



# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2017 Annual Report of the Board of Trustees

This Annual Report of the Lawyers' Fund for Client Protection focuses on the Fund's activities in calendar year 2017, the 35th year of the operations of the Lawyers' Fund.

The Lawyers' Fund is an independent public trust, financed by New York's legal profession, which reimburses law clients for financial losses caused by dishonest conduct in the practice of law. No other profession provides such protection to its clients. The Lawyers' Fund is administered by a Board of Trustees appointed by the Court of Appeals. The Trustees serve renewable three-year terms as a public service without compensation.

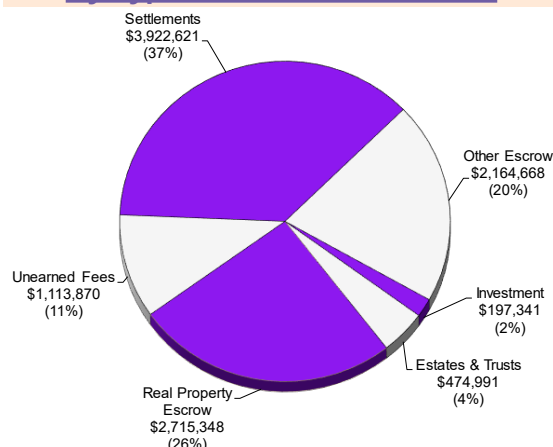
The Trustees' experience over 35 years has proven that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their clients' trust. Since the Fund's inception in 1982, a small number of former lawyers each year have been responsible for the dishonest conduct resulting in the Fund's awards. In 2017, 86 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 86 former lawyers, 47 appear for the first time in the Fund's awards. There are over 318,000 registered lawyers in New York State.

In 2017, the Trustees approved 215 awards providing \$10.6 million in total reimbursement to eligible law clients for losses caused by the dishonest conduct of former New York State lawyers. This is the second largest single-year payout in the Fund's history. The Lawyers' Fund is able to reimburse up to \$400,000 per law client loss. All but three eligible law clients received 100 percent reimbursement for their losses in 2017.

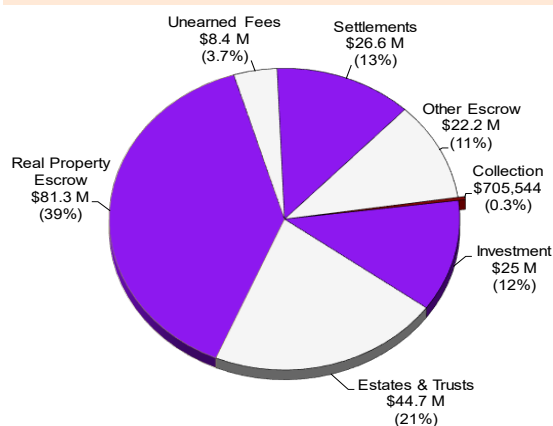
The Trustees remain grateful to the Judges of the Court of Appeals, Chief Judge Janet DiFiore, the Clerk of the Court, all those in State government, our judiciary, District Attorney's offices and the attorney disciplinary system for their continued assistance to the Lawyers' Fund. The Trustees also wish to thank the State Attorney General's Office which assists the Lawyers' Fund in restitution and other litigation. The Trustees are also proud of New York's legal profession for its financial and other support to the Lawyers' Fund. Special recognition is due those members of the bar who generously donate their time and talents in assisting claimants before the Fund as a public service, without legal fee.



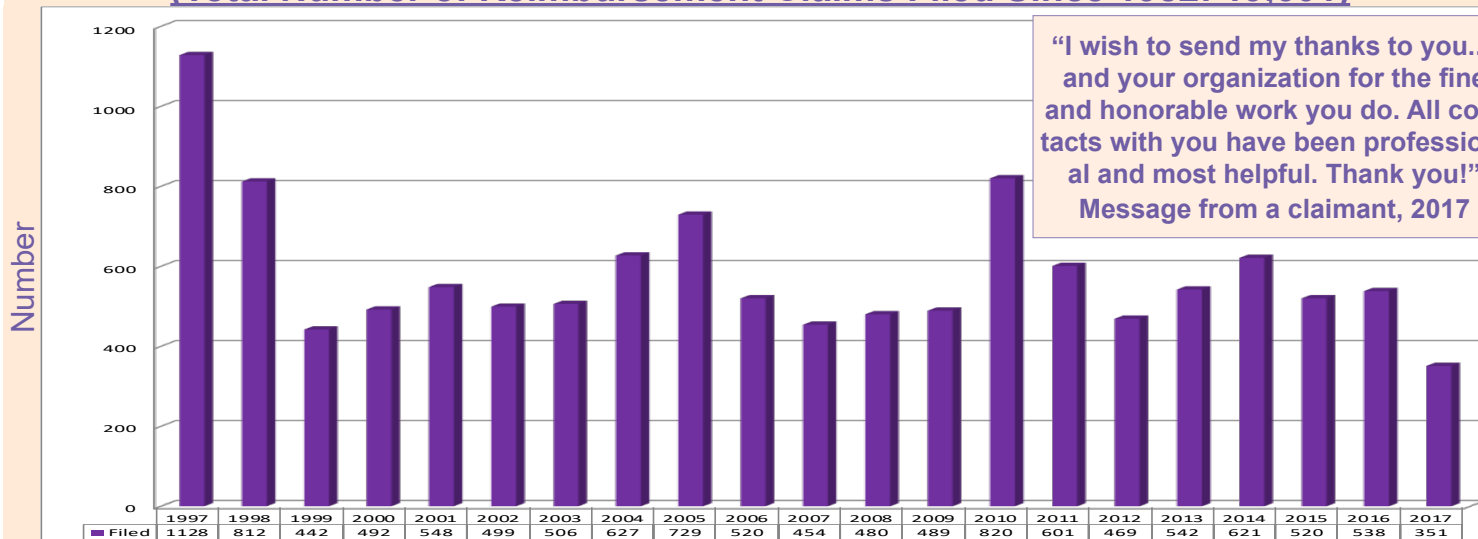
### Amount of 2017 Awards By Type of Theft: \$10.6 Million



### Amount of Awards Since 1982 By Type of Theft : \$208.9 Million



### Number of Reimbursement Claims Filed, 1997 - 2017 (Total Number of Reimbursement Claims Filed Since 1982: 19,601)



"I wish to send my thanks to you... and your organization for the fine and honorable work you do. All contacts with you have been professional and most helpful. Thank you!"  
Message from a claimant, 2017

## The Fund's Statutory Authority and the Trustees' Regulations

The Lawyers' Fund was established by Section 97-t of the State Finance Law. This statute also provides for the management of the Fund's assets as a special revenue fund by the State Comptroller. Section 468-b of the Judiciary Law governs the administration of the Fund and provides the Trustees with full authority to administer the Fund, subject to the general supervisory authority of the Court of Appeals.

The Trustees' Regulations for administration and claims procedures are published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200).

## Purpose of Law Client Protection and Trustees' Recommendations

The mission of the Lawyers' Fund is to protect law clients from dishonest conduct in the practice of law, maintain the integrity and protect the good name of the legal profession, and promote public confidence in the administration of justice in New York State. The Fund's primary focus is the reimbursement of client losses caused by dishonest conduct in the practice of law. The Trustees also fulfill the Fund's mission by recommending changes in legal practice and policy. The full text of the Trustees' Recommendations is published in the complete 2017 Annual Report which is available on our website at [www.nylawfund.org](http://www.nylawfund.org).

## Claims Received and Processed

In 2017, 351 claims were filed with the Lawyers' Fund, a 35 percent decrease from 2016. These filed claims included 157 (44.7%) claims seeking reimbursement of unearned legal fees and 82 claims (23.4%) alleging thefts of real property escrows. The largest alleged losses (\$10.6 million) involved real property escrows. Two categories tied for the second largest alleged losses: personal injury settlements (\$6.5 million) and investment losses (\$6.5 million).

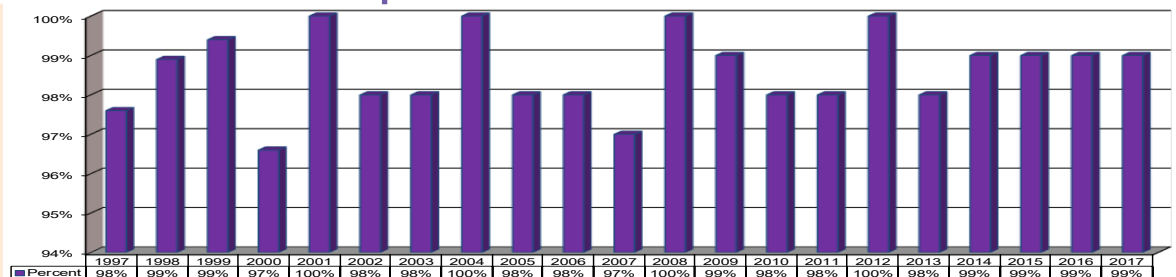
The Trustees approved 215 awards in 2017. The dollar amount reimbursed totaled \$10.6 million, the second largest payout in the Fund's 35-year history. The median loss and award was \$12,500. In 2017, all but three eligible claimants received full reimbursement of their loss. By category, awards in 2017 reimbursing unearned retainer fees comprised the largest number of awards. Of the 215 awards in 2017, 89 (41.4%) reimbursed unearned retainer fees. The second largest category of awards by number was personal injury settlements with 56 awards, or 26 percent of the 215 total awards. By dollar amount, personal injury settlement was the the largest category of awards, reimbursing \$3.9 million or 37 percent of the Fund's total payout. Theft of real property escrows was second with \$2.7 million in awards or 25.7 percent of the \$10.6 million reimbursed in 2017. Since 1982, the Fund has rendered 19,357 determinations in claims. Of these 19,357 claims, 10,681, or 55 percent, were found to be ineligible for reimbursement.

## Highlighting 35 Years of Service

The Trustees wish to highlight the achievements by the Lawyers' Fund in 35 years of service that have established the New York Fund as a national leader in the client protection field:

- Evaluation of nearly 20,000 claims seeking reimbursement from the Fund alleging \$1.1 billion in losses. At no cost to taxpayers, the Lawyers' Fund has restored over \$208 million to 8,676 eligible law clients.
- Efficient administration demonstrated by the fact that in 35 years of operations, 91 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement.
- Establishment and successful operation of the Dishonored Check Reporting Rule requiring banks to report to the Fund checks drawn on lawyer escrow accounts that are dishonored for insufficient funds. The Fund has processed over 17,000 bounced check notices which have detected approximately 294 lawyers misusing escrow funds.
- A payee notification rule enacted by a State Insurance Department regulation requiring insurance companies to notify clients when personal injury settlement checks are forwarded to their lawyers. The New York Fund introduced this client protection device now adopted by the American Bar Association and 15 other states.
- Court rules establishing uniform law office recordkeeping, banking and maintenance standards for attorney escrow accounts, including court rules requiring lawyers to certify compliance with these standards from the Rules of Professional Conduct.
- Court rules, governing escrow funds owed to missing clients or in the accounts of deceased attorneys, which assist lawyers, protect clients and prevent the abandonment of unclaimed escrow funds. Since 1995, the Fund has safeguarded nearly 24,000 of these escrow deposits and restored \$1.4 million to previously missing clients.
- Legislation making the Official Register of Attorneys a public record, thereby protecting the public and the profession from unlicensed practitioners.
- Uniform court rules prohibiting the charging of legal fees when lawyers help clients process claims for reimbursement, and recognition for the generous *pro bono* representation members of the bar have consistently provided to claimants with the Fund.
- Judicial precedent protecting all participants in the Fund's proceedings from liability in defamation as well as Court decisions, supplemented by statute, clarifying and strengthening the Fund's creditor rights in its efforts to secure restitution for the benefit of other deserving claimants.
- Statutory authority to the Appellate Divisions to order restitution as a disciplinary sanction, enforceable as a civil judgment.
- Restitution recoveries of nearly \$21 million from dishonest attorneys involved in awards and civilly liable third parties, and the Attorney General's invaluable legal representation of the Lawyers' Fund in restitution efforts.

## Percent of Eligible Claimants Receiving Full Reimbursement 1997-2017



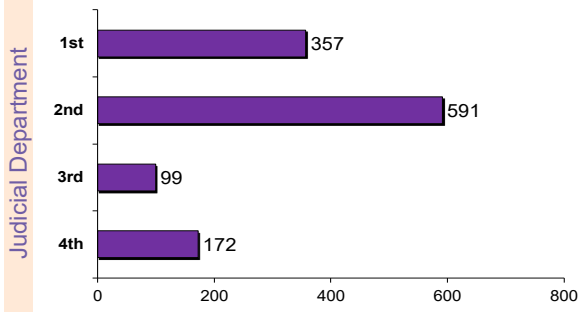
## Lawyers Involved in Awards, 1982 to 2017

In 35 years, 1,219 former members of the bar have been responsible for the 8,676 awards granted by the Fund. A complete list of these former lawyers is available on the Fund's website [www.nylawfund.org](http://www.nylawfund.org). There are over 318,000 registered lawyers in New York State. The Trustees' awards in 2017 were attributable to dishonest conduct by 86 now suspended, disbarred or deceased lawyers. Of these 86 former lawyers, 39 were already identified in awards from prior years and the names of 47 dishonest lawyers appear for the first time in 2017 awards.

Most thefts involve sole practitioners, the majority of whom are male and middle-aged. The apparent causes of misconduct by these lawyers are often traced to alcohol or drug abuse. Other causes are economic pressures, mental illness, marital, professional and medical problems, and gambling addiction.

The geographic distribution of these 1,219 former lawyers, and the Fund's 8,676 awards, among the state's judicial departments is represented in the bar graphs to the right:

### Lawyers Involved in All Awards Since 1982



### First Judicial Department

New York and Bronx Counties

### Second Judicial Department

Kings, Richmond, Queens, Nassau, Suffolk, Dutchess, Orange, Putnam, Rockland and Westchester Counties

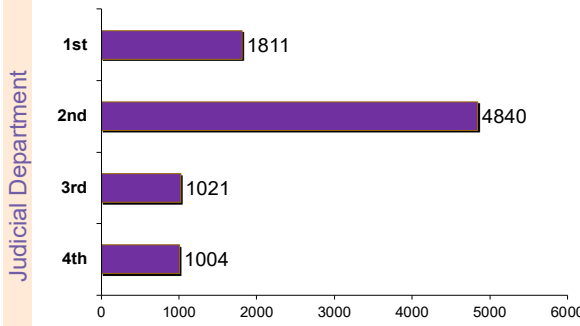
### Third Judicial Department

Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties

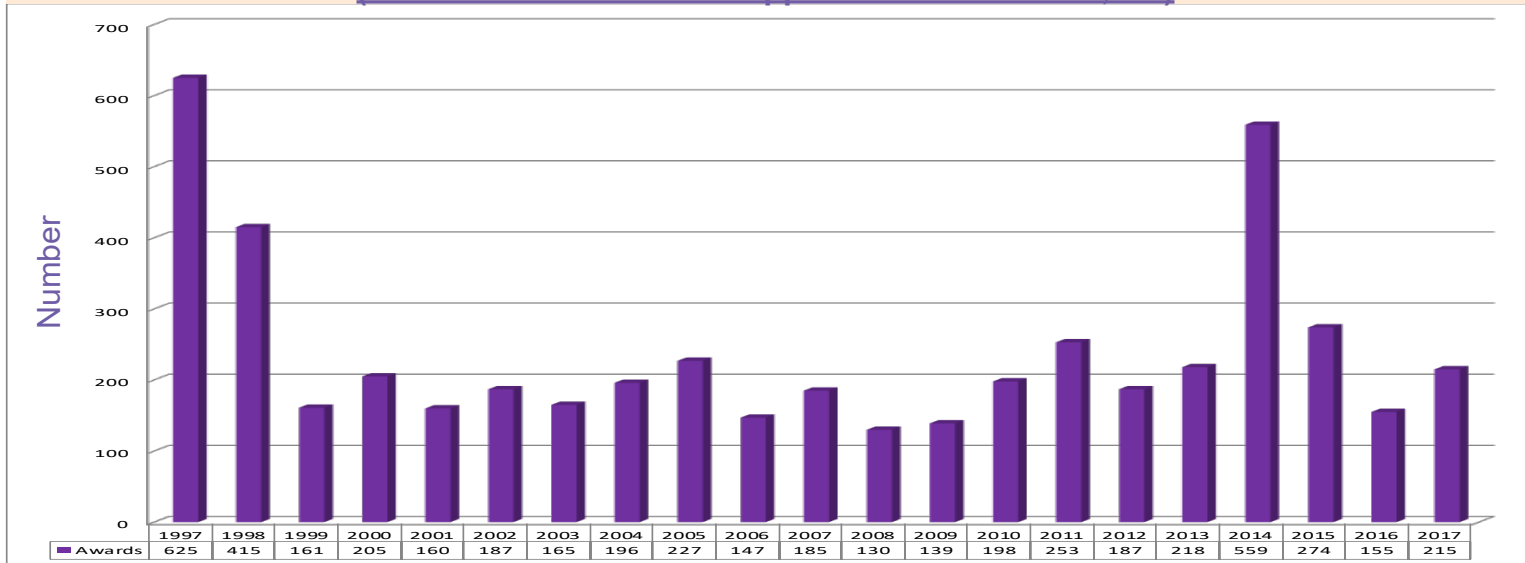
### Fourth Judicial Department

Jefferson, Herkimer, Lewis, Oneida, Onondaga, Oswego, Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Niagara, Orleans and Wyoming Counties

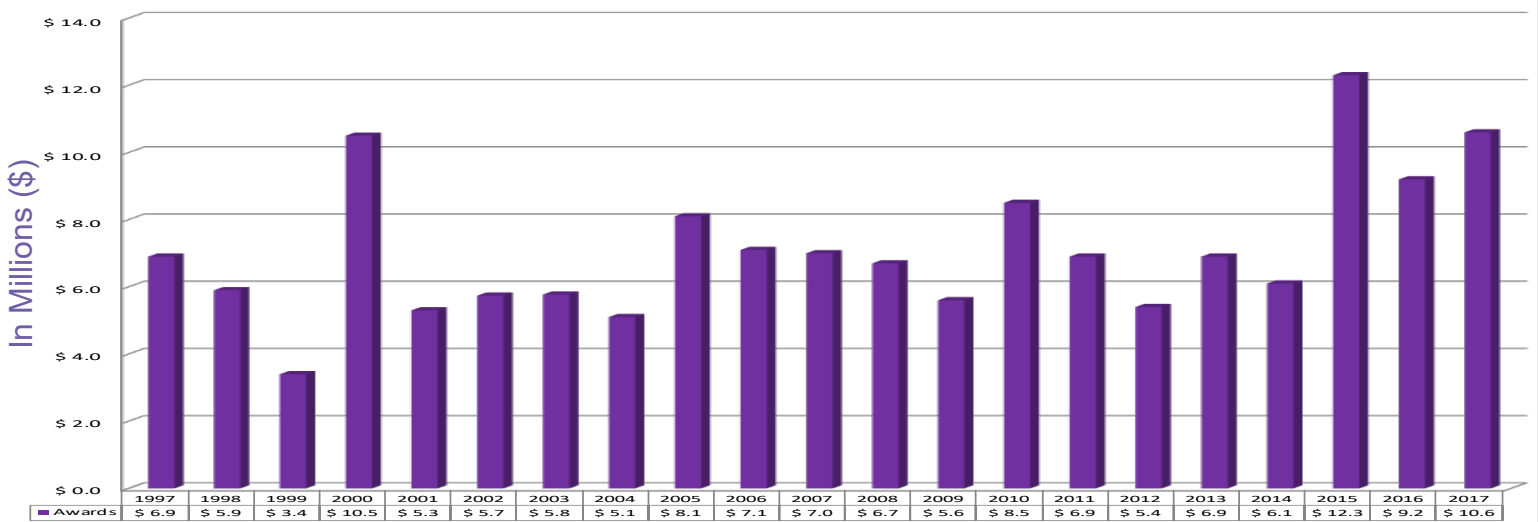
### Distribution of Awards Since 1982



## Number of Awards Approved From 1997-2017 (Total Number of Awards Approved Since 1982: 8,676)



## Amount of Awards Approved From 1997-2017 (In Millions \$) (Total Amount of Awards Approved Since 1982: \$208.9 Million)



## The Board of Trustees



**Eric A. Seiff** of the Bronx is Chairman of the Board. Mr. Seiff is of counsel to the Manhattan law firm of Storch Amini P.C.



**Patricia L. Gatling**, of Manhattan, is the Vice-Chairman of the Fund and an attorney with the Manhattan law firm of Windels Marx Lane & Wittendorf, LLP. She also served 13 years as the Commissioner and Chair of the New York City Commission on Human Rights.

The Lawyers' Fund is administered by a Board of Trustees who are appointed by the Court of Appeals. Since 1981, the Board has been composed of five members of the bar and two business and community leaders. The Trustees serve renewable three-year terms. They receive no compensation for their services.



**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a partner in the litigation group of the Kirkland & Ellis law firm.



**Anthony J. Baynes**, of Erie County, is the founder and current Chairman of the AJ Baynes Group, a Buffalo based development and logistics company.

The Fund's office is located in Albany. The Trustees are assisted by a five-member staff composed of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Jahnel Kaczor, Administrative Secretary; Ray Wood, Investigator, and Harriett Tremblay, Secretary. In 2017, the Fund welcomed a new Investigator, Keri Cleveland, upon the retirement of Ray Wood.



**Stuart M. Cohen** of Rensselaer is a former Clerk of the Court of Appeals and is currently a sole practitioner in Rensselaer concentrating on appellate matters.



**Lisa L. Hutchinson**, of Nassau County, is a partner in the Farmingdale law firm of Guercio & Guercio, LLP.

**"I am truly thankful to you...the Trustees and Staff (and) all the people that I do not know personally but that work so hard to do good."**

**Message from a claimant, 2017**



**Charlotte G. Holstein** of Syracuse is a civic leader, founder and former Executive Director of F.O.C.U.S. Greater Syracuse, a citizen engagement non-profit organization.

Former members of the Board of Trustees include the Hon. Judith S. Kaye, former Chief Judge of the State of New York (1981-1983); Joseph Kelner, Esq. of Manhattan (1981-1982); Anthony R. Palermo, Esq. of Rochester (1981-1990); John F. X. Mannion of Syracuse (1981-1992); Ray W. Manuszewski of Cheektowaga (1981-2002); Theodore D. Hoffmann, Esq. of Hicksville (1990 to 2002); Shirley B. Waters of Rome (1992 to 2001); Bernard F. Ashe, Esq. of Albany (1981-2008); Hon. Charles J. Hynes, former Kings County District Attorney (1982-2009); Theresa B. Mazzullo of Rochester (2002-2012); Eleanor B. Alter, Esq. of Manhattan (1985-2013) and Nancy Burner of Port Jefferson (2002-2016). Frederick Miller served as the Fund's charter Executive Director and Counsel from 1982 through his retirement in July 2000.

## Revenue of the Lawyers' Fund

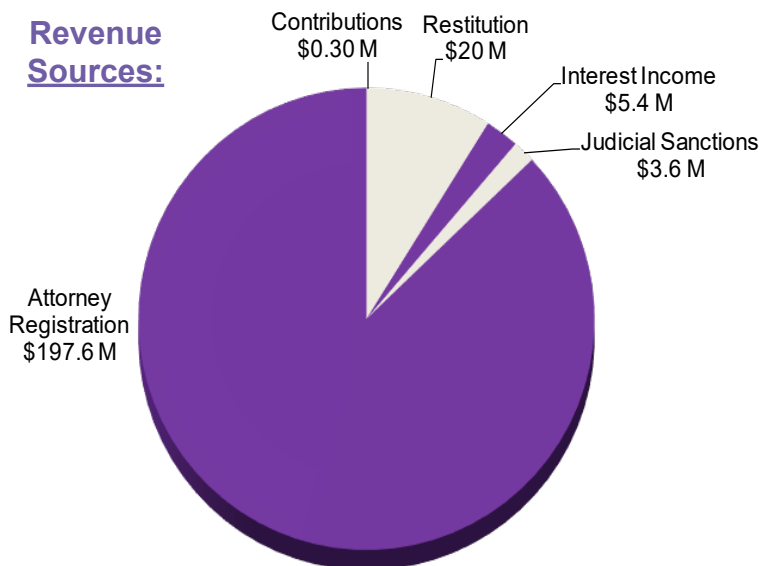
The biennial attorney registration fee required of every practicing attorney is the Fund's principal source of revenue. Section 468-a of the Judiciary Law allots \$60 of each \$375 registration fee to the Lawyers' Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

**The Lawyers' Fund does not receive any revenue from the Interest on Lawyer Account (IOLA) program. The Fund also does not receive any tax dollars.**

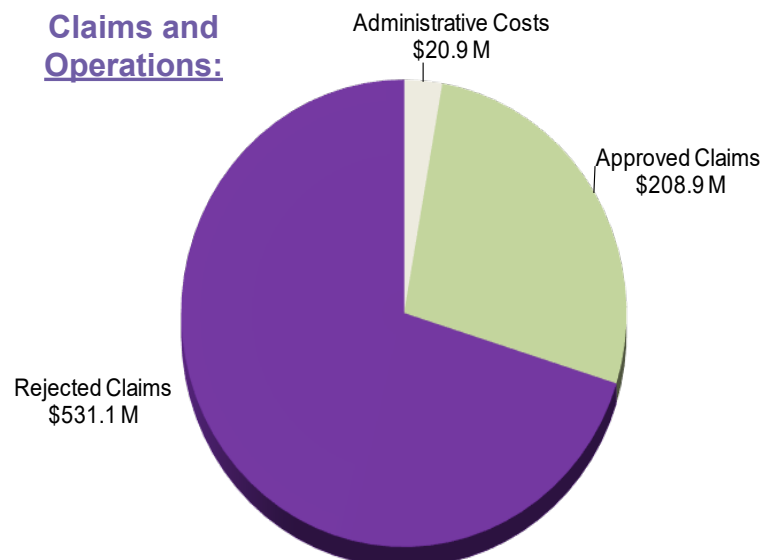
The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$197.6 million from attorney registration fees; \$20.7 million in restitution; \$5.4 million in interest income; \$3.6 million in judicial sanction revenue; and \$313,000 in contributions from lawyers and the public. Future revenue will also include unclaimed missing client and deceased attorney escrow deposits held by the Fund for over five years pursuant to court rules. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one portion of the Judiciary Budget.

## The Fund's Finances Since 1982

### Revenue Sources:



### Claims and Operations:



The Lawyers' Fund for Client Protection

119 Washington Avenue, Albany, New York 12210 518-434-1935 or 1-800-442-FUND

www.nylawfund.org