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DISTRICT COURT OF GUAM

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JEANNE G. QUINATA
CLERK OF COURT

DISTRICT COURT OF GUAM

DISTRICT OF GUAM

IN RE:

ATTORNEY ADMISSION FUND PLAN

GENERAL ORDER 23- 0006

A. Overview

1. Purpose of this General Order

This Plan sets forth the administration and operation of the Attorney Admission Fund and the means by which policy is to be set and expenditures are to be authorized. This Plan is issued pursuant to the policies approved by the Judicial Conference of the United States for the management and expenditure of attorney admission funds maintained by the District Court of Guam. These are non-appropriated funds held in trust by the courts and are sometimes called "library funds" or "bench-and-bar funds."

2. The Judicial Conference's Prescribed Attorney Admission Fee (Distinct from Local Attorney Admission Funds)

Attorneys admitted to practice before the District Court of Guam must pay a basic, first-time admission fee to the clerk of the court. The basic attorney admission fee is uniform and is set by the Judicial Conference of the United States in the Schedule of Additional Fees under 28 U.S.C. §§ 1913 and 1914. The clerk deposits part of that amount into the special fund created under 28 U.S.C. § 1931 and the balance into the Treasury of the United States as miscellaneous receipts. See P.L. No. 104-317, § 404(a); 28 U.S.C. § 751(e), 31 U.S.C. § 3302. **These fees do not become part of the District Court of Guam's Attorney Admission Fund.**

3. The District Court of Guam's Local Attorney Admission Funds

Local attorney admission funds are non-appropriated funds that comprise attorney admission fees collected by the court that are in addition to the original attorney admission fee prescribed by the Judicial Conference under 28 U.S.C. §§ 1913 and

1914. The amount of these fees may be set by separate local rule or court order. The court may also require attorneys to maintain their membership in the court's bar through periodic fees, or may charge a special fee to appear pro hac vice. All such fees must be maintained locally as non-appropriated funds.

Local attorney admission funds shall be segregated from all other monies in the custody of the court, and shall contain only local attorney admission fees, plus any interest income accrued on such fees. The court shall not place into its Attorney Admission Fund monies from other sources, including but not limited to:

- contempt fines,
- proceeds of sales of local rules,
- unclaimed funds,
- undistributed interest on registry accounts,
- gifts or bequests of cash, or
- copying fees.

4. Authority to Maintain Local Attorney Admission Fund

In 1951, the Judicial Conference resolved that the courts of appeals' local attorney admission fees, collected under authority of Fed R.App.P. 46(a), were not monies received for the use of the United States and therefore need not be deposited into the Treasury. That same year, the Comptroller General of the United States announced that there would be no objection to the practice of the courts of appeals' retaining these local attorney admission funds. Comp. Gen. Opinion No. B-56200, June 8, 1951. The Comptroller General later extended this opinion to cover local attorney admission funds maintained by the United States district courts, the United States Court of Claims, the Court of Customs and Patent Appeals, and the United States Court of Military Appeals. See: Comp. Gen. Opinions No. B-56200 issued respectively on March 31, 1959; May 4, 1965; July 6, 1965; and September 14, 1976. See also: Laughlin v. Clephane, 77 F. Supp. 103 (D.D.C. 1947), which held that fees paid by applicants for admission to the bar are the property of the court and not of the United States Treasury. In September 1997, the Judicial Conference issued a formal policy clarification stating that pro hac vice attorney admission fees and periodic admission renewal fees may also be retained in the courts' local attorney admission funds. .

B. Policies for Expenditure of the Fund

Local attorney admission funds shall be used only for purposes that benefit the members of the bench and the bar in the administration of justice, except that such funds may not be used to augment appropriated funds, for salary or personal benefit of a federal judiciary employee, for official or personal travel of a federal judiciary employee, for the

printing of local rules, or for any such activity or purpose prohibited or limited by this Order or the Guide to Judiciary Policy and Procedure.

All disbursements from the fund must be accompanied by a request documenting the nature of the expense, the amount to be disbursed, and the applicable section of this Order supporting the disbursement. The request shall be reviewed and approved by the Financial Administrator or Financial Analyst; the Clerk of Court or Chief Deputy Clerk; and the Chief Judge or Magistrate Judge. Upon approval, the Financial Administrator or Financial Analyst may obtain a check from the check disbursement clerk and prepare the check. The check shall be signed by any two of the following authorized signatories: Chief Judge, Magistrate Judge, Clerk of Court, Chief Deputy Clerk.

Examples of proper common uses of local attorney admission funds include, but are not limited to, the following:

1. Attorney admission proceedings (including expenses of admission committees and admission ceremonies);
2. Attorney discipline proceedings (including, but not limited to, expenses of investigating counsel for disciplinary enforcement, stenographers, meeting room rentals, postage, travel expenses and fees of witnesses);
3. Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. Examples: furniture; photocopiers and fax machines; beverage supplies or service; microwave, refrigerator and other appliances; television, telephone and internet services;
4. Surety bond for the custodian of the fund (the bond may only cover monies in the fund);
5. Fees for services rendered by outside auditors or accountants in auditing the fund;
6. Reimbursement of pro bono counsel for out-of-pocket expenses, payment of compensation to pro bono counsel, and payment of witness fees and other expenses on behalf of indigent pro se civil litigants. In the event of an award of attorney's fees or costs to pro bono counsel in the course of such litigation, the court may order return to the fund of any payments made from the fund to counsel for fees and expenses in an amount equal to the award;
7. Reimbursement to jurors for lost or damaged personal property incident to their jury service, when compensation is not available under a statute such as the Federal Tort Claims Act;
8. Hospitality items (e.g., food, beverages, mementos) for which appropriated funds may not be used, including meals and beverages for judges and employees attending a bench/bar meeting or similar event at their official duty station in a

1 non-official capacity. Mementos such as pencils, pens, coffee mugs, leis, pins,
2 latte stone carvings for keynote speakers, participants, and honorary guests of any
3 outreach event or activity related to Civics Education Outreach, Law Month
4 Outreach, District Court of Guam's DORE Program, National Red Ribbon Week,
5 Ninth Circuit Judicial Conference, or any other event sponsored by the Guam Bar
6 Association or co-sponsored by the District Court of Guam and the Guam Bar
7 Association;

- 8 **9.** Cash donations to law-related educational or charitable organizations, such as a
9 historical society, law school, Guam Bar Association, or the Pacific Judicial
10 Council for purposes that advance the administration of justice in the courts. In
11 considering such donations, care should be exercised to avoid the appearance of
12 impropriety, undue favoritism, conflicts of interest and other concerns under the
13 Codes of Conduct for United States Judges and Judicial Employees;
- 14 **10.** Expenses of circuit judicial conferences, to the extent permitted by Judicial
15 Conference policy. Expenditures may be paid from the court's local attorney
16 admission fund;
- 17 **11.** Donations to organizations that provide legal representation, advice, or assistance
18 to unrepresented litigants in federal civil matters, including representation for
19 settlement conferences or other alternative dispute resolution activities, provided
20 that such organizations use the donation for no other purposes; and
- 21 **12.** Any other purpose for which appropriated funds may not legally be used that will
22 benefit the bench and the bar in the administration of justice. For limitations, see
23 paragraph C. This includes, but is not limited to, any one or more of the
24 following:
 - 25 **a.** Expenses for attorneys appointed or elected to serve on Judicial Council
26 committees, including travel expenses such as airfare, per diem, and
27 miscellaneous subsistence related expenses;
 - 28 **b.** Expenses in connection with court memorial and commendation services;
 - c.** Expenses associated with any conference or event hosted or co-sponsored by
the District Court of Guam (to include, but not limited to, the annual District
Conference, and Bankruptcy Seminars) such as banquet room/facility rental
fees and equipment rental fees for the room (sound, microphone), participant
meals and snacks; social lunches and dinners for honored guests,
distinguished visitors, and keynote speakers; per diem for speakers and
presenters; supplies; signage, printed and digital conference materials;
 - d.** Expenses associated with the planning, publication, and reproduction of the
Annual District Report;
 - e.** Court projects and programs that interest or benefit the bar or which enhance
the quality of advocacy in the court;
 - f.** Expenses for other court and law-related programs and ceremonies for the
benefit of the bench and bar, including but not limited to Law Week and Law

Month; bench-bar conferences; international judicial programs; and investiture, historical, and portrait ceremonies, including the preparation and duplication of materials and the provision of refreshments in connection with such programs and ceremonies;

- g. Expenses of the collection and preservation of court records of historical value;
- h. Expenses for the development of historical and educational materials describing the court for use by the bar; or
- i. Expenses including, but not limited to, cash prizes, donations or contributions, or commemorative awards or other prizes, for approved civics education or related programs or contests (such as the Ninth Circuit Civics Contest), as such activities have been deemed by the Judicial Conference and this court to be an important part of judicial service.

C. Limitations on Use of Local Attorney Admission Fund

1. Rule Against Augmenting Appropriations

Local attorney admission funds must not be used to pay for goods or services for which appropriations may legally be used, even if the appropriated funds are exhausted or otherwise not available (e.g., because an expenditure would exceed a judiciary spending limit). Use of attorney admission funds for any purpose for which appropriated funds may legally be used constitutes an impermissible augmentation of appropriations.

a. Exception for Library Books and Periodicals

Notwithstanding the rule against augmentation, attorney admission funds may be used to purchase books, periodicals and other resource materials for court libraries for which appropriated funds may also be used. This exception was recognized by the General Accounting Office (now Government Accountability Office) in the opinions cited above in paragraph A.4.

b. Salary or Personal Benefit

Local attorney admission funds must not be used to supplement the salary of any judge or court employee, or provide a personal benefit to any judge or court employee, or his or her family member, except that a judge or court employee, or his or her family member, may receive a *de minimis* personal benefit incidental to a proper expenditure from the Attorney Admission Fund, e.g., meals, refreshments or hospitality items provided under section B.8.

c. Official or Personal Travel

Local attorney admission funds shall not be used to pay for official or personal travel by a judge or court employee or by his or her family member, except that attorney admission funds may be used to pay for local transportation of a judge or court employee to attend bench/bar events.

d. Printing of Local Rules

Local attorney admission funds must not be used to pay for the printing of local rules.

e. Unreasonable Accumulation of Funds

The court must avoid unreasonable accumulation of local attorney admission funds. The court should look to both its past practices and its upcoming needs to set a “reasonable” limit on the accumulation of local attorney admission funds. If the court finds its fund balance is too high, the court may reduce or eliminate the local fee collections until the balance is in line with needs.

D. Appointment of Custodian

The Clerk of the District Court of Guam is designated as the Custodian of the Local Attorney Admission Fund. The Custodian shall render to the court an accounting of the Fund, to include the status, balance, and utilization of the Fund, on an annual basis, and at such other times as deemed necessary by the court. The Custodian shall further cause the Fund to be audited on an annual basis.

E. Duties of the Custodian

The Custodian of the Fund shall:

1. Ensure that all monies for the fund are received, safeguarded, deposited, disbursed, and accounted for all monies in the Fund in accordance with this Plan or as directed by the Chief Judge, and in accordance with all pertinent laws. All disbursements shall require the signature of the Custodian, or in her absence, the Chief Deputy, and shall be countersigned by the Chief Judge, or in her absence, the Magistrate Judge.
2. Secure a bond, to be paid for from the Fund, if required by the court.

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3. Establish and maintain an accounting system that provides the records necessary for audit trail and recordation of all funds and disbursements.

4. Ensure that financial statements and operating reports are prepared in a timely fashion and sign these statements, thereby certifying that the statements and reports accurately present the financial condition of the fund. Reports shall be prepared quarterly and shall state the following:

- a. Beginning balance of assets;
- b. Revenue during reporting period: collections, investment;
- c. Disbursements during reporting period, listed by major classifications called for in the court's attorney admission fund plan;
- d. Ending balance of assets (bank balances and undeposited collections);
- e. Obligations, accounts payable or known future expenditures; and
- f. Available balance.

5. Deposit or invest monies of the fund as directed by the court.

6. Perform such other functions as the court may direct.

7. **Duties Upon Appointment of a Successor Custodian**

When a successor custodian is appointed, the outgoing Custodian shall prepare and sign the following statements in conjunction with an exit audit or inspection conducted by an auditor or disinterested person as designated by the court:

- a. A statement of assets and liabilities;
- b. A statement of operations or of receipts and disbursements covering the period since the last statement of operations and net worth, up to the date of transfer to the successor custodian; and
- c. A statement of the balance in any fund accounts as of the date of transfer to the successor custodian. The successor custodian shall execute a receipt for all funds after being satisfied as to the accuracy of the statements and records provided by the outgoing Custodian. Acceptance by the successor custodian may be conditioned upon audit and verification when the circumstances warrant.

F. Maintenance of Funds

1. Deposits

All monies of the local attorney admission fund must be deposited in an interest-bearing account at a local, federally insured bank or savings institution. Whenever practical and feasible, and at the direction of the court, all substantial sums may

1 be placed in interest-bearing accounts, government securities, time certificate of
2 deposits, or money market funds invested in government obligations. The
3 Custodian shall segregate the local attorney admission fund from all other monies
4 in the custody of the court.

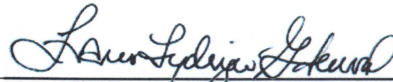
5 **2. Audits**

6 With the approval of the Chief Judge, the Custodian may appoint an outside
7 auditor or disinterested person to conduct any additional audits as the court deems
8 necessary or appropriate. The Custodian shall provide the written results of such
9 audits to the court and may make them available upon request to members of the
10 bar of the court. The auditor may receive reasonable compensation from the local
11 attorney admission fund, if the auditor is not a government employee acting in an
12 official capacity.

13 **3. Procedures for Dissolution of the Fund**

14 The court may dissolve its local attorney admission fund or any portion thereof.
15 A final audit shall be performed, and a written accounting rendered to the court,
16 before dissolution of the Fund. The Custodian shall ensure that all outstanding
17 obligations are liquidated before dissolution of the Fund, including any expenses
18 resulting from the required final audit. The court shall dispose of the remaining
19 monies in ways that fulfill the purposes of the local attorney admission fund.

20 **SO ORDERED** this 17th day of March, 2023.

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22 **FRANCES M. TYDINGCO-GATEWOOD**
23 Chief District Judge
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