

**LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR
ASSURANCE FUND**

APPLICATION FOR COMPENSATION

FORM 13.04A

INSTRUCTIONS: Complete each question on this form. If a question does not apply to your circumstances, please indicate that it is not applicable by writing **N/A** in the place for your answer. Please print or type. If space is inadequate, attach additional pages. Also submit copies of all existing evidence which establishes your loss, such as cancelled cheques, receipts, fee agreements, etc.

Law Society Rules Part XIII sets time lines for filing an Application for Payment:

- a) as soon as practical after the claimant becomes aware of the loss;
- b) not more than 2 years after the claimant became aware of the facts surrounding the loss; and
- c) in any event, not later than 10 years after the date on which the conduct causing the loss occurred.

Law Society Rules Part XIII - Assurance Fund Rules are available on the Law Society's website at www.lawsociety.nf.ca .

File this completed form with:

**Executive Director
Law Society of Newfoundland and Labrador
PO Box 1028
St. John's, NL
A1C 5M3**

PART A

CLAIMANT

Name(s): _____

Address: _____

City: _____

Province: _____ **Postal Code:** _____

Home Phone: _____ **Work Phone:** _____

Fax: _____

E-mail: _____

PART B

LAWYER ALLEGED TO HAVE MISAPPROPRIATED YOUR TRUST FUNDS

Name of lawyer: _____

Name of law firm at time of loss (if applicable): _____

Address of lawyer/firm at time of loss: _____

City: _____

Province: _____ **Postal Code:** _____

Phone: _____ **Fax:** _____

E-mail: _____

PART C

1. (i) Amount of your loss: \$ _____
- (ii) Date you became aware of loss: _____
- (iii) How did you become aware of your loss: _____

- (iv) Date or period of time during which your loss was incurred: _____

- (v) If loss was property, describe and state the value of property (attach copies of appraisal, receipts, or any other evidence of value): _____

2. (i) Did the lawyer receive the money or property:
From you Yes No
From another person Yes No
- (ii) If the lawyer received the money or property from another person, please explain why and give that person's name and address: _____

- (iii) (a) Have you demanded compensation from the lawyer:
Yes No
- Amount demanded: \$ _____
- Date(s) of demand: _____
- Demand was: Oral OR Written
(If written, please attach a copy of the demand to this application)
- (b) Have you demanded compensation from the law firm the lawyer was associated with at the time of the loss?
Yes No
- Amount demanded: \$ _____
- Date(s) of demand: _____
- Demand was: Oral OR Written
(If written, please attach a copy of the demand to this application)

(ii) Did your lawyer communicate with you by phone? If so, please provide date(s), the amount of time and what was discussed during the call(s).

(iii) Did your lawyer ever prepare any letters or legal documents for you? If so, please list and indicate whether they were filed or ever used?

(iv) Did your lawyer make any court appearances on your behalf? If so, describe briefly, giving the date, the name of the Judge, the reason for the Court appearance and the current status of any proceedings.

(v) What were the arrangements for payment of fees to the lawyer, and what portion of the fees has been paid so far? Please attach a copy of the fee or retainer agreement/letter and any evidence of payment. If no such document exists, please explain why:

2. Have you had the lawyer's account(s) taxed by a Taxing Master of the Supreme Court?
Yes No

If yes, provide details: _____

PART E

1. Do you have any other claims against this lawyer?

2. (i) Is this claim being made on behalf of a corporation?

Yes No

- (ii) Is this claim being made on behalf of a deceased person's estate?

Yes No

If you have answered YES to Question 2(i) or (ii) above, please complete the following:

- (a) Are you the lawful representative of the corporation or of the deceased person's estate?

Yes No

(Please attach copies of corporate authority, Letters Probate, Letters of Administration or any other documentation to support your statement.)

- (b) List the names and addresses of all beneficiaries of the estate or other persons entitled to share in any payment from the Law Society's Assurance Fund:

3. Did you hire another lawyer to pursue your case or to complete work on your file after terminating the representation of the lawyer alleged to have caused your loss?

Yes No

If yes, provide the lawyer's name and address: _____

4. Have you been reimbursed for any part of your claim from any source?
Yes No

If YES, state the amount received by you, the person or persons who made the payment, and the date of the payment: _____

5. Have you filed a complaint against this lawyer with the Discipline Department of the Law Society of Newfoundland and Labrador?
Yes No

If YES, date complaint filed: _____

6. Are you aware whether any criminal or civil proceedings have been taken in connection with the facts set out in this application? If so, state by whom, where and the present status of any proceedings.

7. Is a lawyer representing or assisting you with this application?
Yes No

If YES, please provide the name and address of the lawyer: _____

8. **Please outline any issues of financial hardship arising out of your loss. Part XIII of the Law Society Rules provides, among other criteria, that a claimant must be in need of assistance from the Assurance Fund in order for the claim to be considered. Given that the Fund itself is limited, preference is given to those claimants who demonstrate a need for compensation because of their financial circumstances. Please state if you are in need of such assistance, and why.**

ACKNOWLEDGMENTS

- A. This Claim Application Form has been completed and filed pursuant to the *Law Society Act, 1999*, section 19 and Law Society Rules Part XIII, in order that the Society may proceed with a review of this claim and determine its validity in accordance with the criteria set out in the *Act* and Rules.
- B. This claim is being filed as a result of the alleged misappropriation or conversion of funds by the lawyer named herein (“the lawyer”) with whom the claimant had a professional solicitor/client relationship.
- B. This claim is being filed within the time limits prescribed in the Law Society Rules.
- C. The claimant agrees to furnish any change of name or address promptly to the Executive Director.
- D. The claimant understands and acknowledges that the payment of grants out of the Assurance Fund shall be limited, in accordance with Law Society Rule 13.07.
- E. The claimant understands and agrees that upon payment from the Assurance Fund, the undersigned claimant:
- (i) **TRANSFERS, ASSIGNS AND SETS OVER TO THE LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR**, all of the undersigned claimant’s claims, demands, causes of actions, and actions or suits against the above-named lawyer arising out of the lawyer’s misappropriation or conversion of funds or property upon which this claim for reimbursement is based.
 - (ii) **AUTHORIZES THE SOCIETY TO PROSECUTE** all such claims, demands, causes of actions, actions or suits against the above-named lawyer either in the name of the claimant, or in the name of the Society, as the Society may in the full exercise of its discretion deem appropriate.
 - (iii) **AGREES** to cooperate with the Society in any efforts to enforce any claim, demand, cause of action, action or suit against the lawyer.
 - (iv) **AND FURTHER AGREES** that all civil actions to be taken against the lawyer hereunder shall be under the absolute control of the Society and that the Society may prosecute, fail to prosecute, or abandon any such claim, demand, cause of

action, action or suit against the lawyer as the Society shall, in the exercise of its discretion and without the necessity of consent or approval of the claimant, deem appropriate.

F. The claimant understands that before he or she receives any payment from the Fund, the claimant will be required to execute and deliver to the Society Assignment and Release of Claim forms.

I (We), the undersigned applicants, declare that I (we) have read this Application for Compensation and understand the contents, and all statements made in it and documents provided with it are true. I (We) make this declaration believing it to be true and knowing that it is of the same effect as if made under Oath.

Declared before me at

_____)
_____)
_____)

on _____, 20__.)
_____)
_____)
_____)
_____)

Applicant's signature

Applicant's signature

A Commissioner for Oaths for the
Province of Newfoundland and Labrador

* NOTE: ALL ATTACHMENTS MUST BE STAMPED AND COMMISSIONED AS EXHIBITS BY A COMMISSIONER OF OATHS.

IF THE DECLARATION IS MADE OUTSIDE NEWFOUNDLAND AND LABRADOR, IT MUST BE MADE BEFORE A PRACTICING MEMBER IN GOOD STANDING WITH THE LAW SOCIETY OF THE PROVINCE OR TERRITORY WHERE THE OATH IS DECLARED.