

Tennessee Supreme Court  
Rule 25



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Tennessee Lawyers' Fund  
for  
Client Protection

Sandy Garrett  
Executive Director  
Board of Professional Responsibility Ethics Workshop  
November 1, 2024

# Section 1

## Tennessee Lawyers' Fund for Client Protection



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1.01: The Tennessee Lawyers' Fund for Client Protection reimburses claimants for losses caused by any dishonest conduct committed by lawyers practicing in this state.

1.03: “Dishonest conduct“ means the misappropriation or willful misapplication of a person's money, securities or other property.

# Section 1

## Tennessee Lawyers' Fund for Client Protection



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1.02: The purpose of the Tennessee Lawyers' Fund for Client Protection is to promote public confidence in the administration of justice and the integrity of the legal profession as a whole by reimbursing losses caused by the rare instances of dishonest conduct of lawyers practicing in this state.

# Section 2

## Funding



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The fund consist of monies obtained by the following:

- a) annual payments;
- b) recoveries by subrogation; and
- c) unidentified funds.

# RPC 1.15 (f)

## Safekeeping Property and Funds



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A lawyer who learns of unidentified funds in an IOLTA account must make periodic efforts to identify and return the funds to the rightful owner. If after 12 months of the discovery of the unidentified funds the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, the lawyer must remit the funds to the Tennessee Lawyers' Fund for Client Protection (TLFCP). No charge of ethical impropriety or other breach of professional conduct shall attend to a lawyer's exercise of reasonable judgement under this paragraph.

# Section 4

## Composition of the Board



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- 4.01: The Board shall consist of six lawyers and three non-lawyers.
- 4.07: Board members shall serve without compensation but shall be reimbursed for their actual and necessary expenses.

# Section 4

## Current Board Members



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Stacy E. Roettger, Chair

Amanda L. Morse

Christen Blackburn, Vice Chair

Junaid Odubeko

Pamela Clary

Michelle G. Sellers

Ellie Kittrell

Telesa Taylor

# Section 5

## Board Meetings



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- 5.01: The Board shall meet as frequently as necessary...
- 5.03 A quorum for any meeting of the Board shall be five members.
- 5.06: Approval of a claim shall require affirmative votes of a majority of members present.



# Section 6

## Duties of the Board



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6.01: The Board shall have the following duties:

- (a) Evaluate and pay approved claims;
- (b) Promulgate rules of procedure;
- (c) Provide an annual report and publicize activities;
- (d) BPR staffs the Lawyers' Fund.

<https://tlfcp.tn.gov/>

## **Tennessee Lawyers' Fund for Client Protection**

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### **Annual Report Fiscal Year July 1, 2023 – June 30, 2024**

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#### **Tennessee Lawyers' Fund for Client Protection Organization and Composition**

The Tennessee Supreme Court has established the Tennessee Lawyers' Fund for Client Protection to reimburse claimants for losses caused by any dishonest conduct committed by lawyers practicing in this state. The purpose of the Tennessee Lawyers' Fund for Client Protection, as set forth in Tennessee Supreme Court Rule 25, is to promote public confidence in the administration of justice and the integrity of the legal profession as a whole by reimbursing losses caused by the rare instances of dishonest conduct of lawyers practicing in this state. The Court appoints a nine-member board to manage Tennessee Lawyers Fund for Client Protection. The Board consists of six lawyers and three nonlawyers who geographically represent the state. In 2023-2024, Board members volunteered 154 hours and received no compensation for their service. Current members of the Board include:

Stacy E. Roettger – Knoxville (Chair)  
Christen Blackburn – Nashville (Vice-Chair)  
Pamela Z. Clary – Memphis (Lay Member)  
Ellie Kittrell – Knoxville (Lay Member)  
Amanda Morse – Knoxville  
Junaid Odubeko – Nashville  
Michelle Sellers – Jackson, TN (Lay Member)  
Telesa Taylor – Memphis, TN

Tennessee Lawyers' Fund for Client Protection is assisted by staff at the Board of Professional Responsibility.

#### **Fund Resources**

The Fund does not receive any government money or tax dollars. The Fund consists of \$10 annual payments from attorneys pursuant to Tenn. Sup. Ct. R. 9 § 10.2(c) and Tenn. Sup. Ct. R. 25 § 2. The fund also receives unidentified trust funds from lawyer IOLTA accounts if after 12 months, the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, pursuant to Tenn. Sup. Ct. R. 8, RPC 1.15(f).

The Tennessee Lawyers' Fund for Client Protection (the Fund) is an agency of the Supreme Court of Tennessee that provides reimbursement to clients for losses caused by dishonest conduct committed by attorneys practicing law in Tennessee. The Fund was established in 1981 by Tennessee Supreme Court Rule 25 to promote public confidence in the administration of justice and the integrity of the legal profession

To apply for reimbursement, please follow these steps:



**1. Read FAQ**

Read the FAQ to confirm that you qualify for reimbursement.

[Complete this now >](#)



**2. Fill out Claim form**

Please make sure to fill the form out completely.

[Complete this now >](#)



**3. Sign Subrogation Agreement**

If your claim is approved, you will be required to sign the subrogation agreement.

**Latest News**

TENNESSEE LAWYERS' FUND PAYMENT FOR ROANE COUNTY ATTORNEY  
October 3, 2024

2024 Annual Report  
July 25, 2024

TENNESSEE LAWYERS' FUND PAYMENT FOR ANDERSON COUNTY ATTORNEY  
September 6, 2024

TENNESSEE LAWYERS' FUND PAYMENT FOR WILLIAMSON COUNTY ATTORNEY  
June 24, 2024

# Section 9

## Procedures for Claimants



### TENNESSEE LAWYERS' FUND for CLIENT PROTECTION

10 Cadillac Drive, Suite 220  
Brentwood, TN 37027

### CLAIM FOR REIMBURSEMENT

#### NOTICE TO APPLICANT

"IN ESTABLISHING THE TENNESSEE LAWYERS' FUND FOR CLIENT PROTECTION, THE TENNESSEE SUPREME COURT DID NOT CREATE, NOR ACKNOWLEDGE, ANY LEGAL RESPONSIBILITY FOR THE ACTS OF INDIVIDUAL LAWYERS IN THEIR PRACTICE OF LAW. ALL REIMBURSEMENTS FOR LOSSES BY THE TENNESSEE LAWYERS' FUND FOR CLIENT PROTECTION SHALL BE A MATTER OF GRACE IN THE SOLE DISCRETION OF THE MEMBERS OF THE BOARD ADMINISTERING THE FUND AND NOT A MATTER OF RIGHT. NO CLIENT OR MEMBER OF THE PUBLIC SHALL HAVE ANY RIGHT TO PAYMENT FROM THE TENNESSEE LAWYERS' FUND FOR CLIENT PROTECTION AS A CLAIMANT, THIRD PARTY BENEFICIARY OR OTHERWISE. DECISIONS OF THE BOARD ARE FINAL AND ARE NOT SUBJECT TO APPEAL OR REVIEW BY ANY COURT."

**INSTRUCTIONS:** Please complete this claim form and keep a copy for your records. Mail the completed claim form to the address listed above.

CONTACT INFORMATION					
First Name	Middle Name	Last Name		Suffix	
Home Address		Suite/Apt	City	State	Zip
Home Phone	Work Phone		Email Address		
Cell Phone	Employer		Occupation		
How did you learn of the existence of the TN Lawyers' Fund for Client Protection?					
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When did you learn of the existence of the TN Lawyers' Fund for Client Protection?					
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# Policies and Rules of the Tennessee Lawyers' Fund for Client Protection



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## 3.1: Administrative Dismissals

The Executive Director may administratively dismiss a claim without investigation that does not meet jurisdictional requirements or does not reflect dishonest conduct.

## 3.2: Claimant's Right to Appeal

Claimant may make a written request for Board review of the administrative dismissal.

# Section 10

## Processing Claims



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10.03: A copy of the order disciplining a lawyer for the same conduct alleged in a claim, or final judgment imposing civil or criminal liability shall be evidence that the lawyer committed such conduct.

# Section 10

## Processing Claims



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10.04: The Board of Professional Responsibility shall investigate the claim. The TLFCP may withhold final action on any claim until disciplinary proceedings are concluded or may proceed before disciplinary proceedings are concluded, at its discretion.

# Section 10

## Processing Claims



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10.08: Approval of a claim shall require the affirmative vote of the majority of Board members present. Notice shall be given to the claimant and the lawyer of the Board's determination.



# Section 12

## Eligible Claims



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12.01: A claim must be filed within 3 years of the date that a loss occurred or reasonably should have been discovered but in no event later than 5 years from the date of the loss.

# Section 12

## Eligible Claims



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12.02: The following losses are not reimbursable:

- (a) Losses suffered by spouses, children, parents, grandparents, siblings, partners, associates and employees of lawyer(s) causing the losses;
- (b) Losses covered by any bond, surety agreement, insurance...;
- (c) Losses of any financial institution which are recoverable under a "banker's blanket bond...;
- (d) Loss of any business entity controlled by the lawyer...;
- (e) Losses of a governmental entity or agency.

# Section 12

## Eligible Claims



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12.03: In cases of special and unusual circumstances, the Board may, in its discretion, recognize a claim which would otherwise be excluded.

# Policies and Rules of the Tennessee Lawyers' Fund for Client Protection



## 1.6: Payment Formula

All claims approved for payment shall be paid at a percentage of the claim at the discretion of the Board based on fund balance, current budget and other factors considered material by the Board.

# Section 13

## Limitations on Reimbursements



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- 13.01: No payment shall exceed the sum of \$100,000 for any one claimant nor the aggregate sum of \$400,000 for losses caused by any one lawyer;
- unless otherwise determined by the Board and approved by the Court.
  - No payment shall exceed ten percent of the assets of the fund unless otherwise determined by the Board and approved by the Court.

# Section 15

## Legal Rights to Payments



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- 15.01: No person shall have any right to payment from the Fund.
- 15.02: Decisions of the Board shall be final and not subject to appeal or review by any Court.

# THE TENNESSEAN

**DICKSON**

## Dickson attorney sentenced 7 years for theft over \$1M from Larkins trust, others



**Chris Gadd**  
The Tennessean

Published 12:01 p.m. CT April 22, 2019 | Updated 9:15 a.m. CT April 24, 2019

A longtime familiar leader in Dickson, attorney Jack Garton, was sentenced to nearly eight years in prison for stealing more than \$1.36 million from the trust funds of clients, according to U.S. Attorney Don Cochran.

Garton, 54, a former Dickson County Election Commission chairman and mayor of the Town of Burns, was taken into custody immediately at the conclusion of the hearing. He was sentenced to 92 months in prison after being charged in December 2018 with wire fraud, tax fraud and aggravated identity theft and pleading guilty to all charges, according to U.S. attorney's office.

Court documents show Garton served as the trustee for several estates, including the daughter of Todd Larkins, a Tennessee Highway Patrol trooper from Dickson County, who was killed in 2005 when a tractor-trailer hit him next to his parked patrol car on the shoulder of Interstate 40.

Garton admitted that he stole approximately \$1.2 million dollars from this client and a total of more than \$1.36 million from her and other clients.

Garton was appointed in 2007 to manage a trust that contained the approximately \$2.6 million in settlement money from a wrongful death lawsuit filed in connection with her father's death.

Beginning in 2009, Garton began withdrawing funds under false pretenses from her account and others, without the clients' knowledge, according to the attorney's office. Garton converted the funds into cashier's checks and used the money to "enrich his lifestyle," including purchasing luxury items including a Jaguar automobile, a boat and a house, the attorney's office states.

# Section 16

## Subrogation



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- 16.01: Payments on approved claims shall be made from the Fund on the condition that the Board receives an assignment from the claimant of the lawyer.
- 16.02: If reimbursement is made, the Fund shall be subrogated in the amount of reimbursement. The Board may bring an action against the lawyer.



# Section 17

## Confidentiality



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17.01: Applications, proceedings and reports involving applications for reimbursement are confidential until the Board authorizes payment, except:

- Lawyer whose conduct gave rise to claim may waive confidentiality;
- Relevant information may be disclosed to law enforcement as authorized by the Board.

# Section 17

## Confidentiality



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17.04: Both claimant and lawyer shall be advised of the status and final determination.