

CLIENTS' SECURITY BOARD OF THE  
SUPREME JUDICIAL COURT OF MASSACHUSETTS  
ANNUAL REPORT FISCAL 2008

August 31, 2008

Dear Reader,

**B**y almost any measure this was a year to remember. The 68 awards made by the Board exceeded \$2,654,000, the second largest total in the Board's history. Out of the 51,999 active lawyers in Massachusetts, only 32 were responsible for the misconduct leading to the awards.

The 10 largest of the 68 awards totaled \$2,226,646, more than 83% of the total awarded. Those 10 awards ranged from a high of \$447,932 to a low of \$77,585. The balance of \$427,790 was divided among the other 58 claimants. Those awards ranged from \$50,750 down to \$200. Fiscal year 2008 caps a five-year period during which the Board awarded an unprecedented \$10,882,493.

However, the year was about more than just awards. Thanks to the initiative and leadership of Insurance Commissioner Nonnie Burnes, Massachusetts joined twelve other states in establishing a payee notification mechanism by which insurers paying \$5,000 or more to settle a third-party liability claim shall notify the individual claimant that the payment has been made to the claimant's lawyer or other personal representative. Our Board is most grateful to the Massachusetts Bar Association, its House of Delegates and its Task Force on Safeguarding Client Interests for supporting this respected consumer protection measure. Payee notification also received public endorsements from the Berkshire Bar Association, Boston Bar Association, Dukes County Bar Association, the Federal Bar Association (Massachusetts Chapter), the Women's Bar Association of Massachusetts and the Worcester County Bar Association. Our Board deeply appreciates their support. I am personally grateful to my past and present colleagues Ed McIntyre, John Gobel, Kathryn O'Leary and Jeanne Koehr for their determined efforts when the odds of a successful result were invisibly slender and to former Insurance Commissioner Julianne Bowler for seeing the rule as sound public policy. The Board and all supporters of this mechanism fervently hope that it will reduce the number of claims listed under the "Settlements" category in future reports.

**BOARD MEMBERS**

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*Chair*  
Concord, MA

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**Jeanne Koehr**  
Boston, MA

**Thomas O. Bean**  
Boston, MA

**Denzil D. McKenzie**  
Boston, MA

**John J. Egan**  
Springfield, MA

**STAFF**

**Michael A. Fredrickson**  
*Board Counsel*

**Karen D. O'Toole**  
*Assistant Board  
Counsel*

**Adam M. Lutynski**  
*Assistant Board  
Counsel*

*Continued from page 1*

Could anyone have ever forecast when we received the first claim in January 2001 related to the misconduct of disbarred lawyer, Morris M. Goldings, that it would take until fiscal year 2009 to issue the final reimbursement payments to his injured former clients? Although the Board made partial interim distributions of almost \$500,000, it cannot complete its task until the final bankruptcy court distributions have been made. We are confident that we shall make our final award payments during fiscal 2009.

To keep this report confined to the essentials of our work, I refer interested readers to our website where you will find factual abstracts of the Board decisions behind the awards enumerated in this report. As is our custom, we will keep available on the website a complete set of abstracts for the preceding fiscal year.

Sincerely yours,



Peter G. DeGelleke  
Chair

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## OVERVIEW

The Board awarded more than \$1.1 million to former clients of disbarred lawyer Gerard E. Battista.

Four disbarred lawyers (Gerard E. Battista, Harley H. Anderson, Peter L. Schofield and Alan Mason) were responsible for awards of \$1,990,838 or 75% of the total \$2,654,435 awarded.

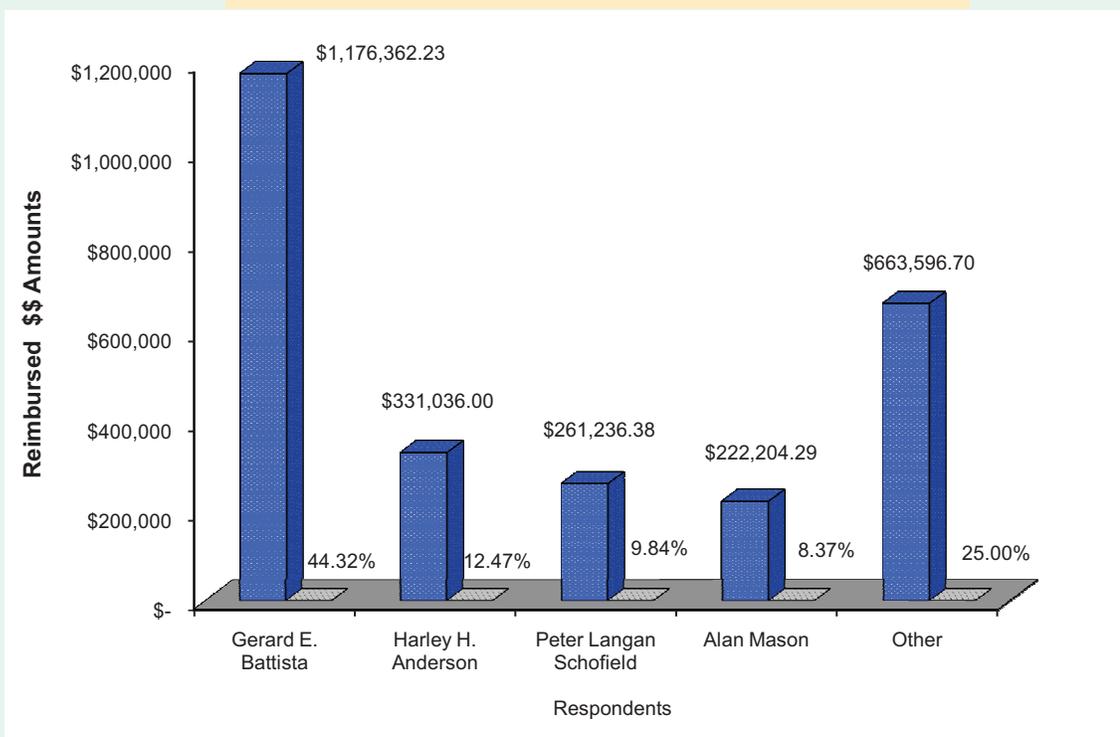
Those four and Anthony R. Bott were convicted of felonies and received sentences of confinement followed by periods of probation plus substantial restitution orders.

This year and in four of the last five years (2004-2008), Trusts and Estates has been the leading award category totaling \$4,649,728 or 42.7% of the total \$10,882,493 reimbursed during that period.

The Board awarded 100% of the defalcations found.

Restitution of \$436,106.80 was an unprecedented amount.

### LAWYERS WITH HIGHEST DEFALCATION



The Massachusetts Supreme Judicial Court created the Clients' Security Board in 1974 and directed it (1) to rectify the wrongful conduct of those former members of the bar who had taken advantage of clients and (2) to strengthen public confidence in the legal profession.

### DEFALCATIONS AND AWARDS BY DISCIPLINED LAWYER

Name of Respondent	Town	County	No. of Awards	Amount Awarded	Defalcation Amount
Gerard E. Battista	Norwell	Plymouth	13	\$1,176,362.23	\$1,176,362.23
Harley H. Anderson	Waltham	Middlesex	2	\$331,036.00	\$331,036.00
Peter Langan Schofield	Grafton	Worcester	2	\$261,236.38	\$261,236.38
Alan Mason	Princeton	Worcester	2	\$222,204.29	\$222,204.29
Daniel R. Kirkpatrick	Barre	Worcester	2	\$157,300.00	\$157,300.00
Leonard S. Lakin	Sudbury	Middlesex	1	\$138,781.00	\$138,781.00
Arthur Khoury	Framingham	Middlesex	1	\$77,585.34	\$77,585.34
Theodore Scott Geller	Worcester	Worcester	13	\$36,667.74	\$36,667.74
Anthony Raoul Bott	East Orleans	Barnstable	3	\$34,688.30	\$34,688.30
Roberta Golden	Framingham	Middlesex	1	\$30,000.00	\$30,000.00
James Wager	Salem	Essex	1	\$29,881.45	\$29,881.45
Stephen C. Maloney	Canton	Norfolk	1	\$21,308.00	\$21,308.00
Bruce L. Namenson	North Walpole	Norfolk	1	\$20,000.00	\$20,000.00
Richard H. Wynn	Needham	Norfolk	2	\$16,881.87	\$16,881.87
Vincent G. Campanella	Woburn	Middlesex	3	\$16,808.00	\$16,808.00
Stuart Hartley Sojcher	Winchester	Middlesex	1	\$11,000.00	\$11,000.00
John C. McBride	Marblehead	Essex	1	\$10,000.00	\$10,000.00
William E. Gately	Braintree	Norfolk	2	\$8,655.00	\$8,655.00
Mark Stephen Williams	Belmont	Middlesex	3	\$8,250.00	\$8,250.00
Paul Joseph Healy	Rockland	Plymouth	1	\$6,667.00	\$6,667.00
Ronald C. Oberg	Springfield	Hampden	1	\$5,857.00	\$5,857.00
Merrill D. Goldfarb	Needham	Norfolk	1	\$5,000.00	\$5,000.00
Edmund L. Patrican	Gloucester	Essex	1	\$5,000.00	\$5,000.00
Edward David Friedman	Springfield	Hampden	1	\$4,000.00	\$4,000.00
Harrison A. Fitch	Brookline	Norfolk	1	\$3,500.00	\$3,500.00
Michael Read Fuller	North Reading	Middlesex	1	\$3,267.00	\$3,267.00
Gerald L. Shyavitz	Haverhill	Essex	1	\$3,000.00	\$3,000.00
Daniel Joseph Wilkins	Chelmsford	Middlesex	1	\$3,000.00	\$3,000.00
Quang Joseph Nguyen	Dorchester	Suffolk	1	\$3,000.00	\$3,000.00
Richard W. Hynes	Brookline	Norfolk	1	\$2,000.00	\$2,000.00
Ronald Gary Pinson	Quincy	Norfolk	1	\$800.00	\$800.00
Robert N. Wilson	Ayer	Middlesex	1	\$700.00	\$700.00
<b>TOTALS</b>			<b>68</b>	<b>\$2,654,436.60</b>	<b>\$2,654,436.60</b>

The Clients' Security Fund comes from a single source: annual registration fees paid by the lawyers of Massachusetts. No taxpayer dollars or other public funds are used.

### CLAIMS ACTIVITY TABLE

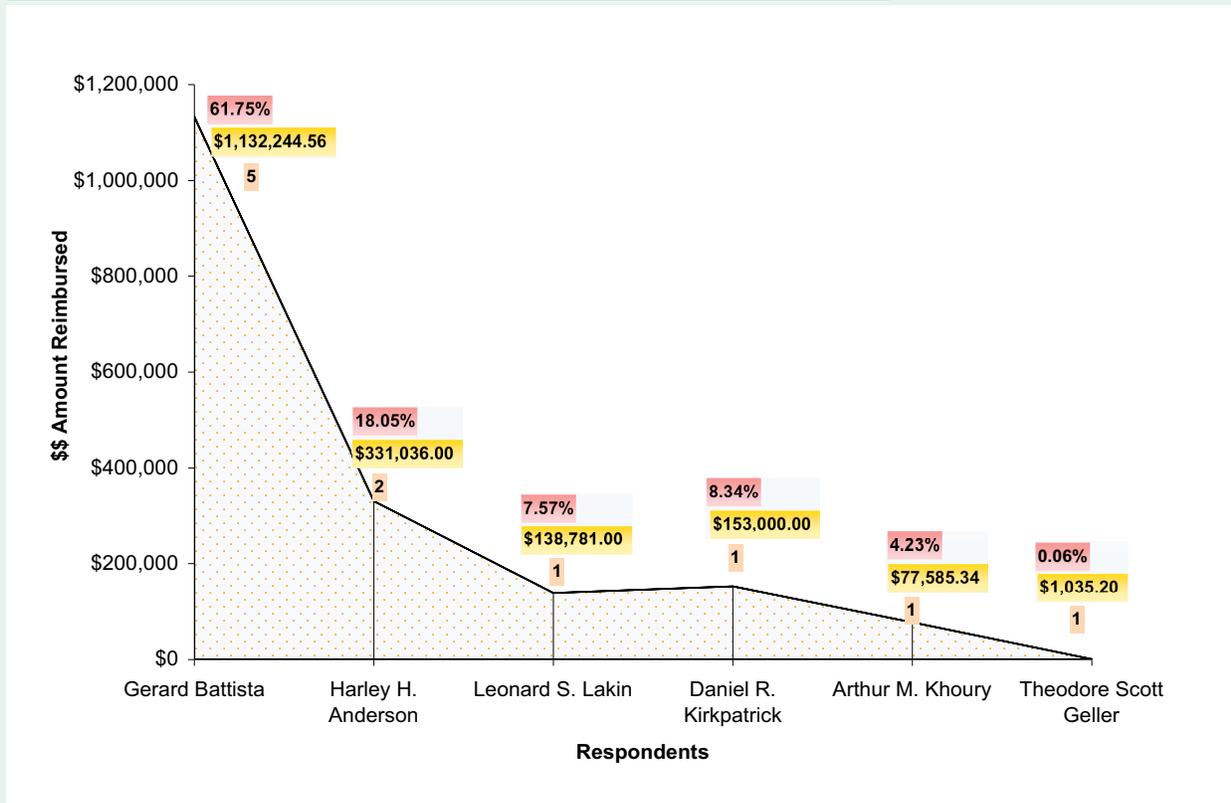
Fiscal Year	Claims Filed	Claims Adjudicated	Cases Dismissed	Awards Made	Award Amounts
1975	14	7	2	5	\$2,808.00
1976	36	28	18	10	\$44,635.00
1977	21	18	13	5	\$22,100.80
1978	71	34	14	20	\$64,734.00
1979	53	39	29	10	\$14,490.00
1980	126	60	38	22	\$71,208.00
1981	42	126	61	65	\$244,276.18
1982	30	29	9	20	\$80,212.00
1983	35	40	7	33	\$152,005.00
1984	45	42	17	25	\$141,125.67
1985	46	34	12	22	\$224,904.17
1986	23	38	7	31	\$214,810.75
1987	42	34	12	22	\$503,776.00
1988	28	24	13	11	\$267,954.24
1989	51	40	16	24	\$146,720.06
1990	74	72	18	55	\$759,025.23
1991	71	55	20	35	\$624,592.42
1992	124	85	16	69	\$968,894.77
1993	146	95	22	73	\$1,111,181.93
1994	109	157	27	130	\$1,203,911.62
1995	90	103	35	68	\$1,602,217.70
1996	139	100	33	67	\$1,696,870.13
1997	81	113	30	83	\$2,058,900.92
1998	119	102	46	56	\$1,254,229.91
1999	80	98	32	66	\$2,119,675.47
2000	83	108	22	86	\$2,744,848.83
2001	119	70	15	55	\$1,963,555.27
2002	82	94	25	69	\$1,066,379.91
2003	116	56	11	45	\$1,055,477.00
2004	90	157	58	99	\$2,412,597.49
2005	81	81	26	55	\$2,203,527.19
2006	91	93	51	42	\$1,653,026.91
2007	77	88	31	57	\$1,958,904.76
2008	108	89	21	68	\$2,654,436.60
				<b>1603</b>	<b>\$33,308,013.93</b>

All fifty states and the District of Columbia have similar funds. Massachusetts stands apart because, over the years, the Court empowered the Board (1) to reimburse each claimant loss without limit, (2) to reimburse, without limit, claims related to an individual lawyer, (3) to reimburse claims without imposing a statute of limitations, and (4) to actively solicit applications from affected populations who otherwise might never know of the Board and its mission.

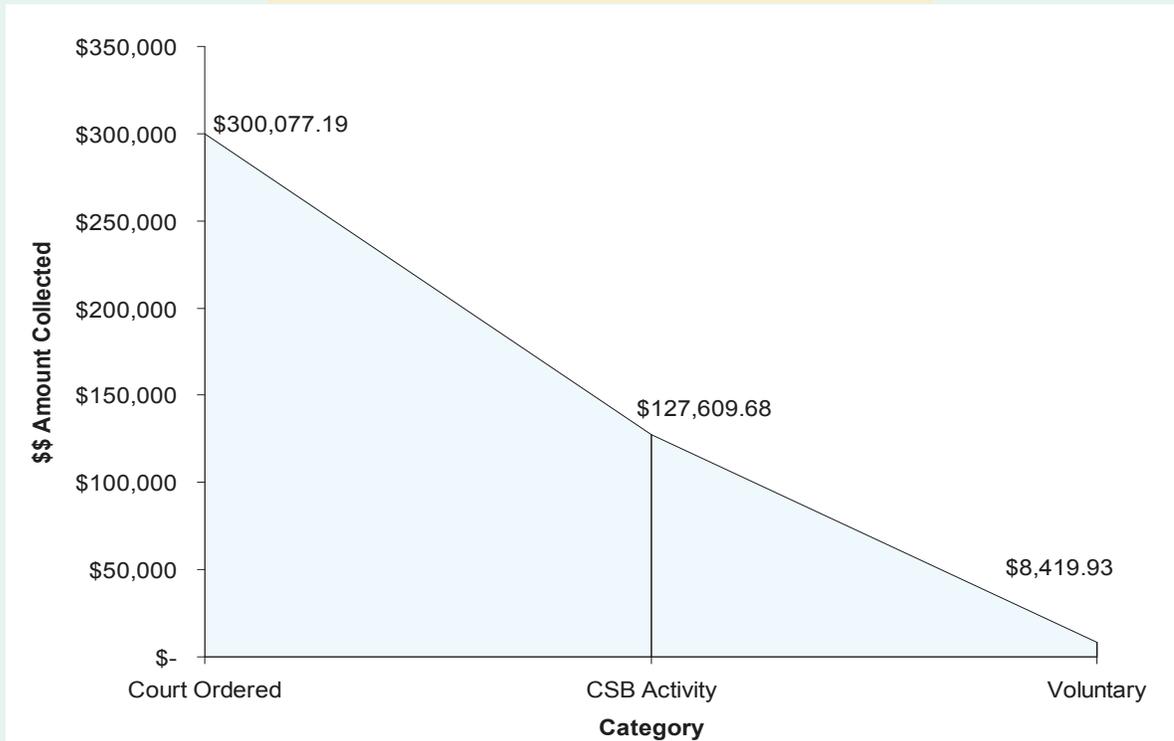
**AWARDS BY CATEGORY**

Category	No. of Awards	% of Total Awards	Total Awarded	% Total \$\$ Awarded	Total Defalcation	% of Total Defalcation
Trusts & Estates	11	16.18%	\$1,833,682.10	69.08%	\$1,833,682.10	69.08%
Real Estate	7	10.29%	\$ 342,221.53	12.89%	\$ 342,221.53	12.89%
Fiduciary	4	5.88%	\$ 233,182.14	8.78%	\$ 233,182.14	8.78%
Personal Injury Settlement	12	17.65%	\$ 131,976.62	4.97%	\$ 131,976.62	4.97%
Unearned Retainer	29	42.65%	\$ 79,683.54	3.00%	\$ 79,683.54	3.00%
Bankruptcy	1	1.47%	\$ 17,416.67	0.66%	\$ 17,416.67	0.66%
Settlement	4	5.88%	\$ 16,274.00	0.61%	\$ 16,274.00	0.61%
<b>Total</b>	<b>68</b>	<b>100.00%</b>	<b>\$2,654,436.60</b>	<b>100.00%</b>	<b>\$2,654,436.60</b>	<b>100.00%</b>

**ANALYSIS OF LARGEST AWARD CATEGORY: TRUSTS & ESTATES**



### RESTITUTION



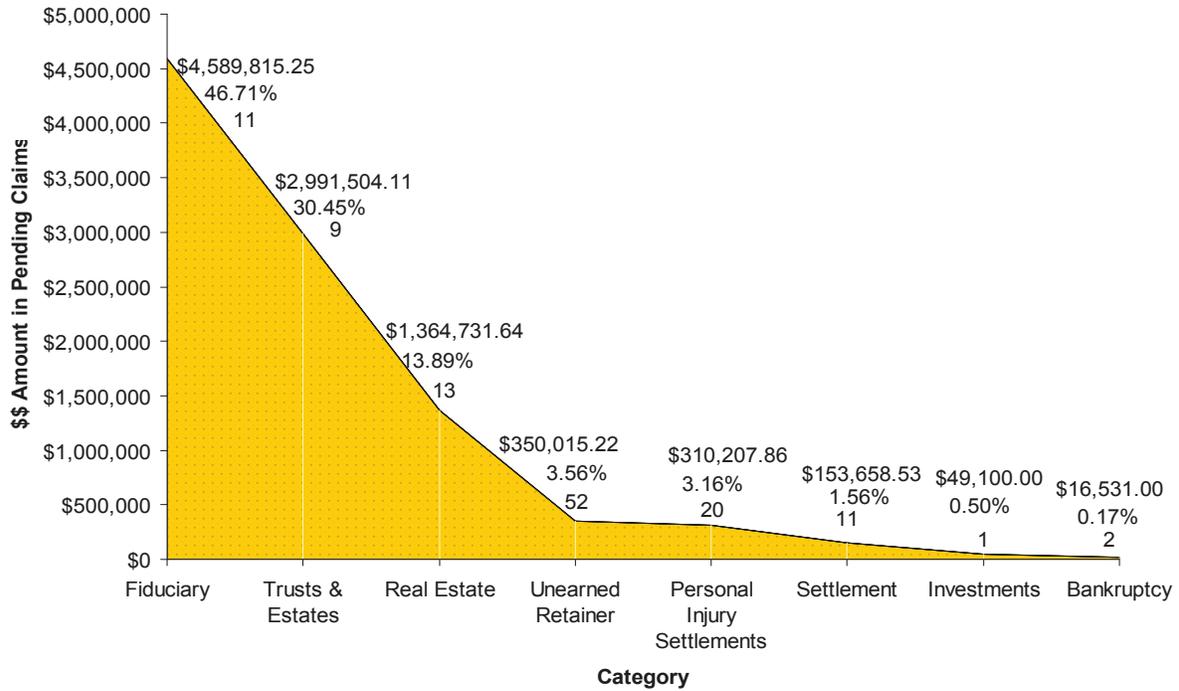
### DISMISSED CLAIMS

Category	# Claims	% of Total Dismissed	Amount \$\$ Claimed	% of Total \$\$ Dismissed
Insufficient Data	3	14.29%	\$1,524,847.00	50.14%
No Attorney-Client Relationship	2	9.52%	\$1,051,500.00	34.57%
No Defalcation	10	47.62%	\$ 335,885.59	11.04%
Board's Discretion	1	4.76%	\$ 92,815.00	3.05%
Fee Dispute	2	9.52%	\$ 22,060.00	0.73%
Restitution	2	9.52%	\$ 10,610.00	0.35%
Third-Party Settlement	1	4.76%	\$ 3,751.27	0.12%
<b>Total</b>	<b>21</b>	<b>100.00%</b>	<b>\$3,041,468.86</b>	<b>100.00%</b>

On behalf of my father and myself, I want to express our sincere gratitude and appreciation for all that you have done. I sincerely thought all was lost when I learned his settlement check was gone. You have been wonderful to me personally when dealing over the phone and that certainly went a long way in helping me stay positive. The Board serves a great purpose and I am so glad that such a vehicle exists to help victims. I hope more people will learn of your existence. I certainly will do my part to spread the word. We will be forever grateful.

CSB-2008-056

**CLAIMS PENDING**  
**119 Claims Totaling \$9,825,564**



**LeDOUX AWARD**

**T**he Board presents the William J. LeDoux Award on those memorable occasions when a lawyer demonstrates singular devotion, skills and perseverance in representing a client-claimant before the Board. Since 1998, the recipients have been:

- Peter H. Sutton, Esq., Boston**
- Nathan H. Proctor, Esq. and Charles F. Proctor, Esq., Oxford**
- Thomas G. Hoffman, Esq., Boston**
- Douglas W. Salvesen, Esq., Boston**
- Jerry Cohen, Esq., Boston**
- Laura Hancock Barry, Esq., Worcester**
- Hung Tran, Esq., Boston**
- Hang Nina T. K. Nguyen, Esq., Boston**

All lawyers who represent claimants before the Board serve without compensation.

**PRO BONO  
LAWYERS**

**THE BOARD IS PLEASED TO PUBLICLY ACKNOWLEDGE AND THANK THE FOLLOWING LAWYERS WHO GENEROUSLY CONTRIBUTED THEIR TIME AND TALENTS DURING FY 2008 TO REPRESENT CLAIMANTS BEFORE THE BOARD FOR WHICH SERVICE, BY COURT RULE, THEY MAY NOT RECEIVE COMPENSATION**

Israel Arana  
Arana & Arana  
452 Nightdream Lane  
Winder, GA 30680  
CSB-2007-49

John C. Creney  
86 Willow Street, Ste 6  
Yarmouth, MA 02675  
CSB-2004-86

Philip J. Doherty  
Doherty Law Offices  
73A Winthrop Avenue  
Lawrence, MA 01843  
CSB-2006-86

Suzanne Fay Glynn  
49 Locust Street  
Falmouth, MA 02540  
CSB-2007-40

Christopher F. Hemsey  
516 Broadway  
Everett, MA 02149  
CSB-2004-061

Paul William Kaufman  
Kaufman & Bennett  
933 Webster Street  
Marshfield, MA 02050-3482  
CSB-2006-064

Kevin J. Kilduff  
Burns & Levinson  
125 Summer Street  
Boston, MA 02110  
CSB-2007-009

Jessica Murphy  
Mirick O'Connell DeMallie & Lougee, LLP  
100 Front Street  
Worcester, MA 01608  
CSB-2007-007

Mark L. Nestor  
45 Middle Street, Ste 1  
P.O. Box 5357  
Gloucester, MA 01930  
CSB-2007-048

John C. Ottenberg  
Ottenberg & Dunkless LLP  
101 Arch Street, 9th Floor  
Boston, MA 02110  
CSB-2007-029

Joseph S. Provanzano  
16 Bourbon Street  
Peabody, MA 01960-1338  
CSB-2004-082

Jeffrey N. Roy  
Ravech & Roy,  
One Exeter Plaza  
699 Boylston Street  
Boston, MA 02166  
CSB-2007-021; CSB-2007-022

Francis X. Small  
Heaney and Small  
24 Asylum Street  
Milford, MA 01757  
CSB-2007-027

John T. Spinale  
Spinale Law Firm  
45 Bristol Drive  
South Easton, MA 02375  
CSB-2006-045

Stephen R. Sterbinsky  
745 Royalston Road  
Phillipston, MA 01331-9439  
CSB-2007-010

Gerald Van Dam  
Van Dam & Traini, LLP  
60 William Street, Ste 300  
Wellesley, MA 02481  
CSB-2007-056

*Thank you and the Clients' Security Board for handling the proceedings in recovering the funds for my uncle's estate. Your professionalism and kindness will always be remembered as something special.*

CSB-2008-029

**Board members are seven lawyers appointed by the Court to a five-year term. They serve without compensation and manage and distribute the Clients' Security Fund to reimburse clients whose lawyers wrongfully took or misused client funds.**

### CLIENTS' SECURITY BOARD MEMBERS

**Peter G. DeGelleke, Esq.**, Chair, is a sole practitioner who specializes in criminal and civil litigation and corporate risk management. His office is in Concord, Massachusetts, where he is of counsel to the firm of McWalter, Barron & Boisvert. Admitted to the Bar in 1977 after graduating from Georgetown Law School, Mr. DeGelleke served two terms as a Hearing Officer for the Board of Bar Overseers, serves as an arbitrator for the Massachusetts Bar Association Fee Arbitration Board, and teaches trial advocacy in the Harvard Law School Trial Advocacy Workshop.

**Kathryn A. O'Leary, Esq.**, is a trial attorney with the Worcester law firm of Gould & Ettenberg, P.C. since 1997. She is a member of the Worcester County Bar Association, Senior Women's Practice Group, and the Concord Attorney Round Table and has participated as a volunteer in the Suffolk and Middlesex County Bench/Bar Committees and the First Circuit Gender and Ethnic Bias Study. Ms. O'Leary is the president of Women's Hoop Dreams, Inc. and plays competitive women's basketball.

**Pamela Jeanne Koehr, Esq.**, serves as the Attorney General's designee on the Board of Appeal on Motor Vehicle Liability Policies and Bonds. Prior to her present position, she managed a general law practice in Lexington for 15 years. She currently serves as a hearing officer for the Board of Bar Overseers. Ms. Koehr received her undergraduate degree from Chaminade University (Hawaii) and her J.D. from New England School of Law. She also serves as a trial advisor to the Trial Advocacy Workshop at Harvard Law School.

**Thomas O. Bean, Esq.**, is a partner at McDermott, Will & Emery LLP where he focuses his practice in bankruptcy and commercial litigation. From 1992 through 1998, he served as a Massachusetts Assistant Attorney General in the Government Bureau. He co-chaired the Bankruptcy Section of the Boston Bar Association from 2002 to 2004. He is a member of the American Bankruptcy Institute and a frequent lecturer on bankruptcy topics.

**Charles W. Goddard, Esq.**, is a partner in the law firm of Goddard, Scuteri & Delaney in Salem, MA, where his practice concentrates in civil litigation in all courts of the Commonwealth. Mr. Goddard has served as President of the Essex County Bar Association (1990-1992); as Conciliator in the Superior Court since 1988; as a member of the Joint Bar Committee on Judicial Nominations (1989-1991); and on the Judicial Nominating Council (1991-1993). He has served as Chairman of the Board of Selectman of the Town of Manchester (1970-1972) and as Town Counsel, Manchester, MA (1976-1988). Mr. Goddard is a graduate of Boston College (A.B., 1960) and Boston University School of Law (1963).

**Denzil D. McKenzie** is the managing director/founder of McKenzie & Associates, specialists in civil litigation, estate planning, probate, business law and non-profits. He was a member of the Chapter 180 Task Force of the Boston Bar Association reviewing Mass. General Laws relating to non-profit organizations, and a former Massachusetts Assistant Attorney General. He is active on the boards of the Community Impact Committee of the United Way of Massachusetts Bay, the Center for Urban Ministerial Education of Gordon Conwell Theological Seminary, the Massachusetts Family and Probate American Inn of Court, and serves on the Executive Council of Boston University Law School Alumni Association. He lectures for MCLE and Suffolk University's Advanced Legal Studies program. He is a graduate of BU School of Law and studied tax law in the Boston University Graduate Tax Program.

**John J. Egan** is a partner in the Springfield law firm of Egan, Flanagan and Cohen, P.C. He concentrates his practice in civil litigation. A graduate of the College of the Holy Cross and Boston College Law School, he was admitted to the Bar in 1969. He served as a trial attorney for the Massachusetts Defenders Committee, as an Assistant District Attorney, and as an Assistant Attorney General. He has taught at Western New England Law School and served as an associate editor of the Massachusetts Law Review. He has lectured and written for numerous continuing legal education programs on trial practice in the Massachusetts State and Federal Courts. In 1995, Mr. Egan was invited to Fellowship in the American College of Trial Lawyers and for five years served as a member of its State Committee.

**CLIENTS' SECURITY BOARD MEMBERSHIP  
1974-PRESENT**

Philip J. Assiran (1981-1983)	Maria J. Krokidas (1979-1984)
Thomas O. Bean (2005- )	Elizabeth O'Neill La Staiti (1982-1986)
George N. Beauregard (1982-1986)	William J. LeDoux (1987-1997)
Barry D. Berkal (1981-1986)	Edward J. Lee (1987-1992)
Mark N. Berman (1997-2002)	S. Thomas Martinelli (1975-1977)
Stanley B. Bernstein (1992-1996)	Denzil D. McKenzie (2008- )
Mark I. Berson (1995-2000)	Edward W. McIntyre (1999-2004)
Thomas H. Collins (1974-1981)	Stanley B. Milton (1974)
J. Elizabeth Cremens (1987-1992)	Guy B. Moss (2002-2007)
Judith A. Cross (1988-1998)	Frederick L. Nagle, Jr. (1990-1995)
Peter G. DeGelleke (2003- )	Loretta Sullivan O'Brien (1992-1997)
Charles R. Desmarais (1974-1980)	Kathryn A. O'Leary (2004- )
Merrilynn R. Douglas (1989-1994)	Thomas E. Peisch (1994-1999)
Patricia M. Dunbar (1997-1999)	Dorothy G. Sanders (1992-1997)
John J. Egan (2008- )	Mary H. Schmidt (1997-2002)
Harrison A. Fitch (1986-1993)	Edward D. Simsarian (1984-1989)
John R. Gobel (2001-2006)	Thomas G. Sitzmann (1996-2001)
Charles W. Goddard (2007- )	Joseph D. Steinfield (1998-2003)
Joel S. Greenberg (1980-1990)	Peter H. Sutton (2000-2005)
Edward B. Hanify (1974-1979)	Evelynne L. Swagerty (1999-2004)
Paul F. Hannah (1974-1976)	Berge C. Tashjian (1978-1980)
Ruth-Arlene W. Howe (1983-1988)	Charles Y. Wadsworth (1977-1982)
Raymond J. Kenney, Jr. (1979-1987)	Lucy W. West (2002-2007)
Pamela Jeanne Koehr (2004- )	

*A sincere thank you to the Board for this consideration.  
CSB-2007-86*

*I just wanted to say a warm thank you for your consideration and decision in my claim that was reviewed by all of you. It's nice to know our justice system works so well! And also I wanted to thank you for your expertise, hard work, knowledge and professionalism. Thank you again.  
CSB-2007-076*

*Please extend my sincere thank you's to the board as I am extremely pleased with their decision. I cannot say thank you enough for all the trouble you may have gone through yourself to help me with this situation. It will help me to breathe a little easier now.  
CSB-2006-060*

*A sincere thank you to the Board for this consideration. CSB-2007-036*

*Our experience with your office was superb and more people in the Commonwealth need to know this and quite frankly that your office exists.*

*CSB-2006-081*

*Thank you so very much for your generous help with my personal dilemma. You and the board are greatly appreciated and should be highly commended for your service and dedication to Justice.*

*CSB-2007-010*

*I would like to thank you for your assistance and facilitating this matter. I am very grateful for the time you took, explaining the details and preparing the case. It has helped restore some faith in the judicial system.*

*CSB-2007-38*

*On behalf of my clients and myself, I wish to thank the Clients' Security Board for the recent award in the above matter and to thank the Board for its consideration and courtesies extended to me and [my client] at the hearing. I also thank you personally for your kindness and help in this matter.*

*CSB-2006-62*

**INFORMATION ON FILING A CLAIM FOR REIMBURSEMENT CAN  
BE FOUND AT**

**WWW.MASS.GOV/CLIENTSSECURITYBOARD**

**OR**

**AT THE OFFICES OF**

**THE**

**MASSACHUSETTS CLIENTS' SECURITY BOARD**

**99 HIGH STREET, 2ND FLOOR**

**BOSTON, MA 02110**

**TEL: 617.728.8700**

**FAX: 617.482.8000**