethics questions on an informal basis with an Assistant General Counsel. This year the Helpline averaged 21 calls each weekday.

Continuing Legal Education

This year OGC lawyers participated in 59 presentations on the Georgia Rules of Professional Conduct and other ethics issues. Staff lawyers also contributed an Ethics Column for publication in the Bar Journal and conducted one day-long session of “Ethics School” for lawyers referred by the Investigative Panel.

Committees

OGC staff continues to work with the Disciplinary Rules and Procedures Committee, the Organization of the State Bar Committee, the Court Futures Committee and the Membership Services Committee.

Thanks

The staff and I remain committed to serving each member of the State Bar of Georgia with efficiency and professionalism. Please call upon us whenever we can be of help to you.

ANNUAL REPORT OF THE INVESTIGATIVE PANEL
STATE DISCIPLINARY BOARD
FOR OPERATIONAL YEAR 2004-2005

By: S. Lester Tate, III, Chair

As Chair of the Investigative Panel, I would like to thank each Panel member for their long hours of very hard work in grappling with the serious issues which we have faced this year. The Panel must investigate and review an ever-increasing number of cases and does so more efficiently than ever.

The 2004-2005 Investigative Panel consisted of two lawyers from each judicial district of the state, four public members, two at-large members, and two ex-officio members: The president-elect of the State Bar and the president-elect of the Younger Lawyers Section of the Bar. These members divided into two sub-panels, one of which met monthly. The Panel continued its practice of meeting throughout the state; this year we met in Atlanta, Eatonton, Greensboro, Cedartown, Tifton, Unicoi, Peachtree City, and Orlando in conjunction with the 2004 Annual Meeting of the Bar.

This was the tenth full year of operation for the Bar's Consumer Assistance Program. The Program continues to work in an effort to reduce the number of grievances which the Office of the General Counsel receives. Although the Bar received fewer requests for Grievance forms this year (3,606) than last (4,111), the number of Grievance forms returned to the Office of the General Counsel increased. Last year's figure was 2,472; this year 2,500 forms were returned for screening and further consideration.

After review by an Assistant General Counsel, 2,039 Grievances were dismissed for their failure to state facts sufficient to invoke the jurisdiction of the State Bar. A total of 356 Grievances contained allegations which, if true, would amount to violations of one or more

of the Georgia Rules of Professional Conduct found at Bar Rule 4-102. This represents an increase from 306 such Grievances in 2004. Each of those Grievances was referred to one of the district Panel members for further investigation.

Investigative Panel members who investigated grievances handled an average of 24 cases each during the Bar year. The Panel also set a goal of having each case reported within 150 days. Each case required extensive investigation and time away from the Panel member's law practice, all without compensation. At the end of the investigation the Panel member made a report and recommendation to the full Panel. One hundred and twelve Grievances were dismissed, 35 of those with a letter of instruction to inform the lawyer about the Bar Rules. One hundred and twenty-three cases met the "probable cause" test and were returned to the Office of the General Counsel for prosecution. This represents a decrease from 166 such cases last year. One hundred and twenty-one cases are still under consideration by the Panel, a decrease from 123 such cases last year.

Fifty-seven of the Respondents named in Grievances where there was a finding of probable cause received confidential discipline in the form of Formal Letters of Admonition or Investigative Panel Reprimands. In the more serious cases the Panel issued a Notice of Discipline or made a referral to the Supreme Court of Georgia for a hearing before a special master. Two cases were referred to our Fee Arbitration Division and eight to Ethics School.

The Investigative Panel imposed confidential discipline during 2004-2005 as follows:

<u>Form of Discipline</u>	<u>Cases</u>
Investigative Panel Reprimands	29
Letters of Formal Admonition	28
Cases Dismissed with Letters of Instruction	35

Public discipline imposed by the Supreme Court is described in the Annual Report of the Review Panel of the State Disciplinary Board.

I would like to recognize those members of the Investigative Panel who have unselfishly devoted so much of their personal and professional time to this necessary task.

They are:

Kathleen Horne, Savannah, District 1

LaRae Dixon Moore, Albany, District 2

Mary Jo Oliver, Fort Valley, District 3

Patrick K. Whaley, Decatur, District 4

Hubert J. Bell, Jr., Atlanta, District 5

Mitchell G. Stockwell, Atlanta, District 5 (term expiring)

Susan Smith Jones, Peachtree City, District 6 (term expiring)

Tyron C. Elliott, Manchester, District 6 (term expiring)

Christopher A. Townley, Rossville, District 7 (term expiring)

S. Lester Tate, III, Cartersville, District 7 (term expiring)

Donald W. Huskins, Eatonton, District 8

Christine Ann Koehler, Lawrenceville, District 9

Steven A. Hathorn, Covington, District 10

Dennis C. Sanders, Thomson, District 10

John R. Reinhardt, Tifton, At Large

John G. Haubenreich, At Large

We have two ex-officio members, the president-elect of the State Bar of Georgia, Robert D. Ingram, Marietta (term expiring), and the president-elect of the Younger Lawyers Division, Damon E. Elmore, Atlanta (term expiring).

Finally, I want to recognize and thank the four non-lawyer members appointed by the Supreme Court:

Carol Jackson, Cleveland

Eunice L. Mixon, Tifton

Elizabeth King, Atlanta (term expiring)

Michael A. Fuller, Macon

I would like to present a gift of appreciation to those outgoing Panel members who are present at this meeting.

ANNUAL REPORT OF THE REVIEW PANEL
STATE DISCIPLINARY BOARD
FOR OPERATIONAL YEAR 2004-2005

By: C. Bradford Marsh, Chair

The role of the Review Panel of the State Disciplinary Board changed effective June 13, 1997. Before that time, the Review Panel was charged with the responsibility of reviewing the complete record in all disciplinary cases that had been heard by a Special Master. As a result of the changes in 1997, the Panel now hears only those cases in which the Respondent lawyer or the Bar asks for review. This means that the Panel reviews fewer cases, but they are by definition the most contentious cases in the process.

The Panel has authority to make findings of fact and conclusions of law based on the record. In all cases in which disciplinary violations have been found, the Panel makes a recommendation of disciplinary action to the Supreme Court. The Court may follow the Panel's recommendation, but may also render an opinion that modifies our recommendation in some way.

At the present time, the Review Panel is a fifteen-member Panel composed of three lawyers from each of the three federal judicial districts in Georgia, appointed by the Supreme Court of Georgia, and by the President of the State Bar. Two ex-officio members also serve on the Panel in their capacity as officers of the State Bar. Four of the Panel members are nonlawyers who were appointed by the Supreme Court.

The following is a brief summary of public disciplinary action taken by the Supreme Court of Georgia during the period from May 1, 2004, to April 30, 2005:

<u>Form of Discipline</u>	<u>Cases</u>	<u>Lawyers</u>
Disbarments/Voluntary Surrenders	63	34
Suspensions	37	25

	<u>Cases</u>	<u>Lawyers</u>
Public Reprimands	2	2
Review Panel Reprimands	8	7
Letter of Admonition	1	1

The foregoing summary does not begin to reflect the voluminous records and important issues that were carefully considered by the Panel over the past year. In addition to attending lengthy meetings, each Panel member must review material for each case prior to the meeting in order to make a fair and well-reasoned decision. This represents a major commitment of time and energy on the part of each Panel member, all of whom acted with the highest degree of professionalism and competency during their terms.

At this time, I would like to recognize the members of the Panel who have unselfishly devoted so much of their time to the implementation of the disciplinary system of the State Bar of Georgia.

Non-lawyer Members

Sadie Dennard (Sadie), Lithonia (term expiring)

Marlene E. Melvin (Marlene), Monroe

Clarence Pennie (Clarence), Kennesaw

P. Alice Rogers (Alice), Atlanta

Lawyer Members

Northern District:

Anthony B. Askew (Tony), Atlanta

Sharon Chester Barnes (Sharon), Alpharetta (term expiring)

C. Bradford Marsh (Brad), Atlanta

Middle District:

Lonnie T. Brown, Jr. (Lonnie), Athens

Althea L. Buafo (Althea), Macon

Gregory L. Fullerton (Greg), Albany (term expiring)

Southern District:

Sarah Brown Akins (Sally), Savannah (term expiring)

James B. Ellington (Jim), Augusta

Richard Keith Strickland (Rick), Brunswick

Ex-Officio Members

William D. Barwick (Bill), Atlanta (term expiring)

Andrew W. Jones (Andrew), Marietta (term expiring)

At this time I would like to present gifts of appreciation to the outgoing Panel members who are present. The remainder of these gifts will be mailed to the recipients.

**ANNUAL REPORT OF THE
FORMAL ADVISORY OPINION BOARD
FOR OPERATIONAL YEAR 2004-2005**

By: James W. Friedewald, Chair

The Formal Advisory Opinion Board considers requests for formal advisory opinions and drafts opinions that interpret the Georgia Rules of Professional Conduct (issued on June 12, 2000; effective on January 1, 2001). Pursuant to an order of the Supreme Court of Georgia issued on May 1, 2002 (effective July 1, 2002), the Formal Advisory Opinion rules were modified. Under these rules, once a proposed opinion is drafted by the Formal Advisory Opinion Board, it is published in the Georgia Bar Journal for first publication, and is subject to comments from Bar membership. All comments received by the Board are carefully reviewed and considered. The Board benefits from the perspective of lawyers whose practices could be affected by a proposed advisory opinion. After the Formal Advisory Opinion Board makes a final determination regarding the proposed opinion, a formal advisory opinion is published in the Georgia Bar Journal for second publication and filed with the Supreme Court of Georgia. This opinion is considered to be a Formal Advisory Opinion issued by the Formal Advisory Opinion Board. If no review of the opinion is requested or if the Supreme Court declines to grant a review, the opinion shall be binding on the requestor and the Bar. If the Supreme Court grants a petition for review or decides to review the opinion on its own motion and the opinion is then modified or approved by the Supreme Court, it shall be binding on all members of the Bar.

Beginning in operational year 2000 - 2001, and continuing through the 2003-2004 Bar year, the Board reviewed all 42 previously issued formal advisory opinions to determine to what extent, if any, the adoption of the Georgia Rules of Professional Conduct changed the

substance of the current opinions. The Board completed its review, and submitted a “Plan” for the reorganization of the opinions with the Supreme Court of Georgia, for which the Supreme Court had no objections.

The “Plan,” which has been implemented, places all previously issued formal advisory opinions in one of four categories: 1) Opinions issued by the State Disciplinary Board, 2) Formal Advisory Opinions issued by the Supreme Court of Georgia interpreting the Georgia Rules of Professional Conduct, 3) Formal Advisory Opinions issued by the Formal Advisory Opinion Board, and 4) Formal Advisory Opinions issued by the Supreme Court of Georgia interpreting the Standards of Conduct, Directory Rules, and/or Ethical Considerations. The fourth category is preceded by an introductory paragraph that provides a historical background and is then broken into two (2) sections. Section 1 is comprised of those opinions the Board deemed to be headnote appropriate. These opinions are preceded by an introductory paragraph that explains the application of the headnote to the opinions. Section 2 is comprised of those opinions that the Board believes need to be redrafted in light of the adoption of the Georgia Rules of Professional Conduct. The redrafted opinions include an interpretation of the same issue addressed in the original opinion and reference the Georgia Rules of Professional Conduct. The Formal Advisory Opinion Board will treat the redrafted opinions like new opinions, and as such, the redrafted opinions will be processed and published in compliance with Bar Rule 4-403(c). The original opinions are not to be replaced by a redrafted version until approved by the Supreme Court of Georgia.

The publication/issuance process began in April 2005, with the publication of five (5) redrafted opinions in the April 2005 issue of the Georgia Bar Journal for 1st publication. Bar members were invited to file comments with the Formal Advisory Opinions Board. Four (4)

comments regarding one opinion, (FAO No. 05-1; redrafted version of FAO No. 87-6), were received. The Board will need to determine whether to approve these redrafted opinions for 2nd publication and filing with the Supreme Court.

The publication/issuance process of the redrafted opinions will continue with the publication of five (5) additional redrafted opinions in the June 2005 issue of the Georgia Bar Journal for 1st publication. The remaining redrafted opinions are scheduled to appear in the December 2005 issue of the Georgia Bar Journal for 1st publication. Bar members will be given an opportunity to file comments with the Board before the opinions are approved for 2nd publication and filing with the Supreme Court.

During the 2004-2005 operational year, the Board received two new requests for formal advisory opinions. The issues raised in the new requests are:

- What information is included within the confidentiality obligations arising from the professional relationship between an attorney and a client?
- Does an attorney, representing a seller in a closing of a real estate transaction pursuant to the contract, have an obligation to the purchaser to "update" his title examination in a situation wherein approximately 3 months time lapses between the closing date and the date the warranty deed is recorded?

The Board needs to decide whether to accept or decline these requests for the drafting of a formal advisory opinion.

The Board approved an opinion (request received in a previous Bar year) for second publication and filing with the Supreme Court. The question presented in that request is:

- May a lawyer form or participate in a non-lawyer entity created for the purpose of conducting residential real estate closings where the closing proceeds are deposited in a non-IOLTA interest bearing bank trust account rather than an IOLTA account?

The opinion appeared in the October 2004 issue of the Georgia Bar Journal for 2nd publication and was filed with the Supreme Court on October 15, 2005. On November 2, 2004, the Office of General Counsel, acting on behalf of the State Bar of Georgia, filed a petition for discretionary review and a brief in support of the opinion in accordance with Rule 4-403(d). The petition and brief remain pending with the Supreme Court. Unless the Supreme Court grants review as provided in Rule 4-403, the opinion is binding only upon the State Bar of Georgia, the person who requested the opinion, and the State Disciplinary Board in any subsequent disciplinary proceeding involving the requestor of the opinion, but not on the Supreme Court, which shall treat the opinion as persuasive authority only.

Formal Advisory opinions can be found in the State Bar of Georgia Directory & Handbook and on the State Bar of Georgia's website at www.gabar.org.

The membership of the Formal Advisory Opinion Board for the 2004-2005 Bar-year was composed of the following lawyers:

<i>Members at Large</i>	<i>Term</i>
James W. Friedewald, Chair, Marietta	2004 - 2006
Harold Michael Bagley, Atlanta	2004 - 2006
Walter W. Kelley, Albany	2004 - 2006
Edward B. Krugman, Atlanta	2003 - 2005
Honorable Edward E. Carrier, Decatur <i>(Appointed to fill the unexpired term of Joseph I. Carter).</i>	2004 - 2005

<i>Georgia Trial Lawyers Association</i>	
Nicholas C. Moraitakis, Atlanta	2003 - 2005
<i>Georgia Defense Lawyers Association</i>	
Inman Gregory Hodges, Savannah	2003 - 2005
<i>Georgia Association of Criminal Defense Lawyers</i>	
Christopher A. Townley, Rossville	2004 - 2006
<u>Georgia District Attorney's Association</u>	
Richard E. Currie, Waycross	2004 - 2006
<i>Young Lawyers Division</i>	
Ashley Parker Nichols, Atlanta	2003 - 2005
<i>Emory University</i>	
James B. Hughes, Jr., Atlanta	2004 - 2006
<i>University of Georgia</i>	
Professor C. Ronald Ellington, Athens	2003 - 2005
<i>Mercer University</i>	
Jack L. Sammons, Jr., Vice-Chair, Macon	2003 - 2005
<i>Georgia State University</i>	
Anne S. Emanuel, Atlanta	2004 - 2006
<i>Investigative Panel</i>	
Susan Smith Jones, Peachtree City	2004 - 2005
<i>Review Panel</i>	
James B. Ellington, Atlanta	2004 - 2005

I would like to thank the members of the Board for their dedication and service. These members have volunteered their time and knowledge in order to ensure that lawyers are provided with an accurate interpretation of the ethical rules. I particularly would like to acknowledge and thank Professor Jack Sammons. For nearly a decade Professor Sammons has served the Board with sage advice and insight. The Board will sincerely miss him, with this marking the end of his term on the Formal Advisory Opinion Board. In addition, it is essential that I express my sincere gratitude and appreciation to Betty Derrickson and John Shiptenko of the Office of the General Counsel of the State Bar of Georgia, since their unfailing efforts and assistance have been invaluable to the Board.

ANNUAL REPORT OF THE OVERDRAFT NOTIFICATION
PROGRAM FOR OPERATIONAL YEAR 2004-2005

By: Regina M. Putman-Kelley, Overdraft Notification Coordinator

The Overdraft Notification Program received 380 notices from financial institutions approved as depositories for attorney trust accounts. 262 files were dismissed following the initial inquiry, 5 files were referred to Law Practice Management, and 13 files were forwarded to the Investigative Panel of the State Disciplinary Board for possible disciplinary action. (Several attorney files contained more than one overdraft notice. Of the total number of notices received from financial institutions, several overdrafts were reported to the State Bar as a result of bank error. Some files opened during the latter part of fiscal year 2004 – 2005 remain open, pending dismissal.)

FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES
FOR ATTORNEY TRUST ACCOUNTS

There are currently 239 Georgia financial institutions approved as depositories for attorney trust accounts. The List of Approved Financial Institutions is published annually in the Georgia Bar Journal. The List of Approved Financial Institutions can also be found on the State Bar of Georgia's web site, www.gabar.org, so that it is always available to members of the Bar.

**ANNUAL FEE ARBITRATION POST-DECISION
ACTIVITY REPORT FOR OPERATIONAL YEAR 2004–2005**

By: Robert E. McCormack, Deputy General Counsel

The Rules of the Fee Arbitration Program of the State Bar of Georgia require that the Office of the General Counsel provide representation to the holder of an arbitration award in certain specific circumstances. It is the policy of the Office of the General Counsel to provide representation in all cases governed by Rule 6-502. Rule 6-502 requires the General Counsel's Office to provide representation to an award holder when the lawyer, with whom the award holder has a fee dispute, has refused to be bound by the decision of an arbitrator and fails to pay the award amount within 30 days.

The statistics for this program during the last year are as follows:

New cases referred to Bar Counsel for representation:	16
Cases carried over from previous Operational Years:	20

**ANNUAL REPORT OF THE
CLIENTS' SECURITY FUND
FOR OPERATIONAL YEAR 2004-2005**

By: James Michael Brown, Chair

I am pleased to make this annual report to the Board of Governors of the State Bar of Georgia on behalf of the Trustees of the Clients' Security Fund. The Board should be proud of the work performed on behalf of the Fund to maintain the integrity of the legal profession.

Creation of the Fund

The Board of Governors of the State Bar of Georgia created the Clients' Security Fund by a Resolution on March 29, 1968. The Fund was formed "for the purpose of maintaining the integrity and protecting the good name of the legal profession by reimbursing, to the extent deemed proper and feasible by the Board, losses caused by the dishonest conduct of members of the State Bar of Georgia." In 1991, the Rules of the Clients' Security Fund were made an official part of the Rules of the State Bar. That same year, the Board of Governors assessed each of the members of the State Bar the sum of \$100.00, paid over a five-year period, to fully fund and stabilize the Fund.

Administration of the Fund

The Clients' Security Fund Board of Trustees was created to perform all acts necessary or proper to fulfill the purposes and effective administration of the Fund. The Rules, as amended on June 28, 2004, by order of the Supreme Court of Georgia, establishes that the Board of Trustees shall consist of six (6) lawyers and one (1) non-lawyer member who are appointed to staggered terms by the President of the State Bar of Georgia. The Trustees serve five-year terms, and receive no compensation or reimbursement for their service. The Trustees select a Chair and Vice-Chair to serve as officers for the Fund. The Fund receives part-time assistance from one

attorney and one administrative assistant from the Office of the General Counsel. In addition to your Chair, the following lawyers served as Trustees for the 2004-2005 operational year:

Honorable David P. Darden (Marietta); Andrew J. Hill, III (Athens); John T. McGoldrick (Macon); William T. McKenzie (Atlanta); and Denny C. Galis (Athens). John A. Isakson (Atlanta) serves as the non-lawyer Trustee. The Board strives to meet at least quarterly during the year. If circumstances warrant, special meetings may be called to ensure that claims are processed in a timely fashion. I would like to thank each of the Trustees for his tireless service and dedication to this program.

Funding

The membership of the State Bar of Georgia provides the funding for the Clients' Security Fund. These funds are held in the name of the Fund and disbursements are controlled exclusively by the Trustees.

During the years following the inception of the Fund, the number of claims filed with the Fund increased dramatically. There are several reasons for the increase in the number of claims, including an increased lawyer population and increased disciplinary efforts by the Office of the General Counsel. In response to the certainty that the Fund would very shortly be depleted, the Trustees and the Executive Committee began to study various funding mechanisms in 1989 and 1990. The Trustees also studied measures designed to prevent losses from occurring such as random audit and overdraft notification rules. While these rules would help identify problems, the Trustees recognized that even these measures would not prevent theft from occurring. The most immediate solution was adequate funding.

For two years, the Trustees studied a number of different funding options. The Trustees ultimately proposed an assessment of \$100.00 per lawyer to be paid over a period of five years.

New members of the Bar would also be assessed the same amount, again payable over five years. This proposal was approved by the Board of Governors at its June 15, 1991, meeting, and the Supreme Court of Georgia approved the motion to amend the Bar Rules to provide for the assessment on April 2, 1991.

This funding mechanism was a significant development in the life of the Fund. The assessment appeared for the first time on the 1992-93 dues notice. In the first year, the assessment generated \$508,688.26 for the Fund. Fund revenue is supplemented by interest income, restitution payments from disbarred lawyers, and miscellaneous contributions. Even with relatively substantial sources of income, there continued to be concerns about the stability of the fund. A secure source of funding is essential to the integrity of the Fund and this has been made possible by the support of the Board of Governors and the Supreme Court. On June 13, 1997, the Supreme Court of Georgia approved an amendment to the Bar Rules that provides for future assessments triggered whenever the fund balance falls below a minimum of \$1,000,000. A cap of \$350,000.00 was also placed upon the aggregate amount that could be paid to claimants in any one year.

The Trustees have also adopted certain administrative rules to help stabilize and manage the Fund. The maximum amount the Trustees will pay on any individual claim is \$25,000. Also, the aggregate amount the Trustees will pay to all claimants victimized by a single lawyer is limited to 10% of the Fund balance as it existed on the date the first claim against the lawyer was paid. Both of these rules may be overridden by a unanimous vote of the Trustees in cases of undue hardship or extreme unfairness.

The efforts of the State Bar of Georgia and the Trustees of the Fund have proved successful over the past several years. The Fund balance has grown from a low of \$361,823.00

in 1992 to \$2,498,887.00 as of April 31, 2005. The average fund balance has stabilized at approximately \$2,500,000.

Recent efforts to ensure the stability of the fund include a recent amendment to the Bar Rules. As the result of changes in the admissions rules that allow attorneys in reciprocal states to be admitted to the State Bar of Georgia upon motion, the amended bar rules provides that all members who are admitted to the State Bar of Georgia as a Foreign Law Consultant or who join without taking the Georgia Bar Examination are required to pay the full assessment of \$100.00 prior to or upon registration with the State Bar.

Loss Prevention Roles

An important role of the Trustees of the Fund is to promote and endorse rules and educational programs that are designed to prevent losses from occurring. The Trustees actively urged the adoption of two significant programs designed to prevent lawyer theft of clients' funds.

Overdraft Notification

In November 1992, the Board of Trustees joined the Investigative Panel of the State Disciplinary Board in urging the Board of Governors to approve amendments to Disciplinary Standard 65, creating a trust account overdraft notification program. See 2004-2005 State Bar of Georgia Directory & Handbook Rule 1.15(III), p. H-36. The program was approved by the Supreme Court of Georgia on August 22, 1995, and became effective January 1, 1996. The primary purpose of the overdraft notification rules is to prevent misappropriation of clients' funds by providing a mechanism for early detection of improprieties in the handling of attorney trust accounts.

Payee Notification

During the 1993 legislative session, with the urging of the Trustees of the Fund, the

Board of Governors endorsed legislation specifically designed to prevent lawyer theft of personal injury settlement funds. As of result of these efforts, the “payee notification rule” was approved in the form of an amendment to the Insurance Code. This statute requires insurers to send notice to the payee of an insurance settlement at the time the check is mailed to the payee’s attorney. This places the client on notice that the attorney has received settlement funds. The adoption of this procedure has substantially reduced claims involving theft of insurance funds.

Claims Process

Before the Clients’ Security Fund will pay a claim, the Trustees must determine that the loss was caused by the dishonest conduct of the lawyer who has been disbarred, indefinitely suspended, or has voluntarily surrendered his or her license, and arose out of the client-lawyer relationship. The Rules define “dishonest conduct” as acts “committed by a lawyer in the nature of theft or embezzlement of money, or the wrongful taking or conversion of money, property, or other things of value”. The Fund will not pay claims filed by corporations or partnerships, nor will the Fund honor claims that are covered by insurance.

Annual Statistics for Operational Year 2003-2004

Financial Summary

	<u>April 30, 2005</u>	<u>April 30, 2004</u>
Fund Balance	\$2,498,887	\$2,466,376
Assessment Income	\$ 145,342	\$ 158,040
Restitution Income	\$ 9,810	\$ 30,377
Interest Income	\$ 33,978	\$ 18,185
Claims Paid	\$ 73,268	\$ 40,434
Expenses	\$ 51,345	\$ 45,125

Activity Summary	June 1, 2004 - May 30, 2005	June 1, 2003 - May 30, 2004
No. of Applications Requested	77	61
No. of Claims Filed	52	39
No. of Claims Considered	44	78
No. of Claims Approved for Payment Amount Paid	27 \$146,208.34	52 \$233,796.52
No. of Claims Denied	4	19
No. of Claims Deferred	11	6
No. of Claims Reconsidered Amount of Claims	2 \$9,695	0 N/A
No. of Reconsidered Claims Approved Amount Paid	2 \$5,000.00	0 N/A
No. of Reconsidered Claims Denied	0	0
No. of Claims Administratively Closed	0	0
No. of Claims Pending	16	11
No. of Inactive Claims	30	26
No. of Attorneys Involved in Paid Claims	12	22

FORMAL LETTERS OF ADMONITION

DATE OF ORDER

RESPONDENT

DOCKET

9/27/2004

Vickie Louise Arp Ford

4677

REVIEW PANEL REPRIMANDS

<u>DATE OF ORDER</u>	<u>RESPONDENT</u>	<u>DOCKET</u>
9/10/04	Jerry Boykin	4561
11/22/04	Lecora Bowen	4388
1/10/05	Earnest H. DeLong	4660
2/21/05	Michael Joseph Davis	4414 4718
3/7/05	Robert A. Meier, IV	4602
3/28/05	Bonnie Michelle Smith	4752
3/28/05	Robert Michael Leen	4739
3/28/05	Lysander A. Woods	3967

PUBLIC REPRIMANDS

<u>DATE OF ORDER</u>	<u>RESPONDENT</u>	<u>DOCKET</u>
11/22/2004	Tyrone N. Haugabrook (1 year suspension from 8/9/2004 and a public reprimand)	4297
4/26/05	William Madison Yates, Jr.	4796

SUSPENSIONS

DATE OF ORDER	RESPONDENT	DOCKET
<u>Indefinite</u>		
5/24/04	Steven H. Koval (1 year w/conditions)	4262 4263 4265
6/7/04	William S. Shelfer (2 years w/conditions)	4256
7/12/04	John H. Armwood (2 years w/conditions)	4547
1/10/05	Jeffrey Bull Grable (6 months w/conditions)	4251 4252 4253 4511
<u>Definite</u>		
6/7/04	Richard W. Summers (6 months)	4624
7/12/04	Jeffrey N. Schwartz (nunc pro tunc 5/9/03)	4643
9/13/04	David G. Hammock (2 years)	4123 4227 4487
11/22/04	Tyrone N. Haugabrook (1 year from 8/9/2004 and a public reprimand)	4297
1/10/05	Lourdes Neely Coleman (6 months w/credit for interim suspension beginning 1/25/04)	4741
2/7/05	William H. Norton (120-days once conditions of indefinite suspension are met)	4665
4/26/05	John L. Welsh, II	4838

(12 months)

4-204.3 – Failure to Respond to Disciplinary Investigation

5/20/04	Michael Bruce Syrop	040028
5/20/04	Jeffrey Scott Denny	040029
6/25/04	Lourdes Neely Coleman	040054
6/25/04	Kenneth Tremayne Israel	040031
6/25/04	Thomas Marvin Alford	030321
7/8/04	Roy Scott Mullman	040078 040086 040087 040093
10/1/04	Daniel Horton Byars	040063
11/8/04	Patrick Scott Brown	040040
11/30/04	Marcelo Antonio Estrada, Jr.	040124 040128
2/9/05	Spurgeon Green, III	040251 040305
2/9/05	Audrey Johnson	040278
2/9/05	Karen Suzanne Wilkes	040264
4/8/05	James R. Vogel	040150
4/20/05	John Clark Whatley, VI	040325

4-204.3 – Interim Suspensions Lifted

6/2/04	Eric Julian Aycox	040027
6/7/04	David Brian Pittman	030304
6/10/04	Michael Bruce Syrop	040028

9/17/04 Jeffrey Scott Denny 040029

3/25/05 Audrey Johnson 040278

4/12/05 Karen Suzanne Wilkes 040264

4-204.9 – Emergency Suspension

12/23/04 Charles F. Peebles 4804

DISBARMENTS

<u>DATE OF ORDER</u>	<u>RESPONDENT</u>	<u>DOCKET</u>
05/03/04	Dietrich W. Oellerich, Jr.	4016
05/24/04	Rolf DeDamm	4631
05/24/04	James Scott Callan	4682
6/7/04	Stephen Eric Redd	4610
6/28/04	Richard Kenneth Capps	4686 4687 4688 4689
7/12/04	Eric Vann Ross	4646
7/12/04	Joseph Mitchell Williams	4620 4621 4622
9/13/04	Kim L. King	4663 4664
9/13/04	Thomas Marvin Alford	4611
9/13/04	David T. Steckler	4666
9/13/04	Roy Scott Mullman	4729 040078 040086 040087 040093 040094 040098 040102 040113 040132 040152 040155 040157 040158

9/13/04	Willie J. Linahan	4727
9/13/04	Melvyn James Williams	4700
9/27/04	Ellis Ronald Garnett	4650 4691 4692 4693 4694 4695
9/27/04	James William Avant	4492 4565
10/25/04	J. Malik Abdullah Frederick	4716
11/22/04	Jerry Wayne Frazier	4773
11/22/04	Andrei Gromyko Howze	4311
11/22/04	Elizabeth Rebecca Palmer	4680
1/10/05	Brian Ray Hutchison	4625
1/10/05	Kevin E. Perry	4581
1/10/05	John L. Howard	4681
1/10/05	John H. Armwood	4578 040281
1/24/05	Robert B. Ellis, Jr.	4803
1/24/05	Anthony Charles Bruneio	4731
2/21/05	Timothy Robert Brennan	4749 4750
3/7/05	Barry R. Price	4770
3/28/05	Pearlie L. Lewis Bush	4728
4/26/05	Gerald Phillip Ruleman	4657 4668 4669

4/26/05	Darrin Shane Coats	4772
4/26/05	Marshall L. Cohen	4795
4/26/05	Jason Todd Shwiller	4816
4/26/05	Daniel Horton Byars	4794
4/26/05	Joe C. Ashworth	4740

REINSTATEMENTS GRANTED

DATE OF ORDER

RESPONDENT

DOCKET

9/12/04

Sybol Patricia Williams

3758

REINSTATEMENTS DENIED

DATE OF ORDER

RESPONDENT

DOCKET

12/09/04

Andrei Gromyko Howze

4311

INACTIVE

DATE OF ORDER

RESPONDENT

DOCKET

05/25/2004

James Scott Callan

4644
4645