

1       **Rule 14-910. Eligible claim.**

2       (a) The loss must be caused by the dishonest conduct of the lawyer and shall have  
3 arisen out of the course of a lawyer/client or fiduciary relationship between the lawyer  
4 and the claimant and by reason of that relationship.

5       (b) The claim for reimbursement shall be filed ~~in a timely fashion after the claimant~~  
6 ~~knew or should have known of the dishonest conduct of the lawyer but not later than~~  
7 ~~four years after discipline has been imposed~~within one year after the date of the final  
8 order of discipline.

9       (b)(1) In cases of the lawyer's death, the claim for reimbursement shall be filed  
10 within one year of the lawyer's date of death.

11       (b)(2) In cases of the lawyer's formal disability, the claim for reimbursement shall be  
12 filed within one year of the date of the order of disability.

13       (c) If the subject of the application for reimbursement from the Fund is or arises out  
14 of loss occasioned by a loan or an investment transaction with a lawyer, each loss will  
15 not be considered reimbursable from the Fund unless it arose out of and in the course  
16 of the attorney/client relationship; and but for the fact that the dishonest attorneylawyer  
17 enjoyed an attorney/client relationship with the claimant, such loss could not have  
18 occurred. In considering whether that standard has been met the following factors will  
19 be considered:

20       (c)(1) the disparity in bargaining power between the attorneylawyer and the client in  
21 their respective educational backgrounds in business sophistication;

22       (c)(2) the extent to which the lawyer's status overcame the normal prudence of the  
23 claimant;

24       (c)(3) the extent to which the attorneylawyer, by virtue of the attorney/client  
25 relationship with the claimant, became privy to information as to the client's financial  
26 affairs. It is significant if the attorneylawyer knew of the fact that the client had available  
27 assets or was expecting to receive assets which were ultimately wrongfully converted  
28 by the attorneylawyer;

29       (c)(4) whether a clear majority of the service arose out of a relationship requiring a  
30 license to practice law in Utah, as opposed to one that did not. In making this  
31 evaluation, consideration will be given to:

32 (c)(4)(A) whether the transaction originated with the [attorneylawyer](#);

33 (c)(4)(B) the reputation of the [attorneylawyer](#) as to scope and nature of his/her  
34 practice and/or business involvement;

35 (c)(4)(C) the amount of the charge made for legal services, if any, compared to that  
36 for a finder's fee, if any; and

37 (c)(4)(D) the number of prior transactions of either a similar or different nature in  
38 which the client participated, either with the [attorneylawyer](#) involved or any other  
39 [attorneylawyer](#), person or business organization;

40 (c)(5) the extent to which the lawyer failed to make full disclosure to the client in  
41 compliance with the Utah Rules of Professional Conduct, including disclosure of the  
42 lawyer's financial condition and his/her intended use of the funds.

43 (d) Exceptions. Except as provided by paragraph (e), the following losses shall not  
44 be reimbursed:

45 (d)(1) loss incurred by spouses, children, parents, grandparents, siblings, partners  
46 and associates of the lawyer;

47 (d)(2) losses covered by any bond, surety, agreement or insurance contract to the  
48 extent covered thereby, including any loss to which any bonding agent, surety or insurer  
49 is subrogated to the extent of that subrogated interest;

50 (d)(3) losses of any financial institution which are recoverable under a "Banker's  
51 Blanket Bond" or similar commonly available insurance or surety contract;

52 (d)(4) any business entity controlled by the lawyer or any person or entity described  
53 in paragraph (d)(1);

54 (d)(5) any governmental entity or agency;

55 (d)(6) any assigned claims, third party claims, claims of heirs or estates of deceased  
56 claimants;

57 (d)(7) any claims where claimant has failed to exhaust all other reasonably available  
58 services or recovery methods;

59 (d)(8) any investment losses, as distinguished from [attorneylawyer](#) fees, which might  
60 reasonably be characterized as:

61 (d)(8)(A) any pyramid or ponzie scheme;

62 (d)(8)(B) any investment in or loan to any offshore entity;

63 (d)(8)(C) any investment in or loan to an entity that claims that a benefit to the  
64 investor would be the evasion, avoidance, reduction or other sheltering of taxes that  
65 would be otherwise assessed on the investment; or

66 (d)(8)(D) any investment that promises such a high rate of return that a reasonable  
67 and prudent person would suspect that the venture is of unusually high risk.

68 (e) In cases of extreme hardship or special and unusual circumstances, the  
69 Committee may, in its discretion, recognize a claim which would otherwise be excluded  
70 under these rules.

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