

Rule 66. Lawyers' Fund for Client Protection.

(a) Operation and purpose of trust fund. —

(i) Operation. —The trust fund, known as the “Lawyers’ Fund for Client Protection” (the “Lawyers’ Fund”), shall be operated and administered in accordance with the Rules of the Trustees of the Lawyers’ Fund for Client Protection (the “LFCP Rules”) by 12 trustees, appointed as hereinafter provided. The trustees shall be known as the “Trustees of the Lawyers’ Fund for Client Protection.”

(ii) Purpose. —The purpose of the Lawyers’ Fund shall be to establish, as far as practicable, the collective responsibility of the profession in respect to losses caused to the public by misappropriation by members of the Bar, acting either as attorneys or as fiduciaries (except to the extent to which they are bonded, or to the extent such losses are otherwise covered).

(b) Appointment and term of Trustees. —

(i) Members and Terms. —The Court shall appoint 12 Trustees. Three of the Trustees shall be public members who live in Delaware and have not attended law school. Nine of the Trustees shall be members of the Delaware Bar in good standing, and include at least one lawyer who resides in each county. The Trustees shall severally hold office until the expiration of their respective terms and until their successors shall be appointed. The Court shall from time to time select a Chair, Vice Chair, and such other officers as it deems necessary and appropriate. Each Trustee shall be appointed for a term of 3 years except the Court may appoint for shorter terms to stagger expirations. No Trustee shall be appointed for more than 2 consecutive terms unless the Trustee is appointed Chair. Appointment as Chair shall trigger a new 3-year term regardless of prior service.

(ii) Removal. —The Court may remove a Trustee at any time in the Court’s discretion.

(iii) Vacancy. —Vacancies shall be filled by the Court for the unexpired term or for a full three-year term, in the Court’s discretion.

(iv) Expenses only. —The Trustees shall serve without compensation, but shall be entitled to reimbursement from the Lawyers’ Fund, if no other source of funds is available, for their expenses reasonably incurred in performance of their duties as Trustees, including transportation costs.

(c) Powers and duties of Trustees. —The Trustees shall have the following powers and duties:

(i) Fund management. —To receive, hold, manage and distribute, in accordance with the LFCP Rules, the funds raised hereunder, and any other moneys that may be received by the Lawyers’ Fund through voluntary contributions or otherwise.

(ii) Evaluate and pay claims. —To determine in accordance with the LFCP Rules, in their sole discretion upon an affirmative vote of seven Trustees, whether a claim merits reimbursement from the Lawyers’ Fund and to authorize payment of claims.

(iii) Adopt procedures. —To adopt, with the approval of the Court, regulations for the administration of the Lawyers’ Fund and the procedures for the presentation, consideration, recognition, rejection and payment of claims, and to adopt bylaws for conducting business. A copy of such regulations shall be filed with the Clerk of this Court.

(iv) Enforce restitution. —To enforce claims for restitution, arising by subrogation or assignment or otherwise; to advance and pay incidental litigation expenses in those cases deemed by the Trustees to either directly or indirectly affect the purposes of the Lawyers’ Fund and its efficient administration.

(v) Investments. —To invest the Lawyers’ Fund, or any portion thereof, in such investments

as they may deem appropriate, and to cause funds to be deposited in any bank, banking institution or federally insured savings and loan association in this State, provided however, that the Trustees shall have no obligation to cause the Lawyers' Fund or any portion thereof to be invested.

(vi) Pay assistants. —To employ and compensate consultants, agents, legal counsel and employees.

(vii) Delegate powers. —To delegate the power to perform routine acts which may be necessary or desirable for the operation of the Lawyers' Fund, including the power to authorize disbursements for routine operating expenses of the Lawyers' Fund, but authorization for payments to be made to reimburse losses caused by misappropriation by members of the Bar shall be made only as provided in Rule 3 of the LFCP Rules.

(viii) Suits in Lawyers' Fund name. —To sue or be sued in the name of the Lawyers' Fund without joining any or all individual Trustees.

(ix) Other acts. —To perform all other acts necessary or proper for fulfillment of the purposes of the Lawyers' Fund and its efficient administration.

(x) Compliance powers. —In order to determine compliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct and its guidelines: (a) To require each member of the Bar of this Court to submit to the Trustees such financial and accounting data or similar information as may be prescribed from time to time by the Court; (b) to conduct selected examinations of books and records required by the Court to be kept by members of the Bar, such examinations to be conducted in accordance with the rules and regulations approved by the Court; and (c) to report to the Office of Disciplinary Counsel any member of the Bar found to be in noncompliance with Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct or any failure by any member of the Bar to furnish required data or information.

(xi) Report to Court. —At least once each year, and at such additional times as the Court may order, the Trustees shall file with this Court a written report regarding the activities of the Lawyers' Fund.

(d) Bar assessments. —The Lawyers' Fund shall be funded from assessments made annually against active members of the Bar of this Court. As a condition of continuing active membership in the Bar of this Court, every active member, except judges disqualified from practicing law, shall pay to the Court an annual assessment as determined by the Court in the Annual Registration Statement pursuant to Supreme Court Rule 69. The assessment is due and payable on March 1 of each year.

(e) Rights in fund. —No claimant or other person, or organization, has any right in the Lawyers' Fund as beneficiary or otherwise.

(f) Claims barred. —No claim shall be recognized which is based upon a misappropriation that occurred prior to January 1, 1967.

(g) Powers of the Supreme Court; audits. —

(i) Complete control of Lawyers' Fund. —This Court may amend, modify or repeal this rule and the LFCP Rules at any time without prior notice, and may provide for the dissolution and winding up of the affairs of the Lawyers' Fund.

(ii) Audit Lawyers' Fund. —This Court may at any time arrange for an audit to be made of the accounts of the Lawyers' Fund by state or private auditors or may at any time direct the Trustees to cause such an audit to be made. The cost of any such audit shall be paid by the

Lawyers' Fund.

(iii) Advise Trustees. —The Trustees may apply to this Court for interpretation of this rule, and for advice as to their powers and as to the proper administration of the Lawyers' Fund. Any final order issued by this Court in response to any such application shall finally bind and determine all rights with respect to the matters covered therein.

(iv) Distribution upon dissolution. —Upon the dissolution of the Lawyers' Fund, the Lawyers' Fund assets shall be distributed by this Court either to the Treasury of the State of Delaware or to any organization or organizations designated by this Court, contributions to which are deductible under § 170 of the Internal Revenue Code of 1954.