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SCRU-15-0000511

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the

RULES AND REGULATIONS CONCERNING THE
LAWYERS’ FUND FOR CLIENT PROTECTION OF
THE SUPREME COURT OF HAWAI‘I

ORDER APPROVING AMENDMENTS TO RULE 5.2 OF THE
RULES AND REGULATIONS CONCERNING THE LAWYERS’ FUND
FOR CLIENT PROTECTION OF THE SUPREME COURT OF HAWAI‘I

(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

Pursuant to Rule 10.1(d) of the Rules of the Supreme
Court of the State of Hawai‘i,

IT IS HEREBY ORDERED that amendments made by the
Trustees of the Lawyers’ Fund for Client Protection to Rule 5.2
of the Rules and Regulations Concerning the Lawyers’ Fund for
Client Protection of the Supreme Court of Hawai‘i are approved
upon entry of this order. The amendments are as follows (new
material is underscored):

**Rule 5. PROCEEDING FOR PRESENTATION
OF CLAIMS.**

5.2. Investigation of Claims.

(a) The secretary shall cause a copy of the application to be personally served upon the alleged defalcating attorney or sent by certified mail to the attorney's last-known address as shown on the attorney's registration statement on file with HSBA.

(b) The trustees, or any one trustee, shall conduct or cause to be conducted an investigation of the claim, and a written report of the investigation shall be submitted to all of the trustees and shall become a part of the official records of the Fund.

(c) The trustees may, in their discretion, delegate the conduct of the investigation to persons who are non-trustees and may retain the services of consultants, experts, or other persons or entities to assist in the conduct of the investigation.

(d) The person conducting an investigation of a claim may seek subpoenas in the manner provided by Rule 10.6 of the Rules of the Supreme Court.

(e) The written report of the investigation shall contain a recommendation concerning the disposition of the claim. A copy of the report shall be served, by mail or otherwise, on the alleged defalcating attorney. The alleged defalcating attorney will be provided an opportunity to be heard by the trustees. The alleged defalcating attorney shall have 20 calendar days from the date of mailing of the report to provide the trustees with a written response to the report.

(f) The secretary shall note approval, disapproval, or comments of the trustees concerning the recommendation contained in the written report of the investigation without the necessity of a formal meeting of the trustees.

(g) No reimbursement of a claim from the Fund shall be made unless at least ~~three~~ [3] trustees approve.

(h) The trustees may approve, reject, or modify the recommendation contained in the written report of the investigation or may order such further investigation as the trustees deem appropriate or necessary.

(i) Any trustee may request that testimony or documentary information be presented to the trustees.

(j) In the event the claimant or alleged defalcating attorney requests an opportunity to be heard before a quorum of the trustees, the trustees shall set a date, time, and place for the hearing. The trustees may, in their discretion, limit the scope of any such hearing, and the trustees shall not order any reimbursement from the Fund until after the requested hearing has been concluded.

(k) The trustees may ask a claimant or alleged defalcating attorney to submit supplemental information and may hold such conferences or hearings as the trustees deem appropriate or necessary.

(I) If the alleged defalcating attorney is a judgment debtor of the claimant, the trustees may, in their discretion, (i) accept the final judgment of record in the court proceedings concerning the attorney in lieu of an investigation, (ii) conduct or cause to be conducted an investigation limited to such matters as are set forth in Rule 10.3 of the Rules of the Supreme Court, or (iii) take such other action as the trustees deem appropriate.

DATED: Honolulu, Hawai‘i, August 4, 2022.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

