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December 30, 2006

The Honorable Richard C. Bosson
Chief Justice
Supreme Court of New Mexico
237 Don Gaspar Ave.
P.O. Box 848
Santa Fe, NM 87504-0848

Dear Chief Justice Bosson:

On behalf of the Client Protection Fund Commission ("Commission") and pursuant to Rule 17A-002(c), I am very pleased to provide the Commission's first annual report to the Supreme Court. As you know, the Commission and the Client Protection Fund ("Fund") were created by a series of Supreme Court Orders that were issued in December of 2005. The following is a report on the Commission's activities during the calendar year 2006.

ADMINISTRATION

The State Bar has been charged with the administration of the Fund. Attorney Tonya Noonan Herring is responsible for the program as part of her position as the managing staff attorney for the Client Attorney Assistance Program. Approximately 20 percent of Ms. Herring's time is spent on matters relating to the Commission and the Fund. Ms. Herring has the assistance of a paralegal, Marilyn Kelley, on a part time basis. Ms. Noonan and Ms. Kelley administer the various components of the Fund, including claims, meeting notices, minutes, finances and publicity.

COMMISSION

As you know, the Commission members were appointed by the Supreme Court and by the State Bar. The Commission held its inaugural meeting on April 12, 2006. The Commissioners are:

Charles Vigil, Chair
Daniel O'Brien, Treasurer
Gaelle O'Connell, Secretary
Stuart Shanor, Member

Briggs Cheney, Member
Hank Kelly, Member
Henry Alaniz, BBC Treasurer
Joe Conte, Ex Officio

The Commission has established procedures and forms for the fund and it has established an operating budget. Following the April meeting, the Commission met on June 30, October 6 and December 7, 2006.

Finally, the Commission decided that all its members should have the opportunity to serve as an officer and to Chair the Commission. Thus, while I served as the inaugural Chair of the Commission, Dan O'Brien will take over as Chair in 2007 and I will continue to serve as a regular member of the Commission. Gaelle O'Connell will serve as Chair in 2008.

CLAIMS

In the calendar year 2006, 17 claim forms were sent to members of the public who expressed an interest in making claim for reimbursement from the Fund.

Of those 17 claim forms that were sent, eight claims were completed and sent back to the Commission. Six were determined to be valid claims. The total sum of money reimbursed for those six claims was \$12,098.50. Although most of the approved claims were reimbursed for the full amount of the loss, one claimant who sought \$17,500 was limited to the Fund's \$5,000 cap. The remaining two claims, in the amounts of \$1,000 and \$3,000 respectively, were denied because they constituted fee disputes or otherwise did not meet the requirements contained in the Fund's rules.

BUDGET/FINANCES

To establish the Client Protection Fund, the Court ordered the transfer of \$339,000 from MCLE to the Fund in December of 2005. These transactions have been completed. As of December 6, 2006, a total amount of \$339,000.07 had been transferred to the Fund.

The Commission established a first-year budget for 2006 based on the history of the previous fund and with the expectation that it would take some time to publicize the availability of the fund and encourage claims. Thus, the 2006 budget totaled \$60,375.75, of which \$37,500 was designated for claim

reimbursements. This money is primarily invested in certificates of deposit earning an interest rate of approximately five percent or more. The Commission is working diligently with a Wells Fargo investment advisor to maximize the interest that can safely be earned.

The Commission anticipates much more claim activity and, therefore, claim reimbursements, as the public becomes more aware of the existence of the Fund. For 2007, the Commission has established a budget of \$97,357, with \$50,000 designated for claim reimbursements.

2007 PLANS

The Commission anticipates that it will have substantially more activity in 2007. With continued publicity and promotion, we anticipate receiving and reimbursing many more claims in the coming years.

In a continuing effort to serve the public, the Commission has voted to increase the cap on claims from \$5,000 to \$10,000 beginning January 1, 2007. The Commission requests the continued support of Supreme Court funding through the distribution of annual excess program revenues generated through MCLE sanctions. While the Fund has had a great start, New Mexico still lags far behind many other states of comparable size with respect to its ability to pay these claims. Thus, the Commission hopes that the excess MCLE funds will continue to be paid to the Fund, as it is the goal of the Commission to develop a financially stable, self-supporting Fund.

PROGRAM MATERIALS

For the Court's information, we have attached the following supporting materials:

- Client Protection Fund Brochure
- Claim Form
- News Release
- Claims Report
- MCLE Funds Transfer History
- Investment Policy
- Client Protection Commission/Fund Budgets: 2006 and 2007

Again, on behalf of the Commission, I am pleased to provide the Court with our first annual report. On a personal note, I would like to express my

own heartfelt gratitude to you and to the other Court members for supporting the creation of the Commission and the Fund. Working with you toward the creation of the Commission, and then receiving an appointment to serve, has been a wonderful experience for me. I wish you the very best, and congratulate you on your service as Chief Justice.

Very truly yours,

A handwritten signature in black ink, appearing to read "C. Vigil". The signature is fluid and cursive, with a large initial "C" and a stylized "Vigil".

Charles J. Vigil
Chair, Client Protection Commission

cc: Justice Pamela B. Minzner
Justice Patricio M. Serna
Justice Petra Jimenez Maes
Justice Edward L. Chavez
Board of Bar Commissioners
Andrew Schultz, Chair, MCLE