



The Lawyers' Fund for Client Protection of the State of New York

Highlights from the 2004 Annual Report of the Board of Trustees

This Report of the Board of Trustees of the Lawyers' Fund for Client Protection focuses on the activities and operations of the Lawyers' Fund for the 2004 calendar year.

The Lawyers' Fund was established in 1981 in order to maintain the integrity and protect the good name of New York's legal profession by reimbursing law client losses caused by the dishonest conduct of attorneys in our State. The Fund began business on April 1, 1982.

The Trustees' experience in over two decades has reinforced our firm belief that the vast majority of lawyers in New York State are honest and caring for their clients and deserving of their trust. The dishonest conduct and resulting client losses reimbursed by the Fund are attributable to substantially less than one-third of one percent of New York's current 215,000 registered lawyers.

These few dishonest lawyers can cause substantial harm. Since 1982, the Lawyers' Fund has awarded \$108 million to 5,789 eligible law clients. In 2004, there were 196 awards granted totaling \$5.1 million. The losses in 2004 were caused by 53 now suspended, disbarred or deceased lawyers, 26 of whom appear for the first time in 2004.

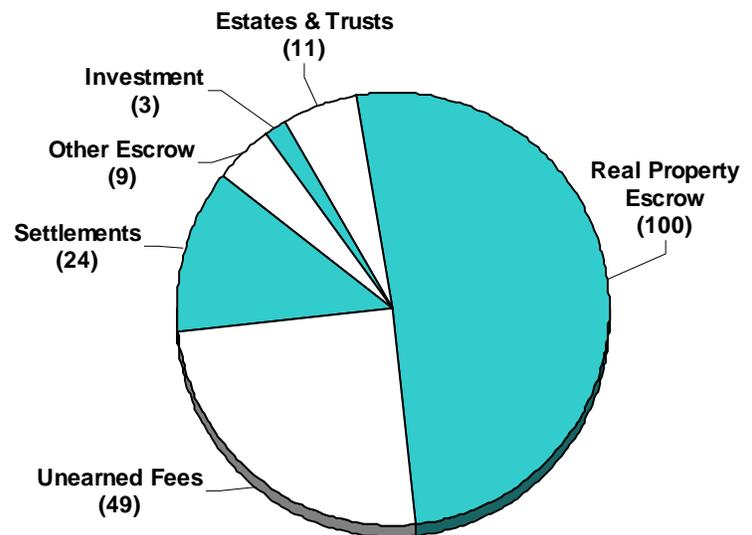
The Trustees are proud to report that full reimbursement was provided to every law client receiving an award in 2004. This is the second time in the last three years that 100 percent reimbursement was achieved. Since 1986, an average of 97 percent of all eligible clients have been fully repaid.

The Fund ended 2004 with 340 pending claims, up from 232 claims at the end of 2003. The Fund's exposure on the 340 pending claims was \$15.1 million. At the close of 2004, the Fund had \$8.1 million in revenue in the state treasury.

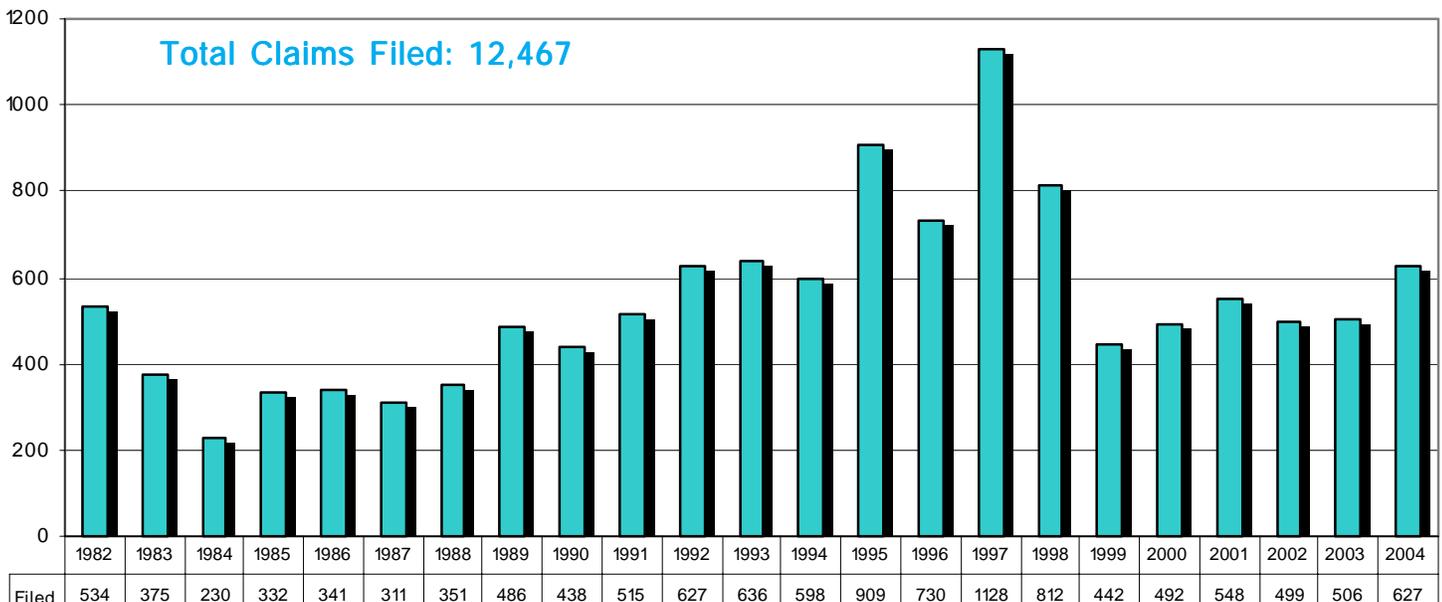
The Fund's maximum award of \$300,000 per individual loss is the highest award limit among the nation's 50 client protection funds.

Since 1982, 92 cents out of every \$1 in revenue received by the Fund has been directly applied towards the payment of awards of reimbursement.

Number of Awards Approved in 2004 by Category of Loss : 196 Awards



Number of Claims Filed 1982-2004



Statutory Authority

The Lawyers' Fund, originally known as The Clients' Security Fund, was created by Chapter 714 of the Laws of 1981, effective June 1, 1981. The Fund is an independent public trust administered by a Board of Trustees appointed by the Court of Appeals. Section 97-t of the State Finance Law provides for the establishment of the Fund and for the management of its assets as a special revenue fund by the State Comptroller.

Fund Jurisdiction

The Trustees' primary focus is the reimbursement of losses caused by the dishonest conduct of attorneys who were admitted to the practice of law in New York State. Losses reimbursed by the Fund include the theft of estate and trust assets, escrow deposits in real property transactions, settlements in personal injury litigation, debt collection receipts, money embezzled in investment transactions within an attorney-client relationship and the practice of law, and unearned fees paid in advance to lawyers who falsely promise their legal services.

The Fund has no jurisdiction in fee disputes. Unearned legal fees may only be reimbursed when there is satisfactory evidence of deceit or larceny by false promise by the accused lawyer. In claims alleging losses in investment transactions, a law client must show that "but for" dishonest conduct in an attorney-client relationship, the loss would not have occurred.

Claims Received and Processed

In 2004, 627 claims were filed with the Fund, an increase of 24 percent from 2003. The largest number (203) of claims sought reimbursement of legal fees. The largest reported losses (\$8.5 million) involved alleged losses in real estate transactions. The second largest reported losses (\$7.1 million) involved investment transactions with lawyers.

The Trustees approved 196 awards in 2004, with documented losses of \$5.1 million. Awards totaled \$5.1 million, and ranged between \$200 and \$300,000. The median loss and award was \$6,667. All awards since 1982 involve actual client and escrow losses of \$145 million.

Of the 196 awards in 2004, losses in real estate transactions was the largest category of awards in both number (100) and dollar amount (\$3.7 Million).

Since 1982, final determinations have been reached in 12,187 claims: 5,789 (48%) were found to qualify for reimbursement and 6,398 (52%) were determined to be ineligible.

"I received my check yesterday and would like to thank you - not only for the money, but for renewing my faith in the system. Thank you very much!" **Message from a Claimant, 2004.**

Court Programs

The Dishonored Check Notice Rule is a client protection device instituted at the request of the Fund's Trustees. Under the court rules for this program, the Lawyers' Fund acts as a statewide clearing house for reports of bounced checks on attorney trust, special and escrow accounts. In 11 years, the Fund has processed over 5,750 bounced check reports with a total face amount in excess of \$141 million. The reports have identified upwards of 140 lawyers who had misused escrow funds.

Court rules designate the Lawyers' Fund as a depository for money owed to missing law clients and escrow beneficiaries. 22 NYCRR 1200.46(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 locate these clients to return deposits. As of December 31, 2004, a total of 743 deposits totaling \$1.2 million were received by the Fund. Staff successfully located 89 missing clients and restored \$248,000.

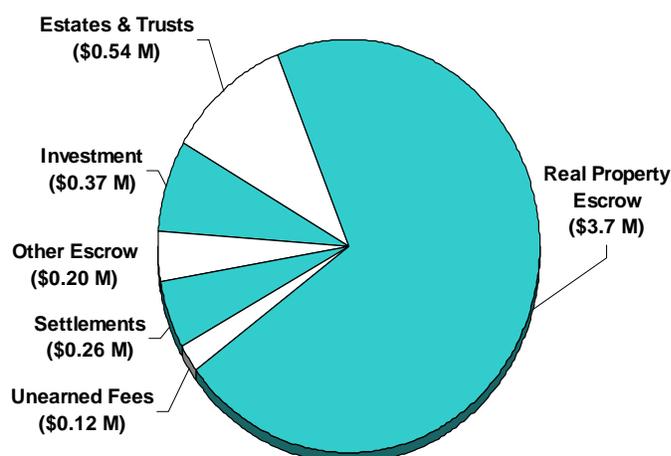
Public Information and Education Efforts

The Trustees firmly believe that responsible public information efforts promote public confidence in the integrity of the legal profession and the administration of justice in New York State. The Trustees therefore encourage publicity about the Lawyers' Fund.

The Fund internet site at www.nylawfund.org 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.

The Trustees also publish materials to educate lawyers and clients in an effort to prevent losses; engage in programs to assist lawyers in complying with their fiduciary and escrow obligations; and recommend court rules intended to improve our legal system and protect law clients. The Trustees' publications include *A Practical Guide to Attorney Trust Accounts and Recordkeeping*; *Know Your Escrow Rights*; *What's a Power of Attorney?*; and *Avoiding Grief with a Lawyer - A Practical Guide*.

Amount of 2004 Awards By Misconduct : \$5.1 Million



Thefts in Real Property Transactions

The recurring problem of lawyer theft of real estate escrow funds is a major concern of the Lawyers' Fund.

Since 1982, one-third of the amount of all awards from the Fund has reimbursed the theft of real property escrow funds. By amount, this is the largest single category of losses reimbursed by the Fund. The Trustees have restored a total of \$35.5 million in granting 1,620 awards involving real property losses. These 1,620 awards represent twenty-eight percent of all awards from the Fund in 22 years. The vast majority of these real property losses involve the theft of a purchaser's down payment escrow in the sale of residential property. These losses can be substantial, especially downstate where the standard down payment is 10 percent of the purchase price.

In 2004, the Trustees analyzed the Fund's experience with real property losses over a six-year period from 1999 through 2004. That analysis validated the Trustees' concerns and illustrated a geographic concentration of these losses in the Second Judicial Department.

From 1999 through 2004, 75 percent of all awards from the Fund reimbursing real property losses were from the Second Judicial Department. In this period, there were 404 awards in this category. The Second Judicial Department accounted for 301 of these awards. The Second Judicial Department also was responsible for 60 percent of the amount of total reimbursement provided in these awards. Of the \$13.7 million in reimbursement for real property losses over this period, \$7.9 million arose from awards involving lawyers from the Second Judicial Department.

These losses in the Second Judicial Department are concentrated in the 10th Judicial District which is comprised of lawyers in Nassau and Suffolk Counties. The 10th Judicial District was responsible for 41 percent of all awards and 50 percent of the amount of total reimbursement from the Fund involving real property losses in the Second Judicial Department during this six-year period.

In 2004, the Trustees held a forum with representatives of the District Attorneys and Bar Associations of Nassau and Suffolk Counties to discuss and address lawyer thefts of real property escrows and down payments. This problem, and possible solutions, are under further study.

Realty Losses , 1999-2004 By Judicial Department

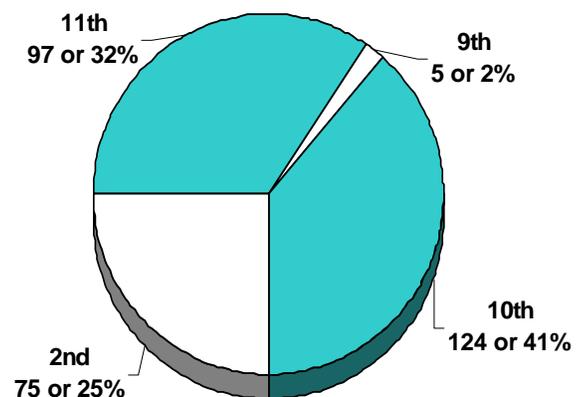
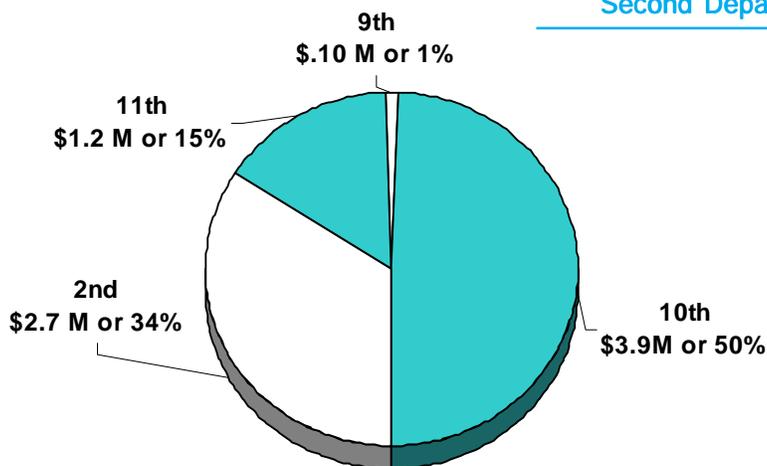
	1999	2000	2001	2002	2003	2004
1st JD	8	9	8	39	11	8
2nd JD	35	51	42	37	53	83
3rd JD	0	1	2	0	0	8
4th JD	1	2	2	3	0	1
Totals	44	63	54	79	64	100

	1999	2000	2001	2002	2003	2004
1st JD	\$120,165	\$816,225	\$658,170	\$2,504,670	\$574,089	\$902,550
2nd JD	\$429,280	\$1,748,334	\$1,330,860	\$463,442	\$1,320,854	\$2,643,180
3rd JD	\$0	\$2,000	\$8,317	\$0	\$0	\$101,291
4th JD	\$5,900	\$4,450	\$14,766	\$16,426	\$0	\$4,000
Totals	\$555,345	\$2,571,009	\$2,012,113	\$2,984,538	\$1,894,943	\$3,651,021

Realty Losses in the Second Department, 1999-2004 : \$7.9 Million

Realty Losses in the Second Department, 1999-2004 : 301 Awards

By Judicial District Within the Second Department



Second Judicial District: Richmond & Kings Counties
 Ninth Judicial District: Dutchess, Orange, Putnam, Rockland & Westchester Counties
 Tenth Judicial District: Nassau and Suffolk Counties
 Eleventh Judicial District: Queens County

The Board of Trustees

Section 468-b of the Judiciary Law provides for the administration of the Fund; and section 97-t of the State Finance Law governs the management of its assets as a special government trust. Both statutes vest full administrative responsibility in a seven-member Board of Trustees appointed by the Court of Appeals.

The Trustees serve renewable three-year terms. They receive no compensation for their services. The Trustees' Regulations are published at 22 NYCRR Part 7200.

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; Sue Gartley, Administrative Secretary; Ray Wood, Investigator; and Jahnel Hall-Worthen, Secretary.

As one of the smallest of state agencies, the Fund relies greatly upon the support and kindness of colleagues in public service. The Trustees acknowledge our special appreciation to the Court of Appeals; the staffs of the Attorney Grievance Committees and District Attorneys' Offices; the Office of Court Administration; the Attorney General's Office and the Office of the State Comptroller.



Eleanor Breitel Alter of Manhattan has served as Chairman of the Board of Trustees since 1985. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman.



Nancy Burner of Setauket, Suffolk County, is a solo practitioner and elder law attorney.



Charles Joseph Hynes of Brooklyn is the District Attorney of Kings County.



Bernard F. Ashe of Delmar, Albany County, is Vice-Chairman of the Board. Mr. Ashe is a former General Counsel to New York State United Teachers.



Charlotte G. Holstein of Syracuse is a civic leader, founder and Executive Director of F.O.C.U.S. Greater Syracuse, a community interest group.



Theresa B. Mazzullo of Rochester, Monroe County, is President and a Principal of EPIC Advisors, Incorporated, a retirement plan administration firm.

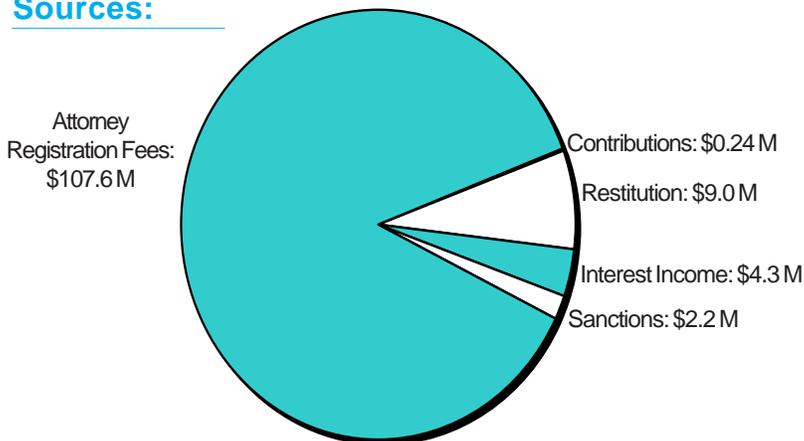


Eric A. Seiff of the Bronx is a partner in the Manhattan law firm of Seiff, Kretz & Abercrombie.

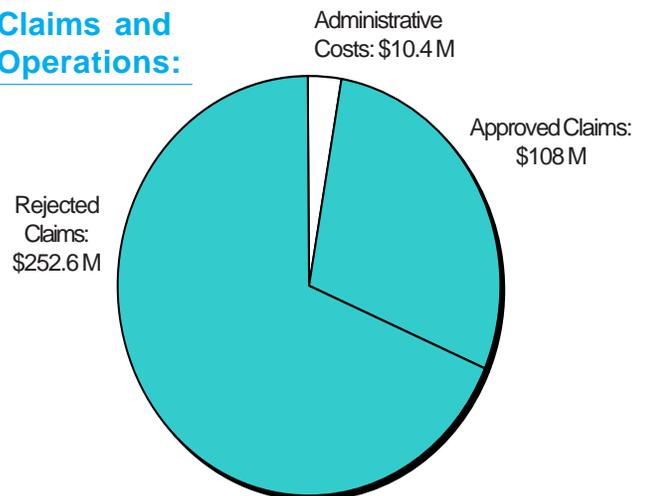
Former members of the Board of Trustees include the Hon. Judith S. Kaye, Chief Judge of the State of New York (1981-1983); Joseph Kelner, Esq. of Manhattan (1981-1982); Anthony R. Palermo, Esq. of Rochester (1981-1990); John F. X. Mannion of Syracuse (1981-1992); Ray W. Manuszewski of Cheektowaga (1981-2002); Theodore D. Hoffmann of Hicksville (1990 to 2002); and Shirley B. Waters of Rome (1992 to 2001).

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