

1 **Rule 15-910. Eligible claim.**

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

7 (b) The claim for reimbursement shall be filed within one year after the date of the final order
8 of discipline.

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

11 (b)(2) In cases of the licensed paralegal practitioner's formal disability, the claim for
12 reimbursement shall be 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 of loss
14 occasioned by a loan or an investment transaction with a licensed paralegal practitioner, each
15 loss will not be considered reimbursable from the Fund unless it arose out of and in the course of
16 the licensed paralegal practitioner/client relationship; and but for the fact that the dishonest
17 licensed paralegal practitioner enjoyed a licensed paralegal practitioner/client relationship with
18 the claimant, such loss could not have occurred. In considering whether that standard has been
19 met the following factors will be considered:

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

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

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

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

32 (c)(4)(A) whether the transaction originated with the licensed paralegal practitioner;

33 (c)(4)(B) the reputation of the licensed paralegal practitioner 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 for a
36 finder's fee, if any; and

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

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

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

46 (d)(1) loss incurred by spouses, children, parents, grandparents, siblings, partners and
47 associates of the licensed paralegal practitioner;

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

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

53 (d)(4) any business entity controlled by the licensed paralegal practitioner or any person or
54 entity described in paragraph (d)(1);

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

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

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

60 (d)(8) any investment losses, as distinguished from licensed paralegal practitioner fees,
61 which might reasonably be characterized as:

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

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

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

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

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