

# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2007 Annual Report of the Board of Trustees



This Report of the Board of Trustees of the Lawyers' Fund for Client Protection focuses on the 2007 calendar year. This is the 25th year of operations of the Lawyers' Fund.

The Lawyers' Fund was established 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 legal profession is the only profession to provide such protection to its clients.

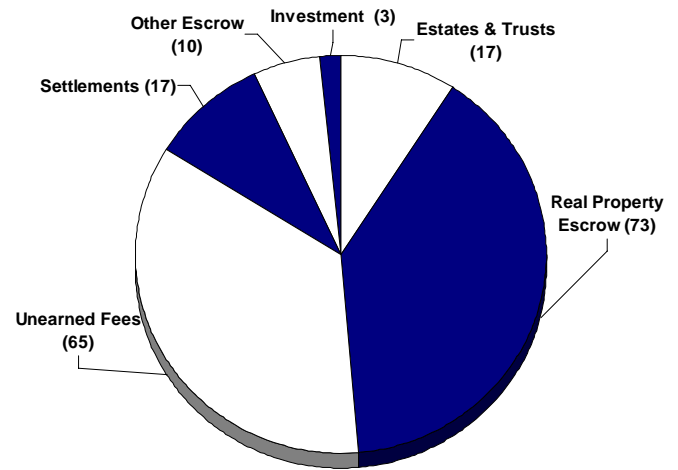
**The Trustees' 25-year experience clearly demonstrates that the overwhelming majority of New York's lawyers are honest and caring and deserving of their clients' trust.** The dishonest conduct and resulting client losses reimbursed by the Fund are attributable to substantially less than one-third of one percent of New York's current 237,000 registered lawyers.

These few dishonest lawyers can cause substantial harm. Since 1982, the Lawyers' Fund has awarded \$130.5 million to 6,348 eligible law clients. In 2007, there were 185 awards granted totaling \$7.0 million. The losses in 2007 were caused by 64 now suspended, disbarred or deceased lawyers, 44 of whom appear for the first time in 2007 in the Fund's awards.

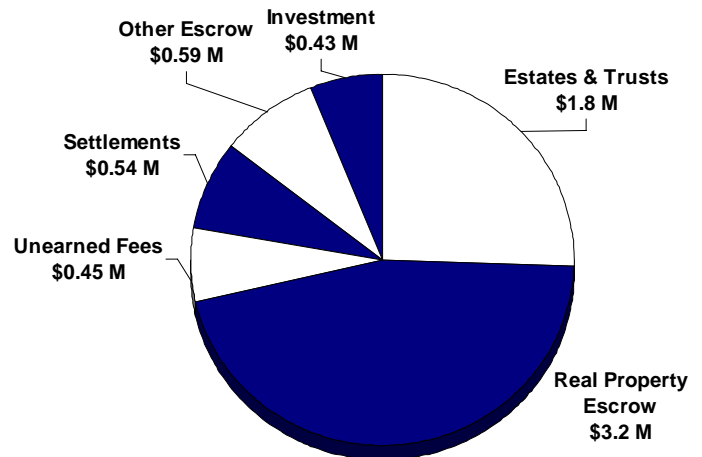
The Fund ended 2007 with 566 pending claims, down from 604 claims at the end of 2006. Of these 566 pending claims, 373, nearly 66 percent, involve one law firm whose attorneys are the subject of ongoing criminal proceedings. The Fund's exposure on the 566 pending claims was \$14.1 million. At the close of 2007, the Fund had \$3.5 million in revenue in the state treasury.

Since 1982, 91 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 2007 by Category of Loss : 185 Awards



### Amount of 2007 Awards By Misconduct : \$7.0 Million



**"As a Police Officer for 27 years, I came into contact with many lawyers...I always respected the profession. The criminal acts of a select few do not tarnish the reputation of all lawyers. The work of (the Lawyers' Fund) and the Board of Trustees upholds the integrity of the Legal Profession, and one that I owe a debt of gratitude."**  
**Message from a Claimant 2007**



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

*25th Anniversary*

### The Lawyers' Fund 25th Anniversary Video (2007).

This short video, with an introduction by Chief Judge Judith S. Kaye, provides the history and purpose of the Lawyers' Fund. The video includes interviews with Fund Trustees and law client victims. The video is available on our website: [www.nylawfund.org/pubs/25.wmv](http://www.nylawfund.org/pubs/25.wmv). You may also contact our offices at 1-800-442-3863 to order a complimentary copy.



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

# Court Programs & Public Information

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.

Section 468-b of the Judiciary Law governs the administration of the Fund. This statute 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, et seq.).

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 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. The majority of bounced check notices result from innocent mistakes in law office banking practices. These reports though have identified upwards of 151 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, 2007, a total of 1,290 deposits totaling \$2.4 million were received by the Fund. Staff successfully located 134 missing clients and restored \$301,596.

The Fund's internet site at [www.nylawfund.org](http://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.

## Claims Received and Processed

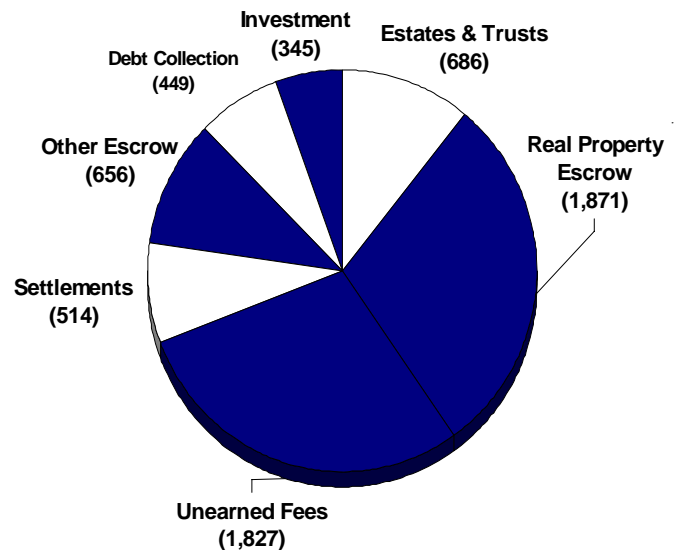
In 2007, 454 claims were filed with the Fund, a decrease of 13 percent from 2006. The largest number (153) of claims sought reimbursement of legal fees followed by claims alleging losses in real estate transactions (141). The largest reported losses (\$10.8 million) involved alleged losses in real estate transactions. The second largest reported losses (\$7.0 million) involved investment transactions.

The Trustees approved 185 awards in 2007, with documented losses of \$7.2 million. Awards totaled \$7.0 million, and ranged between \$250 and \$300,000. The median loss and award was \$8,250. All awards since 1982 involve actual client and escrow losses of \$167.7 million.

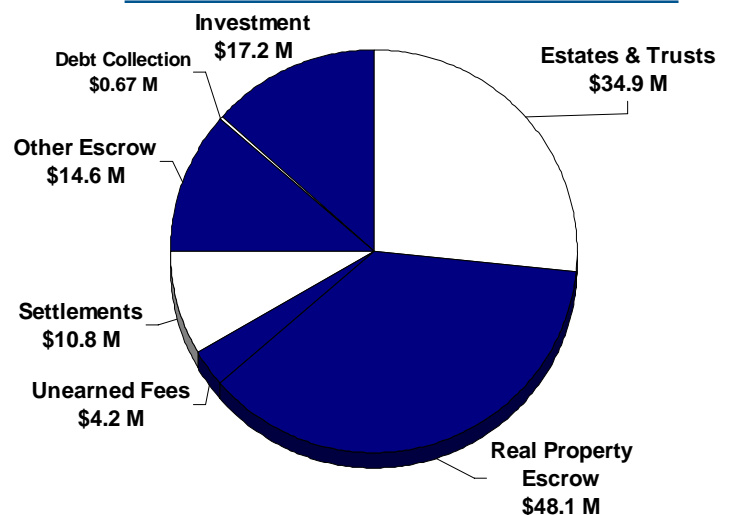
Of the 185 awards in 2007, losses in real estate transactions was the largest category of awards in both number (73) and dollar amount (\$3.2 million). In 2007, 40 percent of the awards approved, and 46 percent of the amount of reimbursement provided, involved thefts of real property escrows.

**“What a joyous surprise and great relief your decision gave to us, to compensate our losses through your Fund... We are retired, and live on a fixed income, and the loss of this amount would have meant a significant dent in our ability to cover our daily life expenses. So, our sincere thanks...to your organization to protect people like us from losses of this kind.”**  
**Message from a Claimant, 2007**

## Number of Awards Approved Since 1982 by Category of Loss : 6,348 Awards



## Amount of Awards Since 1982 By Misconduct : \$130.5 Million



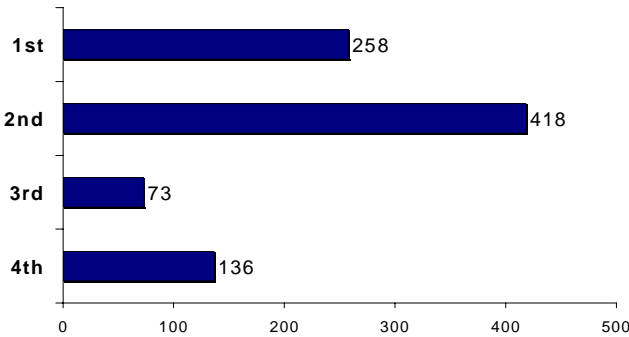
# Lawyers Involved in Awards, 1982 to 2007

In 25 years, only 885 former members of the bar have been responsible for the 6,348 awards granted by the Fund. The Trustees' awards in 2007 were attributable to dishonest conduct by 64 now suspended, disbarred or deceased lawyers. Of these 64 former lawyers, 20 were respondents in awards from prior years and the names of 44 dishonest lawyers appear for the first time in 2007 awards. There are now 237,000 registered lawyers in New York State.

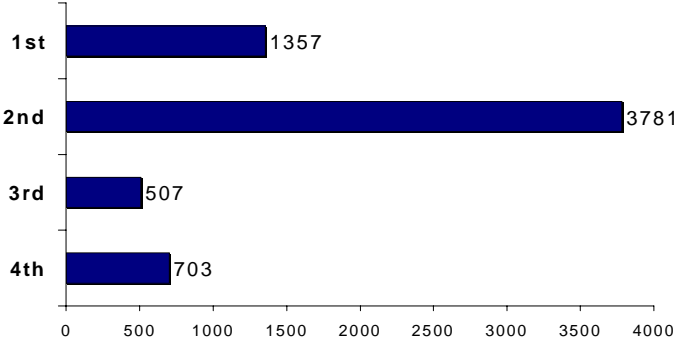
Most thefts involve sole practitioners, the majority of which are male and middle-aged. The apparent causes of misconduct by these lawyers are often traced to alcohol or drug abuse. Other causes are economic pressures, mental illness, marital, professional and medical problems, and gambling activity.

The geographic distribution of these 885 former lawyers, and the Fund's 6,348 awards, among the state's judicial departments is represented in the bar graphs to the right:

## Lawyers Involved in All Awards Since 1982



## Distribution of Awards Since 1982



### First Judicial Department

New York and Bronx County

### Second Judicial Department

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

### Third Judicial Department

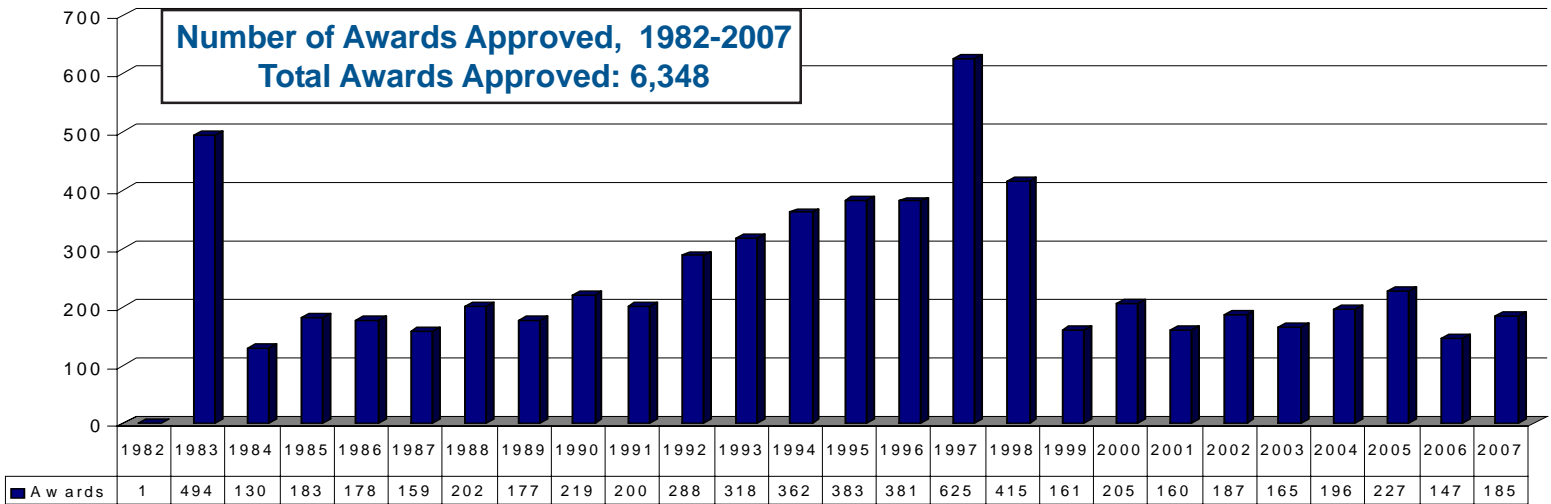
Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties

Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren and Washington Counties

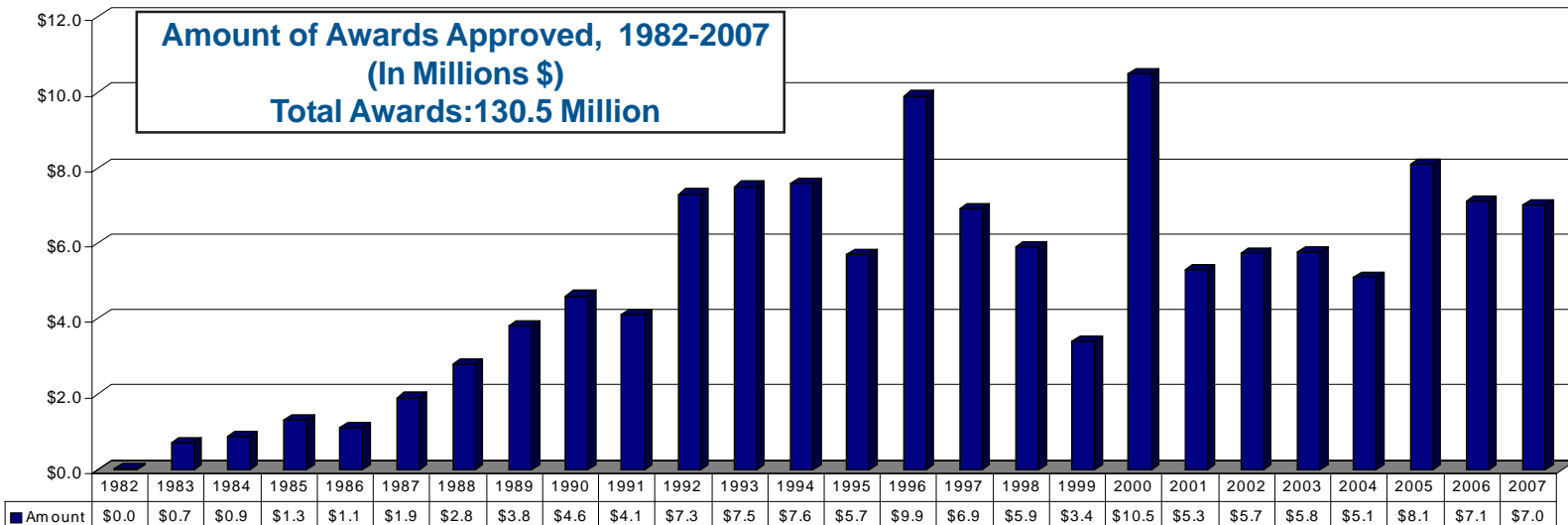
### Fourth Judicial Department

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

**Number of Awards Approved, 1982-2007**  
Total Awards Approved: 6,348



**Amount of Awards Approved, 1982-2007**  
(In Millions \$)  
Total Awards: 130.5 Million



## The Board of Trustees



**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.



**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.



**Nancy Burner** of Suffolk County, is the founding partner of Burner, Cherches & Smith, an estate planning, trusts and estates, and elder law firm in Setauket and Westhampton Beach.



**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.



**Charles Joseph Hynes** of Brooklyn is the District Attorney of Kings County. Mr. Hynes has served as a Trustee since 1982.



**Theresa B. Mazzullo** of Rochester, Monroe County, is the CEO of Excell Partners, a state supported seed capital company.



**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 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.

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 Hall-Worthen, Administrative Secretary; Ray Wood, Investigator, and Harriett Tremblay, 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.

## 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 \$350 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.**

Other sources of revenue for the Fund include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$125 million from attorney registration fees; \$11.3 million in restitution; \$5.1 million in interest income; \$2.7 million in judicial sanction revenue; and \$274,000 in contributions from lawyers and the public. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one component of the Judiciary Budget.

## Challenges for the Future

The Trustees are proud of the many accomplishments by the Lawyers' Fund since its inception in 1982. The New York Fund is a leader in the field of client protection in the level of reimbursement provided to law clients. As an independent public trust with a steady and reliable source of revenue, the Fund is able to provide prompt and meaningful reimbursement while being responsive to the needs of law clients in the Empire State.

The Trustees also note with distinction the Fund's role in the introduction of many client protection and other measures which have improved our justice system. These measures which resulted from recommendations by the Fund's Trustees include uniform banking and recordkeeping rules for attorneys in the preservation of client funds; self-certification of compliance with these court rules; stricter enforcement of attorney registration requirements; an insurance payee notification rule; restitution orders as a disciplinary sanction; a dishonored check notice rule; mandatory arbitration of fee disputes; statutory lien and subrogation rights strengthening the Fund's creditor rights; and court rules governing the disposition of clients' funds owed to missing clients and providing for successor signatories to attorney trust accounts.

While this record of achievements is to be celebrated, there is more to be accomplished. For that reason, the Trustees continue to recommend changes in practice and policy in order to further improve our administration of justice and field of client protection. The full text of these recommendations can be found in our complete annual report posted at <http://www.nylawfund.org>.

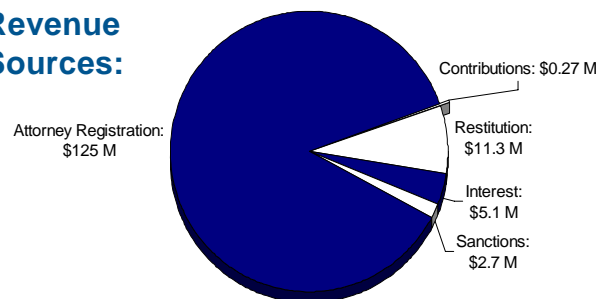
The Lawyers' Fund for Client Protection

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

[www.nylawfund.org](http://www.nylawfund.org)

## The Fund's Finances Since 1982

### Revenue Sources:



### Claims and Operations:

