

SCR CHAPTER 13

INTEREST ON TRUST ACCOUNTS PROGRAM AND PUBLIC INTEREST LEGAL SERVICES FUND

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SCR 13.01 Creation and purpose. In order to aid the courts in carrying on and improving the administration of justice and to facilitate the improved delivery of legal services to persons of limited means in non-criminal matters the following are created:

(1m) An interest on trust accounts program.

(2m) A public interest legal services fund.

SCR 13.015 In this chapter, unless the context otherwise requires:

(1) "Attorney" means a person who is a member of the state bar of Wisconsin.

(2) "Available Funds" means net assets less a realistic estimate of the reasonable and necessary expenses of the board and other costs reasonably and necessarily incurred for the administration of the program or the fund.

(3) "Board" means the board specified in SCR 13.02 (1).

(4) "Fund" means the public interest legal services fund created under SCR 13.01 (2) consisting of the annual assessments received by the State Bar under SCR 13.045 to fund direct legal services to persons of limited means in non-criminal matters.

(5) "Net Assets" means total assets minus total liabilities.

(6) "Program" means the interest on trust accounts program consisting of the funds received by the program under SCR 20:1.15 (c) (1m), and from other sources including, but not limited to grants,

gifts, and bequests to the fund, however denominated, from any person or entity, public or private.

(7) "State bar" means the state bar of Wisconsin.

SCR 13.02 Administration. (1) The fund and program shall be operated by the board of a Wisconsin nonstock, nonprofit corporation organized for law-related charitable and educational purposes within the meaning of section 501 (c) (3) of the Internal Revenue Code of 1986, as amended (or corresponding provisions of any future federal internal revenue laws), to be known as the Wisconsin Trust Account Foundation, Inc.

(2) The board shall consist of 15 persons. The president of the state bar shall appoint, with the approval of the state bar board of governors, 9 attorney and 3 non-attorney members who shall serve staggered 3-year terms. The chief justice shall appoint 3 members from the Wisconsin judiciary who shall serve staggered 2-year terms. The terms of 3 attorney and one non-attorney members shall expire each year. No person may serve more than 2 full terms consecutively.

(3) Each year the board shall select a board member to serve as chairperson at the pleasure of the board.

(4) The board members shall serve without compensation but shall be entitled to reimbursement from the program for their expenses reasonably incurred in the performance of their duties.

SCR 13.03 Powers and duties of the board. (1) In consultation with the state bar board of governors, the board shall adopt articles of incorporation, bylaws and rules and procedures consistent with this chapter for the operation and administration of the fund and the program and the management of its affairs. Except as provided in sub. (2), these actions are subject to review by the supreme court on its own motion or upon petition of any interested party.

(1m) The board shall manage the fund and the program and may invest any moneys received by the fund or program consistent with the purposes of this Chapter.

(2) (a) The board shall accept grant applications and make grants or expenditures from the program for any of the following purposes:

1. To aid the courts and improve the administration of justice by providing legal services to persons of limited means.

2. To fund programs for the benefit of the public as may be

specifically approved from time to time by the supreme court for exclusively public purposes.

3. To pay the reasonable and necessary expenses of the board and other costs reasonably and necessarily incurred for the administration of the program.

(am) The board shall accept grant applications and make grants or expenditures from the fund to aid the courts and improve the administration of justice by providing legal aid to persons of limited means.

(b) Grant-making decisions of the board are final and not subject to appeal or judicial review.

(3) Omitted.

(4) If a client asserts a claim against an attorney based upon the attorney's determination to place the client's funds in a trust account under SCR 20:1.15 (c) (1) rather than in a segregated trust account under SCR 20:1.15 (c) (2), the board, upon written request by the attorney, shall review the claim and:

(a) If, at the time of their deposit, the funds could reasonably have been expected to produce a positive net return to the client, approve the claim and remit directly to the claimant any sum of interest remitted to the board on account of the funds; or

(b) If, at the time of their deposit, the funds could not reasonably have been expected to produce a positive net return to the client, reject the claim and advise the claimant in writing of the grounds therefor. If there is subsequent litigation involving the claim, the board shall interplead any sum of interest remitted to the board on account of the funds and shall assume the defense of the action.

(5) The fund and program shall be audited by auditors annually and at such other times as the supreme court may direct, the audits to be at the expense of the program and fund. Each year the board shall submit to the supreme court and the state bar board of governors a report of its activities during the preceding year, including the audit, reviewing in detail the administration of the fund and the program.

SCR 13.04 Attorney participation in the program. (1) An attorney shall participate in the program as provided in SCR 20:1.15 unless:

(a) The attorney certifies on the annual trust account statement filed with the state bar that:

1. Based on the attorney's current annual trust account

experience and information from the institution in which the attorney deposits trust funds, service charges on the account would equal or exceed any interest generated; or

2. Because of the nature of the attorney's practice, the attorney does not maintain a trust account; or

(b) The board, on its own motion or upon application from an attorney, grants a waiver from participation in the program for good cause.

(2) The board may reimburse an attorney incurring service charges on an account established under SCR 20:1.15 (c) (1) if the charges were reasonably and necessarily related to the attorney's participation in the program.

(3) Refusal or neglect by an attorney to participate in the program, except as provided under sub. (1), constitutes professional misconduct and may be grounds for disciplinary action under the rules governing enforcement of attorneys professional responsibility.

SCR 13.045 Assessment of attorneys for fund; enforcement.

(1) Annual assessments. Commencing with the State Bar's July 1, 2005 fiscal year, every attorney who is an active member of the state bar, and all Supreme Court Justices, shall pay to the fund an annual assessment, to be determined by the supreme court. The assessment shall be \$50.00. Emeritus members, judicial members, and inactive members of the state bar are excused from the annual assessment. An attorney whose annual state bar membership dues are waived for hardship shall be excused from the payment of the annual assessment for that year. An attorney shall be excused from the payment of the annual assessment for the first fiscal year during which he or she is required to pay dues and assessments.

(2) Collection: Failure to pay. The annual assessment shall be collected at the same time and in the same manner as the annual membership dues for the state bar are collected, together with the assessments imposed to pay the costs of the lawyer regulation system and the continuing legal education function of the board of bar examiners, as set forth in SCR 10.03 (5) (a). An attorney who fails to timely pay the annual assessment shall have his or her right to practice law suspended pursuant to SCR 10.03 (6).

(3) Reinstatement. An attorney suspended from the practice of law for failure to pay the annual assessment may petition for reinstatement pursuant to SCR 10.03 (6m).

SCR 13.05 Grants. (1) The board may make grants of available funds held by the program to eligible programs for the purposes specified in SCR 13.03 (2).

(1m) The board may make grants of available funds held by the fund only to eligible programs for the purposes specified in SCR 13.03 (2) (a) (1).

(2) The board shall maintain a reasonable reserve in the fund and in the program.

(3) The board shall solicit applications for grants at least annually.

(4) The board shall promulgate written rules and procedures for submission, review and approval of grant applications and for termination of grants.

(5) The board shall require grantees to submit a report detailing application of the grant funds within a reasonable time after the conclusion of the period for which the grant was made. The board may require periodic interim reports at any time respecting a particular grantee.

Adopted March 21, 1986; amended June 10, 1987; January 22, 1990, and March 24, 2005.