

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1029

Amendments and additions to Alaska Bar Rules 45(b), 45(c), 45(g), 46(c), 52(a), 53(d), 59, and 60(a), of the Client Security Fund Rules.

IT IS ORDERED:

1. Bar Rule 45(b) is amended to provide:

The "Fund" is the [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection of the Alaska Bar Association.

2. Bar Rule 45(c) is amended to provide:

The "Committee" is the [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection Committee.

3. Bar Rule 45 is amended to add a new paragraph (g):

(g) "Notice" means the delivery of a written notice personally to the addressee or by mail to the most recent address which the addressee has provided to the Alaska Bar Association. Written notice shall be presumed to be received by the addressee five (5) days after the postmark date of certified or registered mail sent to the most current address which the addressee has provided to the Alaska Bar Association.

4. Bar Rule 46(c) is amended to provide:

The form or application shall contain the following statement in bold type:

"THE ALASKA BAR ASSOCIATION HAS NO LEGAL RESPONSIBILITY FOR THE ACTS OF INDIVIDUAL LAWYERS. PAYMENTS FROM THE [CLIENT SECURITY FUND] LAWYERS' FUND FOR CLIENT PROTECTION SHALL BE MADE IN THE SOLE DISCRETION OF THE ALASKA BAR ASSOCIATION."

5. Bar Rule 52(a) is amended to provide:

(a) Upon receipt of an application the Committee shall conduct such investigations and hold such hearings as it determines necessary to establish whether the application should be granted. Hearings will be conducted informally. Both the applicant and the lawyer shall be afforded opportunities to present argument and evidence, and to cross-examine opposing witnesses. The Committee may request the attorney selected pursuant to Rule 47(a) to present argument and evidence, if the Committee believes this will assist it in reaching its decision. The Committee shall provide a copy of the application to the lawyer complained of and shall notify the lawyer and the applicant of the date and time for a hearing on the application.

6. Bar Rule 53(d) is amended to provide:

The loss to be paid to any individual claimant as the result of any dishonest act or omission in any one transaction, matter or proceeding involving any one lawyer shall not exceed the lesser of the following sums: (a) [\$10,000] \$50,000, or (b) 10% of the Fund at the time the award is made. The aggregate maximum amount which all claimants may recover arising from an instance or course of dishonest conduct of any one lawyer is [\$50,000] \$200,000. The total amount to be paid to all claimants in any one year shall not exceed 50% of the total amount of the Fund as of January 1 of the calendar year in which the awards are made.

7. Bar Rule 59 is amended to provide:

Except where otherwise specifically provided in this part, Rules 14 and 17 shall be applicable to this part; and in such cases the reference to "disciplinary proceedings" shall encompass [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection proceedings and the reference to "members of hearing committees" shall apply to the [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection Committee.

8. Bar Rule 60(a) is amended to provide:

Bar Counsel shall refer potential claimants to the [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection at the completion of disciplinary proceedings when appropriate. Copies of the [CLIENT SECURITY FUND] Lawyers' Fund for Client Protection Rules and any pamphlet which describes the Fund and procedures involved in filing a claim may be made available to the public.

DATED: April 19, 1990

EFFECTIVE DATE: July 15, 1990

Chief Justice Matthews

Justice Rabinowitz

Justice Burke

Justice Compton

Justice Moore