

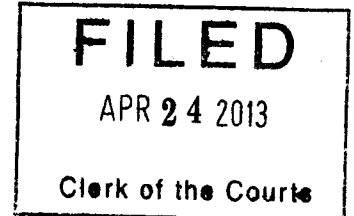
IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**IN RE: PROPOSED AMENDMENT TO  
TENNESSEE SUPREME COURT RULE 25**

---

No. M2013-00980-SC-RL2-RL

---



**ORDER**

Upon the recommendation of the Board of the Tennessee Lawyers' Fund for Client Protection, the Court is considering amending certain portions of sections 1, 2, 6, 9, 12, 16, and 20 of Tenn. Sup. Ct. R. 25. The Court hereby publishes the proposed amendments for public comment and solicits written comments on the proposal from judges, lawyers, interested organizations, and the public. The proposed amendments to Tenn. Sup. Ct. R. 25 are set out in the Appendix to this order. The deadline for submitting written comments is June 25, 2013. Written comments should be addressed to

Michael W. Catalano, Clerk  
Re: Tenn. Sup. Ct. R. 25  
100 Supreme Court Building  
401 Seventh Avenue North  
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. This order, including the Appendix, shall be posted on the Court's website.

It is so ORDERED.

PER CURIAM

## APPENDIX

### ***PROPOSED AMENDMENT TO TENN. SUP. CT. R. 25, SECTIONS 1, 2, 6, 9, 12, 16 & 20***

[For context, the current text of relevant portions of Tenn. Sup. Ct. R. 25 is set out below; the amended text is indicated by underlining (new text) and ~~overstriking~~ (deleted text).]

#### **Section 1. Tennessee Lawyers' Fund for Client Protection.**

**1.01.** There is hereby established the Tennessee Lawyers' Fund for Client Protection to reimburse claimants for losses caused by any dishonest conduct committed by lawyers ~~duly licensed to practice~~practicing in this state.

**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 ~~at least a portion of~~ losses caused by the rare instances of dishonest conduct of lawyers licensed to practice ~~law~~practicing in the courts of this state.

**1.03.** As used in these rules, "~~dishonest~~dishonest conduct" means the misappropriation or willful misapplication of a person's money, securities or other property.

**1.04.** ~~The scope of this~~This rule shall apply to dishonest conduct ~~meeting the following~~ criteria:

(a) ~~The~~that arose out of the practice of law in Tennessee.

**1.05.** For purposes of this Rule, "lawyer" shall include a person:

(a) licensed to practice law in this jurisdiction;

(b) admitted as in-house counsel;

(c) admitted *pro hac vice*;

(d) practicing in Tennessee under the authority of Tennessee Supreme Court Rule 8, RPC 5.5(d)(1);

~~(e) admitted as a foreign legal consultant;~~

(fe) admitted only in a non-United States jurisdiction but who is authorized to practice law in this jurisdiction; or

(gf) recently suspended or disbarred whom clients reasonably believed to be licensed to practice law when the dishonest conduct occurred on or after the 1st day of July, 1991.

~~(b) The attorney was acting as an attorney.~~

~~(c) The attorney was licensed to practice law in Tennessee.~~

\* \* \* \*

## **Section 2. Funding.**

**2.01.** The fund shall consist of monies or other properties obtained by the following:

(a) Payments of \$10 per year from attorneyslawyers collected annually with the yearly registration fees by the Board of Professional Responsibility of the Supreme Court of Tennessee; attorneyslawyers exempted under Rule 9, Section 20.2 are also exempted from this rule; attorneyslawyers who became life members of the fund on or before December 7, 1993, shall also be exempted from this rule.

(b) Recoveries by subrogation or from attorneyslawyers or former attorneyslawyers or their estates reimbursed to the Fund for payments made by the Fund;

\* \* \* \*

## **Section 6. Duties and Responsibilities of the Board.**

**6.01.** The Board shall have the following duties and responsibilities:

(a) To receive, evaluate, determine and pay approved claims;

(b) To promulgate rules of procedure not inconsistent with these Rules and subject to prior approved by the Supreme Court of Tennessee;

~~(c) To prudently invest such portions of the funds as may not be needed currently to pay losses;~~

~~(dc) To provide a full report at least annually to the Supreme Court of Tennessee and make other reports and publicize the activities to the public and the Bar;~~

~~(ed) The staff and physical resources of the Commission on Continuing Legal Education will~~

assist in the Board's performance of its functions effectively and without delay; the Board will compensate the staff for its services;

(fe) To retain and compensate consultants, actuaries, agents, legal counsel and other persons as necessary; this authority to contract for professional services as needed by the board shall not be construed to authorize the board to hire employees of the board;

(gf) To prosecute claims for restitution to which the Fund is entitled;

(hg) To submit an annual budget for approval by the Supreme Court of Tennessee;

(ih) To perform all other acts necessary or proper for the fulfillment of the purposes and effective administration of the Fund.

\* \* \* \*

### **Section 9. Procedures and Responsibilities for Claimants.**

**9.02.** The form shall include at least the following information provided by the claimant under penalty of perjury:

(a) Name and address of claimant, home and business telephone, occupation and employer, social security number;

(b) Name, address and telephone number of the lawyer alleged to have ~~dishonestly taken or willfully misapplied the claimant's money or property~~engaged in dishonest conduct;

\* \* \* \*

### **Section 12. Eligible Claims.**

**12.01.** ~~The~~A claim must be filed ~~no later than one~~within three year ~~after~~of the date that a loss wasoccured or reasonably should have been discovered, but in no event later than five years from the date of a loss. This provision applies prospectively to losses that occur after the date of its adoption.

\* \* \* \*

### **Section 16. Subrogation.**

**16.02.** If the reimbursement is made, the Fund shall be subrogated in the amount of the

reimbursement. The Board may bring such action as it deems advisable against the lawyer, the lawyer's estate and any other person or entity who may be liable for the loss ~~within three years from the date of payment to the claimant.~~

\* \* \* \*

~~Section 20.~~

~~20.01. This Rule 25 shall apply to attorneys practicing in Tennessee under authority of Tenn. Sup. Ct. R. 8, RPC 5.5(d)(1) where dishonest conduct, as defined in Section 1.03 of this Rule, meets the criteria set forth in subsections 1.04(a) and (b) thereof.~~