



# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2021 Annual Report of the Board of Trustees

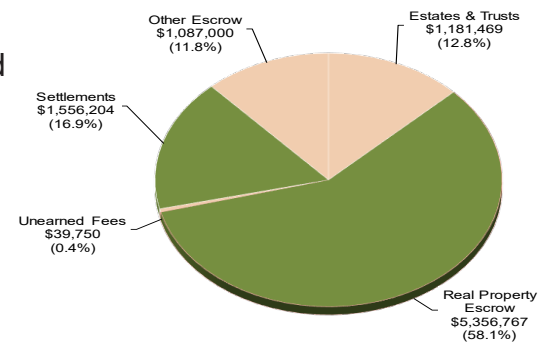
This Annual Report of the Lawyers' Fund for Client Protection focuses on the Fund's activities in calendar year 2021, the 39th year of operations of the Lawyers' Fund. The Lawyers' Fund is an independent public trust, financed by New York's legal profession, that reimburses law clients for financial 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.

There are 345,766 registered lawyers in New York State. Over the 39 years of our existence, a small number of former lawyers each year have been responsible for the dishonest conduct resulting in the Fund's awards. In 2021, 33 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. In 2021, the Trustees approved 114 awards providing \$9.2 million in total reimbursement to eligible law clients for losses caused by the dishonest conduct of former New York State lawyers. The Lawyers' Fund is able to reimburse up to \$400,000 per law client loss.

### 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 are published in the complete 2021 Annual Report, which is available on our website at [www.nylawfund.org](http://www.nylawfund.org).

### Amount of 2021 Awards by Type of Theft: \$9.2 Million



### Lawyers Involved in Awards, 1982 to 2021

In 39 years, 1,335 former members of the bar have been responsible for the 9,193 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 345,000 registered lawyers in New York State. The Trustees' awards in 2021 were attributable to dishonest conduct by 33 now suspended, disbarred or deceased lawyers.

### Court Programs & Public Information

The Dishonored/Overdraft Check Notice Rule is a client protection device instituted at the request of the Fund's Trustees. The Lawyers' Fund acts as a statewide clearing house for reports of bounced/overdrawn checks on attorney trust, special and escrow accounts. The majority of these notices result from innocent mistakes in law office banking practices. These reports have identified upwards of 333 lawyers who had misused escrow funds. In 2021, the Administrative Board of the Courts adopted the Trustees' proposal to expand the Rule to include notice of overdrafts on reportable accounts and prohibit attorneys from carrying overdraft protection on client funds accounts.

Court rules designate the Lawyers' Fund the depository for money owed to missing law clients and escrow beneficiaries. 22 NYCRR Part 1200 (Rule 1.15 (f)). Deposits of \$1,000 or less will be accepted without court order in order to prevent the depletion of nominal deposits. The Fund's staff attempts to identify these clients to enable the return of their money to them. As of December 31, 2021, staff successfully located 711 missing clients and restored \$1.96 million to them. This court rule and sample pleadings pursuant to this rule can be found on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org) in the escrow and ethics material section. The Fund's internet site is a source of detailed information about the Fund and helpful advice for consumers and the legal community. The site contains frequently asked questions on the Fund and its procedures; the Trustees' Regulations; reimbursement claim forms; recent Annual Reports; consumer publications; and press releases.

## Claims Received and Processed

In 2021, 262 claims were filed with the Lawyers' Fund, a 14 percent increase from 2020. These filed claims included 76 (29%) seeking reimbursement of unearned legal fees and 69 (26.4%) alleging losses in stolen personal injury settlements. The largest alleged losses (\$31.5 million) involved investment losses. The second largest alleged losses were real property escrow losses (\$17.9 million).

The Trustees approved 114 awards in 2021. The dollar amount reimbursed totaled \$9.2 million. The median loss and award was \$22,500. Because the Fund is able to return up to \$400,000 on a single loss, in 2021, all but two eligible claimants received full reimbursement of their losses. By category, awards in 2021 reimbursing personal injury settlements comprised the largest number of awards (55 awards or 48.2%). The second largest category of awards by number was real property escrow (42 awards, or 36.8%). By dollar amount, real property escrow thefts were the the largest category of awards (\$5.4 million or 58.1%) of the Fund's total payout. Personal injury settlements were second with \$1.6 million in awards (16.9%). Since 1982, the Fund has rendered 20,773 determinations in claims. Of these, 11,580, or 56 percent, were deemed ineligible for reimbursement.

## 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. Of the more than \$242 million reimbursed by the Fund to victimized clients, most of that money comes from this modest registration fee.

**The Lawyers' Fund does not receive any revenue from the IOLA (Interest on Lawyer Account) program. Also, the Fund 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 \$229 million from attorney registration fees; \$23.0 million in restitution; \$5.8 million in interest income; \$3.9 million in judicial sanction revenue; and \$319,000 in contributions from lawyers and the public. Revenues 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 part of the Judiciary Budget.

## The Board of Trustees

The Lawyers' Fund is administered by a Board of Trustees 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. The Fund's office is located in Albany. The Trustees are assisted by a five-member staff composed of Michael J. Knight, Executive Director and Counsel; Gabriel Huertas, Assistant Counsel; Keri Cleveland, Investigator, Janel Kaczor, Administrative Secretary and Harriett Tremblay, Secretary.



**Eric A. Seiff** of the Bronx is Chairman of the Board. Mr. Seiff is of counsel to the Manhattan law firm of Amini L.L.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 & Mittendorf, LLP. She served 13 years as the Commissioner and Chair of the New York City Commission on Human Rights.



**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a lawyer with the law firm of Phillips Lytle, LLP.



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



**Stuart M. Cohen**, of Rensselaer, is retired from private practice after a career during which, among other positions, he served 14 years as the Clerk of the Court of Appeals.



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



**Dr. Gary S. Greenberg**, of Liverpool, Onondaga County, is a dentist specializing in Dental Sleep Medicine.

