



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report – Issued February 9, 2016

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## Supreme Judicial Court— Clients' Security Board and Fund

For the period September 1, 2012 through February 28, 2015





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February 9, 2016

Ralph D. Gants, Chief Justice  
Supreme Judicial Court  
John Adams Courthouse  
One Pemberton Square, Suite 2500  
Boston, MA 02108

Dear Chief Justice Gants:

I am pleased to provide this performance audit of the Supreme Judicial Court Clients' Security Board and Fund. This report details the audit objectives, scope, and methodology for the audit period, September 1, 2012 through February 28, 2015. My audit staff discussed the contents of this report with court management, whose comments are reflected in this report.

I would also like to express my appreciation to the Clients' Security Board for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular watermark.

Suzanne M. Bump  
Auditor of the Commonwealth

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## **LIST OF ABBREVIATIONS**

BBO	Board of Bar Overseers
CSB	Clients' Security Board
CSF	Clients' Security Fund
SJC	Supreme Judicial Court

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## **EXECUTIVE SUMMARY**

The Clients' Security Board (CSB) was established by order of the Massachusetts Supreme Judicial Court (SJC) on September 1, 1974, to manage the Clients' Security Fund (CSF). The CSF was established by the Massachusetts Bar Association in 1964 to provide monetary relief for people who have sustained financial losses resulting from misuse or misappropriation of their money by their attorneys and/or legally involved fiduciaries. The CSB consists of seven members of the Massachusetts bar who are appointed by the SJC to serve as public trustees of the CSF. A portion of the annual fees paid by each member of the Board of Bar Overseers is allocated to the CSF. CSB members manage and distribute the money awarded for claims. During our audit period, the CSB awarded 220 claims, for a total of \$5,451,505, from the CSF.

We undertook this audit to determine whether the SJC was providing proper oversight of the CSB, whether the size of the CSF was adequate to serve its purposes, and whether the CSB had made adequate outreach efforts to make the public aware of the relief funding available.

Our audit confirmed, with regard to our audit objectives, that the SJC was providing proper oversight of the CSB, the CSF was adequately funded, and the CSB's outreach was adequate.

## OVERVIEW OF AUDITED ENTITY

The Supreme Judicial Court (SJC) is the Commonwealth's highest appellate court and consists of a chief justice and six associate justices appointed by the Governor with the consent of the Executive Council. It has varying degrees of oversight responsibility for several affiliated agencies of the judicial branch, including the Board of Bar Overseers (BBO), the Board of Bar Examiners, the Clients' Security Board (CSB), the Commission on Judicial Conduct, the Massachusetts Legal Assistance Corporation, and the Massachusetts Mental Health Legal Advisors Committee.

In 1964, the Massachusetts Bar Association created the Clients' Security Fund (CSF) to provide monetary relief for people who have experienced a financial loss resulting from misuse or mishandling of their money by their attorneys and/or fiduciaries.

In 1974, the SJC created the CSB to oversee the CSF. The board consists of seven members of the Massachusetts bar, appointed by the SJC as public trustees of the CSF. The CSB is funded from allocated registration fees paid by lawyers licensed to practice law in Massachusetts. Registration fees are collected and allocated to the CSB and the Office of Bar Counsel by the BBO. The CSB also collects restitution from suspended or disbarred lawyers as a condition of reinstatement of their licenses. The SJC authorizes the funding of the CSB's awards. Decisions by the CSB are not subject to review in appellate court or jurisdiction of origin.

Each year, the CSB files an annual report to the Supreme Judicial Court that details matters such as claims received and awards made during the year. During our audit period, September 1, 2012 through February 28, 2015, the CSB awarded \$5,451,505 to claimants. It awarded \$2,801,666 in fiscal year 2013; \$1,324,816 in fiscal year 2014; and \$1,325,023 in fiscal year 2015 as of February 28, 2015. During the same period, the CSB declined to grant money for 50 claims submitted to it because the CSB determined that the financial loss was not caused by withdrawal by the claimant, a lack of adequate information, or a defalcation during the attorney's legal representation of the client.

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## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain oversight activities of the Supreme Judicial Court (SJC) concerning the Clients’ Security Board (CSB) and Clients’ Security Fund (CSF) for the period September 1, 2012 through February 28, 2015.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Below is a list of our audit objectives, indicating each question we intended our audit to answer and the conclusion we reached regarding each objective.

Objective	Conclusion
1. Is the SJC providing oversight of the CSB in accordance with established rules?	Yes
2. Is the amount in the CSF adequate to support its purpose?	Yes
3. Is there outreach to ensure that people are aware of the CSF?	Yes

We determined that internal controls over the following areas were significant to our audit objectives, and we evaluated the design and effectiveness of those controls:

- the SJC’s oversight of the CSB
- the CSB’s budgeting process

In addition, to accomplish our objectives, we performed the following procedures:

- We obtained and reviewed a copy of Supreme Judicial Court Rules 4.04, 4.05, 4.06, 4.08, and 4.09, which relate to the establishment and responsibilities of the CSB.
- We obtained copies of the CSB annual reports and audited financial statements for fiscal years 2013 and 2014 that were submitted to the SJC to satisfy Sections 2 and 3 of SJC Rule 4:06 regarding oversight.

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- We obtained and reviewed copies of the subrogation agreements<sup>1</sup> for all 220 claims awarded during the audit period.
  - We obtained a list of all 50 claims dismissed during the audit period and reviewed the information in these claims.
  - We reconciled the number of claims and dollar amounts according to CSB records to the annual reports that the CSB submitted to the SJC during the audit period.
  - We reconciled amounts awarded during the audit period to the check-request memorandums that the CSB sends to the Board of Bar Overseers (BBO) to start the check-issuing process.
  - We obtained a sample of 25 hardcopy claim files from the CSB's records to assess the CSB's claim-intake process. We reviewed these records for evidence of initial review by the CSB's assistant board counsel and to determine whether claims were being properly reviewed, approved or denied, and/or paid in accordance with established requirements.
  - We reviewed information on screen prints for the 20 awarded claims from the CSB's software and determined whether the CSB claim-intake process was completed in a timely manner.
  - We obtained copies of the audited financial statements that documented the budgeted amount for awards for fiscal years 2013 and 2014 and the CSB's projected funding and expenditure budgets for fiscal year 2015.
  - We compared the actual paid-out amounts to the budgeted amounts for each fiscal year.
  - We conducted interviews to identify CSB's outreach activities to promote itself. We obtained a list of media outlets used by the CSB and copies of pamphlets that are available at various court divisions, and we examined the CSB website.

For the purposes of our audit, we used random nonstatistical sampling in order to eliminate bias by giving all items in the population an equal opportunity of being chosen for our review of dismissed and awarded claims. Therefore, we did not project the results of our samples to the population. More specifically, we chose samples as follows:

- To review the intake process for claims submitted to the CSB, we selected and reviewed a nonstatistical random sample of 20 awarded claims and 5 dismissed claims, for a total sample of 25 claims. The population of claims during the audit period, composed of awarded and dismissed claims, totaled 270.
- To determine whether claims were processed in a timely manner, we selected 20 additional awarded claims and requested and reviewed screen prints from the CSB's database for each claim selected. A total of 220 claims were awarded during the audit period.

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1. A subrogation agreement is an agreement in which a claimant seeks to remedy a perceived misuse or misappropriation by an attorney who has been disbarred or is deceased.



We did not obtain any electronic data from the CSB or the BBO related to oversight activities by the SJC. Instead, we assessed hardcopy source documents such as case files.