

SEVENTEENTH ANNUAL REPORT
OF THE BOARD
OF TRUSTEES

THE LAWYERS' FUND
FOR CLIENT PROTECTION



"The conduct of attorneys is not measured by how close to the edge of thin ice they skate... but how much honor can be poured into the generous spirit of lawyer-client relationships."

Matter of Cooperman, 83 N.Y.2d 465 (1994) (Bellacosa, J.)

CONTENTS

Foreword - - - - -	3	Dead Lawyers and Missing Clients - -	19
Law Client Protection in the Empire State - - - - -	4	Reimbursement Claims Processed - -	20
The Mission of the Lawyers' Fund - - -	4	Filed Claims Since 1982 - - - - -	20
The Board of Trustees - - - - -	5	Reported Losses Since 1982 - -	20
The Fund's Staff - - - - -	6	Fillings by Category of Loss Since 1982 - - - - -	20
Liaison with the Appellate Divisions - -	6	Claims Filed in 1999 - - - - -	20
The Trustees' Regulations - - - - -	7	Lawyers Involved in Awards Since 1982 - - - - -	20
The Fund's Revenues - - - - -	7	Reimbursement Awards in 1999.21	
Sanction Revenues - - - - -	8	Ineligible Claims - - - - -	21
Registration of Lawyers - - - - -	8	Claims Pending, December 31, 1999 - - - - -	21
Payouts and Disbursements - - - - -	8	Looking Ahead - - - - -	21
Restitution Revenues - - - - -	9	Alcohol and Substance Abuse in the Profession - - - - -	22
Restitution as a Disciplinary Sanction	11	Bar Examinations - - - - -	22
Public Information and Consumer Education - - - - -	12	Disbarment for Misusing Client and Escrow Money - - -	22
Attorney Trust Accounts: The Video - - - - -	12	Thefts by Lawyer-Fiduciaries - - -	22
What's A Power of Attorney? Answers for New Yorkers - - - -	13	Fiduciary Bank Accounts - - - - -	22
Avoiding Grief with a Lawyer — A Practical Guide - - - - -	13	Confidentiality in Lawyer Discipline Proceedings - - - -	23
www.nylawfund.org - - - - -	13	Thefts by Suspended, Disbarred and Bogus Lawyers - - - - -	23
Evaluating Reimbursement Claims - -	14	Escrow Thefts in Real Property Transactions - - - - -	23
Judicial Review of Rejected Claims - -	14	Interest on Down-Payment Escrows - - - - -	23
Representation by Counsel - - - - -	15	Arbitration of Fee Disputes - - -	24
Unearned Legal Fees - - - - -	16	Afterword - - - - -	24
Theft of Personal Injury Settlements	16	Appendix - - - - -	25
Losses in Investment Transactions - -	17	Statistical Tables - - - - -	25
Thefts in Real Property Transactions	17	Trustees' Regulations - - - - -	26
Claims Involving Perry V. Ferrara - - -	17	Lawyers Involved in Awards Since 1982 - - - - -	30
The Bounced Check Rule - - - - -	18		

FOREWORD

This is the Board of Trustees' 1999 annual report of the activities of the New York Lawyers' Fund for Client Protection.

Claims to the Lawyers' Fund last year dropped by 46 percent.

Losses alleged by claimants last year dropped by 35 percent.

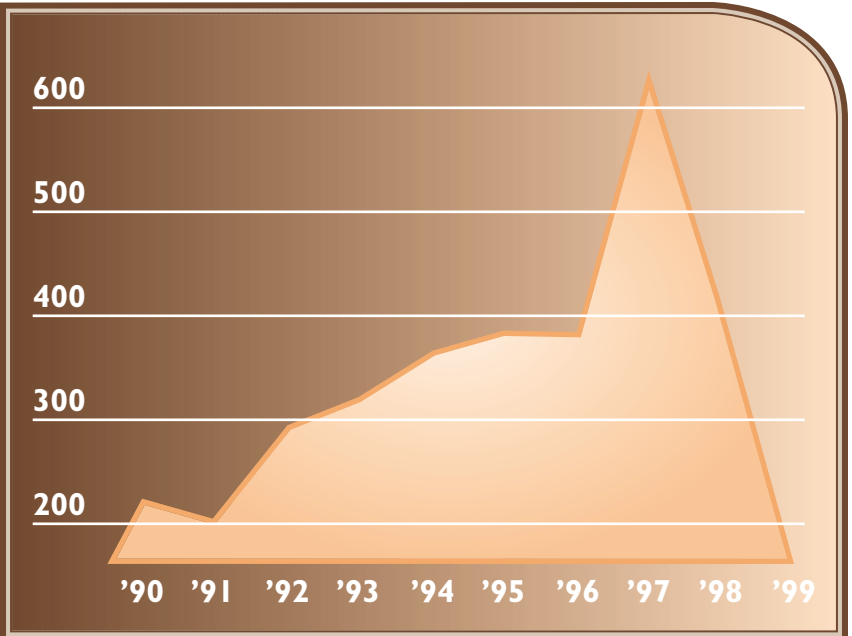
The Trustees last year restored \$3.4 million to 161 eligible law clients and escrow beneficiaries.

Only one eligible victim in 1999 — a pension fund — received less than full reimbursement for its loss. The other 160 victims received 100 percent reimbursement of their losses.

Sixty-nine of those eligible claimants were represented by lawyers, free of charge to them, and to the fund.

At year's end, the Trustees' increased the fund's coverage from \$200,000 to \$300,000 per eligible loss, effective January 1, 2000, and paramount in the nation.

AWARDS OF REIMBURSEMENT SINCE 1990



Reimbursement awards in 1999 reimburse losses caused by 62 former members of the New York bar. Thirty-four were cited in awards approved in prior years, and 28 appear for the first time in 1999 awards.

The median client and escrow loss reimbursed last year was \$5,000.

All claims processed to final disposition in 1999 involved alleged losses of \$14 million.

At year's end, there were 235 pending claims. They allege dishonest conduct by 110 lawyers and law firms, and losses of \$16 million.

The fund had \$6.3 million in its trust account in the state treasury at the close of 1999.

All awards since 1982 total \$75.4 million. They have been paid to 4876 eligible claimants of 606 former lawyers.

There are 181,000 lawyers admitted to practice in the Empire State.

LAW CLIENT PROTECTION IN THE EMPIRE STATE

That lawyers have obligations to the victims of dishonest colleagues is a Twentieth Century contribution to the legal profession's code of professional ethics. Disciplining a dishonest lawyer — whether by censure, suspension from practice or disbarment — was long considered to be an adequate response to professional misconduct: as a punishment, as a deterrent to others, and to safeguard the public.

But what of a client robbed of her life savings by a dishonest lawyer? A court's order that disbars her lawyer provides scant comfort, to say the least.

It's largely that reason that the legal profession worldwide supports client protection funds; a movement which traces its routes to New Zealand in 1929. Today all of the United States have lawyer-financed protection funds.

The Empire State is no newcomer. In the nineteen-sixties, bar associations, including the New York State, New York County and Suffolk County associations, attempted modest programs of client reimbursement from their membership dues.

But the problem was bigger than the budgets of the bar associations, and they appealed — first to the Court of Appeals, and then to the State Legislature — that the New York court system undertake the responsibility for operating a statewide client reimbursement program.

What emerged was a statutory scheme patterned after the reimbursement program in Maryland: an independent public trust organized under the aegis of the state Court of Appeals, administered, *pro bono publico*, by a Board of Trustees, and financed by an assessment on every practicing attorney.

THE MISSION OF THE LAWYERS' FUND

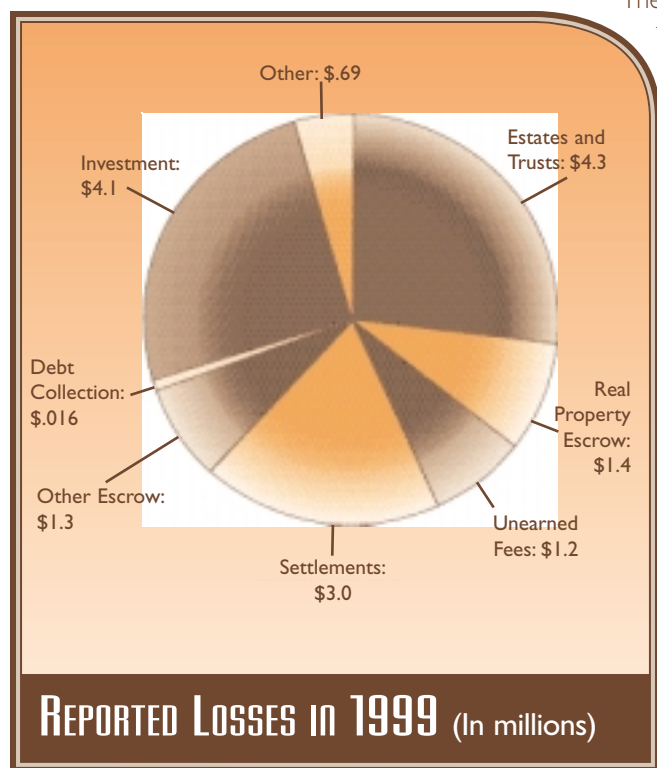
The law articulates the fund's mission in broad terms: to protect legal consumers from dishonest conduct in the practice of law; to preserve the bar's integrity; to safeguard the good name of lawyers for their honesty in handling client money; and to promote public confidence in the administration of justice in the Empire State.

The Trustees secure these goals principally by reimbursing money that's been misused in the practice of law. But there are other important pieces to the effort. They include programs to help lawyers comply with their fiduciary and escrow obligations; the publication of consumer education materials to help clients avoid situations that can result in losses; and the crafting of court rules to eliminate opportunities for dishonest lawyers to exploit the trust of clients.

In all these efforts, the Lawyers' Fund serves as a helpmate of the courts in shielding the integrity of the justice system, and the honor and reputation of the legal profession.

Typical 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 with law clients, and unearned fees paid in advance to lawyers who falsely promise their legal services.

The Clients' Security Fund of the State of New York, as the fund was originally named, was organized on December 1, 1981, with the appointment of a seven-member Board of Trustees by the Court of Appeals. The early months of 1982 were spent crafting regulations and claim procedures and assembling a staff and office facilities. The fund opened for business on April 1, 1982.



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 trust account on deposit in the State Treasury. Both statutes vest management authority in the fund's Board of Trustees.

The Trustees serve renewable terms of three years, and without compensation for their services. Since 1981, the Court of Appeals has preserved the mix of five members of the bar and two business and community leaders.

The Board's officers are a Chairman, Vice-Chairman and a Treasurer. The fund's Executive Director serves as the Board's Secretary and its Counsel.

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. Mrs. Alter is a graduate of the University of Michigan and the Columbia University Law School (1964). She was first appointed to the Board of Trustees in 1983. The Chairman's current term expires on November 30, 2001.



Theodore D. Hoffmann of Hicksville, Nassau County, is Vice-Chairman of the Board. Mr. Hoffmann is Of Counsel to the Garden City law firm of Albanese, Albanese & Fiore. He is a



graduate of St. John's University and its School of Law (1948). Mr. Hoffmann's current term expires on November 19, 2002.

Ray W. Manuszewski of Cheektowaga, Erie County, is the fund's Treasurer. A graduate of Canisius College (1951), Mr. Manuszewski is a former Regional President of Manufacturers Hanover Trust Company N.A. in Buffalo. Mr. Manuszewski was first appointed to the Board of Trustees in 1981. His current term expires on November 19, 2002.



Bernard F. Ashe of Delmar, Albany County, is a former General Counsel to New York State United Teachers. He is a graduate of Howard University and the Howard University School of Law (1961). Mr. Ashe has served as a Trustee since 1981. His current term expires on November 19, 2002.



Charles Joseph Hynes of Brooklyn is the District Attorney of Kings County. He is a graduate of St. John's University and its School of Law (1961). Mr. Hynes was first appointed to the Board of Trustees in 1982. His present term expires on November 30, 2000.



Eric A. Seiff lives in the Bronx and is a partner in the Manhattan law firm of Seiff, Kretz & Maffeo. Mr. Seiff is a graduate of Yale University and the Columbia University Law School (1958). Mr. Seiff has served on the Board since 1981. His present term expires on November 30, 2000.



Shirley B. Waters of Rome, Oneida County, is Vice President of the Rome Sentinel Company, which publishes the **Daily Sentinel** newspaper. She is a graduate of Syracuse University (1943). Mrs. Waters was first appointed to the Board in 1992. Mrs. Waters' current term expires on November 30, 2001.



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); and John F. X. Mannon of Syracuse (1981-1992).

THE FUND'S STAFF



Frederick Miller



Timothy J. O'Sullivan



Michael J. Knight



Ray Wood



Sue Gartley



Polly Sims



Inge Ivchenko

The Board of Trustees is the appointing authority for its staff. Serving throughout 1999 were Frederick Miller, Executive Director and Counsel; Timothy J. O'Sullivan, Deputy Counsel; Michael J. Knight, Assistant Counsel; and Ray Wood, Investigator.

Effective January 1, 2000, the fund's administrative structure was reorganized with the appointment of Timothy J. O'Sullivan as Executive Director; Michael J. Knight as Deputy Counsel; and Frederick Miller as Counsel.

The fund's secretariat consists of Sue Gartley, Administrative Secretary; Polly Sims, Administrative Clerk; and Inge Ivchenko, Secretary.

Law students provide helpful support to the Lawyers' Fund in the investigation of claims and legal research projects. Interns from the Albany Law School, classes of 1999, 2000 and 2001: Louis Chicatelli, Paulette DiTiberiis, Stefanie DiLallo and Siheem Roseborough.

LIAISON WITH THE APPELLATE DIVISIONS

Section 90 of the Judiciary Law vests in the four Appellate Divisions of the Supreme Court broad authority to regulate the practice of law in New York State, and to discipline members of the bar for professional misconduct.

Because the misuse of law client money and property typically results in a lawyer's disbarment, final determinations in claims are not handed down until appropriate disciplinary proceedings in the Appellate Divisions are completed. Additionally, fund investigations are coordinated with the investigative efforts of the Attorney Grievance Committees in the four judicial departments. This avoids unnecessary expense and duplication of investigative effort.

The Trustees' Regulations provide that all shared information involving complaints against lawyers is to be sealed and maintained as a confidential record in accordance with section 90 of the Judiciary Law.

As a complement to this coordination process, each Appellate Division has designated a member of the Court to serve as its liaison with the fund. Liaison justices in 1999 were Justices Milton L. Williams of the First Department; David S. Ritter of the Second Department; Anthony J. Carpinello of the Third Department; and John J. Callahan of the Fourth Department.

THE TRUSTEES' REGULATIONS

Section 468-b of the Judiciary Law requires that the Board of Trustees enact regulations for the fund's administration, and procedures for the presentation, consideration and payment of claims.

The Trustees' regulations are reproduced in the Appendix. They are published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200). On December 7, 1999, section 7200.13 was amended to increase the fund's coverage on losses to \$300,000, effective January 1, 2000.

THE FUND'S REVENUES

The principal source of revenue for the Lawyers' Fund is a portion of the \$300 biennial registration fee required of each active member of the bar by section 468-a of the Judiciary Law. Contrary to widespread belief within the legal profession, the Lawyers' Fund receives no revenues from the Interest on Lawyer Account (IOLA) program.

Section 468-a of the Judiciary Law earmarks 20 percent (\$60) of each \$300 fee to the Lawyers' Fund. Since April 1, 1993, the Legislature has annually supplemented this \$60 portion with additional revenues from the biennial registration fee. The combined revenues are equivalent to a \$100 share of each biennial registration fee.

Revenues of the fund are deposited in a special trust account in the State Treasury which was created by section 97-t of the State Finance Law, the sole

Despite my terrible experience, my love for law and our legal system never dimmed. Recently I was admitted to the bar and I am proud to contribute to this program of reimbursement.

— Message from a claimant (1999)

purpose of which is to finance the fund and its operations. All awards and administration costs are disbursed from this special revenue account.

Registration fee revenues are supplemented by interest from investments in the State Comptroller's Short-Term Investment Pool (STIP), gifts, sanctions, and restitution secured from dishonest lawyers and other liable sources.

The attorney registration program is administered by the Office of Court Administration. Through the close of 1999, registration fees have produced \$78.3 million for the fund.

Interest income since 1982 totals \$3.6 million. Revenues from judicial sanctions on attorneys total \$1.5 million. The fund has recouped \$4.7 million in restitution from dishonest lawyers and collateral sources. Contributions from lawyers and the public total \$225,000.



SANCTION REVENUES

Financial sanctions imposed on counsel during the course of litigation are a source of revenue for the Lawyers' Fund. They augment the fund's revenues by \$15,000 monthly.

Many sanctions are imposed by Supreme Court trial justices in the management of court and trial calendars. Judicial sanction orders frequently cite sections 2004, 3126 and 5015 of the Civil Practice Law and Rules.

Another variety emanates from the Rules of the Chief Judge and the Chief Administrator of the Courts. Those rules designate the Lawyers' Fund as the depository for sanctions imposed on lawyers for frivolous conduct in civil actions and proceedings, and counsel's unjustified failure to attend a scheduled court appearance in a criminal or family court proceeding.

The rules are published in 22 NYCRR Parts 37, 130 and 130-a. They were first applied by the Court of Appeals against a party in *Matter of the Minister v. 198 Broadway, Inc.*, 76 N.Y.2d 411 (1990); upon a lawyer in *Maroulis v. Berg*, 77 N.Y.2d 831 (1991); and upon both party and lawyer in *Intercontinental Credit Corp. v. Roth*, 78 N.Y.2d 306 (1991).

At the close of 1999, all paid sanctions total \$1.5 million. They range in amount between \$5 and \$100,000. There were approximately 160 unpaid sanctions, levied upon a single law firm, which totaled an additional \$1.2 million. The sanctions themselves are the subject of litigation.

REGISTRATION OF LAWYERS

Section 468-a of the Judiciary Law requires all lawyers licensed to practice law in New York State to register biennially with the Chief Administrator of the Courts through the Office of Court Administration.

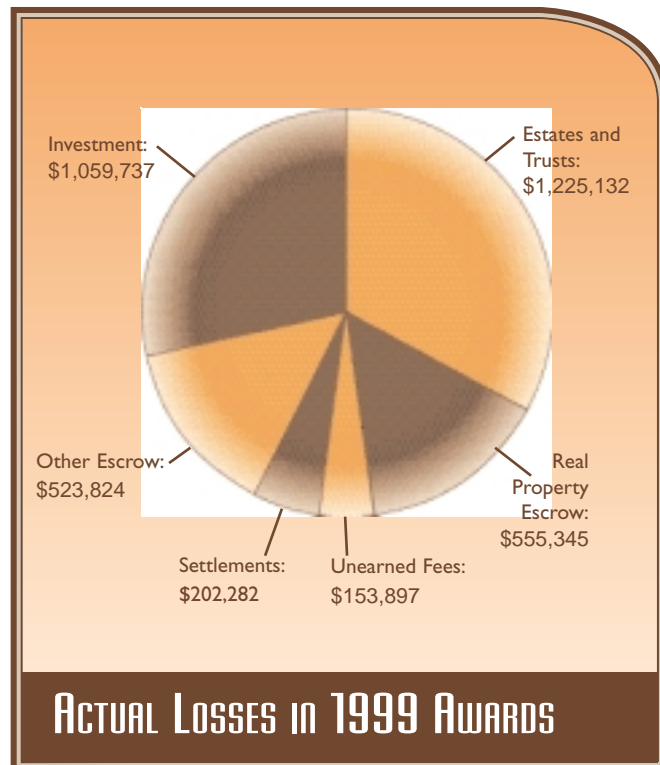
Non-compliance with the registration law "constitutes conduct prejudicial to the administration of justice," and subjects a lawyer to disciplinary action under section 90 of the Judiciary Law.

At the close of 1999, there were 181,000 lawyers registered with the Office of Court Administration. That number includes 18,000 retired lawyers and full-time judges who are exempt from the registration fee.

PAYOUTS AND DISBURSEMENTS

At the end of 1999, all awards of reimbursement from the fund totaled \$74.7 million. The cost of administering the fund as a state agency during 1999 totaled \$529,000. At year's end, the fund's reserve in the state treasury totaled \$6.3 million.

The fund's annual revenues are appropriated to the Board of Trustees by the State Legislature in the Judiciary Budget. For the fiscal year which commences April 1, 2000, the Trustees have requested appropriations of \$8.25 million for awards of reimbursement, and \$759,000 for the fund's administrative costs.



RESTITUTION REVENUES

Restitution receipts since 1982 total \$4.7 million. These revenues were secured from dishonest lawyers, their estates, and from the settlement of claims against collateral sources which were economically liable for the underlying losses that the fund reimbursed.

It's a fact that lawyers who steal from their clients are unable to reimburse their victims, much less the Lawyers' Fund for its awards. That's one reason protection funds nationwide are considered to be quasi remedies of last resort for victims of lawyer theft.

The Lawyers' Fund nonetheless endeavors to recoup restitution when feasible: by judicial orders entered pursuant to the restitution provisions of the Penal, Criminal Procedure and Judiciary Laws; by direct action against dishonest lawyers and other collateral sources; and by negotiated confessions of judgment.

Civil claims are pursued against banks and insurance companies that have paid checks bearing the forged endorsements of law clients. Other actions include the enforcement of creditor claims against the estates of dead lawyers, and the prosecution of creditor claims in bankruptcy court.

Section 468-b of the Judiciary Law authorizes the fund to seek restitution in its own right, and by subrogation and assignment arrangements with law clients who have received awards.

Representation by the Department of Law

Litigation which seeks to enforce the fund's creditor claims is frequently complex and protracted, particularly in cases of action asserted under the Uniform Commercial Code, and as subrogee of

purchasers of title insurance. Those actions are venued in the Supreme Court statewide. In addition, the fund's creditor rights are frequently enforceable only in federal bankruptcy proceedings, or in a Surrogate's Court. And claimants who are denied awards of reimbursement by the Board of Trustees can challenge those determinations in Article 78 Proceedings in the Supreme Court.

Assistant Attorneys General who represented the Lawyers' Fund in its 1999 litigation efforts deserve special mention for their professionalism and advocacy skills. They are Kathryn Blake, Marcus Mastracco, Dennis McElligott, Robert Molic, Peter H. Schiff, and Julie Sheridan.

Thank you for your efforts on my behalf. I did not know about the Lawyers' Fund until my attorney mentioned it. I'm very grateful for what your organization has done for me.

--Message from a claimant (1999)

The enforcement of the fund's creditor claims has grown to the point where it requires the full-time effort of an Assistant Attorney General. Pursuant to section 18 of the State Finance Law, the Department of Law has been compensated for its legal representation with a 22 per cent fee on each cash recovery it secures for the fund. In the interests of efficiency and economy, that compensation scheme was amended at the close of 1999. The Lawyers' Fund and the Department of Law executed a Memorandum of Understanding whereby the Lawyers' Fund will, in effect, underwrite the payroll expense of an Assistant Attorney General, who will devote full-time to the fund's restitution litigation.

Judicial Precedents

Litigation involving the Lawyers' Fund, most of which has been initiated by the fund, has spawned important judicial precedents in the areas of consumer protection, the enforcement of the Trustees' creditor rights, and the Uniform Commercial Code.

The legal standing of the Lawyers' Fund to pursue restitution claims – and the scope of the fund's right – was recognized by the Court of Appeals in *Clients' Security Fund v. Grandeau, et al.*, 72 N.Y.2d 62 (1988). *Grandeau* sustained the fund's right, as subrogee of reimbursed law clients, to pursue the law partner of a dishonest lawyer for negligence in supervising the management of the law partnership.

Following *Grandeau*, the Legislature amended the Judiciary Law to enlarge the fund's subrogation rights. (Chapter 624, Laws of 1988; Judiciary Law §468-b {9}). The statute also creates a statutory lien that attaches to a dishonest lawyer's restitution obligations.

Lawyers' Fund v. Bank Leumi Trust Company, et al., ___ N.Y.2d ___

(Decided 2/22/00). The Court of Appeals determined that the Lawyers' Fund, under an assignment from the client-payee, can recover the face amount of a check which was paid over the client's forged endorsement, plus interest from the date of the forgery. The fund had reimbursed the client two-thirds of the face amount, but sued for the full face amount of the check. The fund's policy is to restore the excess recovery to the client. The Court of Appeals reversed the Appellate Division's holdings that limited the fund's recovery to the amount of its award of reimbursement, with interest from the date of the award.

In *Clients' Security Fund v. Goldome*, 148 Misc. 2d 157 (Sup. Ct., Monroe Co. 1990), Mr. Justice Boehm granted summary judgment to the fund for the face amount of a law client's forged check. The defendant bank was denied standing to challenge the Trustees' exercise of discretion in reimbursing a theft which occurred after a lawyer's disbarment.

In *Lawyers' Fund for Client Protection v. Manufacturers Hanover*, 153 Misc. 2d 360 (Sup. Ct., Albany Co. 1991), Mr. Justice Keegan clarified issues of common law by holding that an attorney in a debt collection engagement has no apparent authority to endorse the client's signature on the check that pays the debt. The defendant bank was held strictly liable to the Lawyers' Fund as the client's subrogee.

Matter of Estate of Sheridan, 149 Misc. 2d 519 (Surr. Ct., Yates Co. 1991) involved a novel feature of common law. In *Sheridan*, the court recognized the fund's capacity to assert the "sovereign's prerogative right" to priority as a creditor. Surrogate Falvey ruled that the Lawyers' Fund, in its capacity as an agency of the State of New York, was entitled to priority over all other non-secured creditors of a dishonest lawyer's estate. The holding in *Sheridan* was asserted successfully in *Matter of Estate of Zimmerman*, No. 272547 (Surr. Ct., Nassau Co. 1996), and *Rowley v. Besse*, No. 836-93 (Sup. Ct., Albany Co. 1997).

Frankly, I did not believe that my client would ever be compensated for her loss. The fact that your agency is willing to compensate her gives me pride in being a lawyer.

-Message from a lawyer (1999)

Lawyers' Fund for Client Protection v. Gateway State Bank, 239 A.D.2d 826 (3rd Dept. 1997), extended the fund's creditor rights in a forged endorsement case. The Appellate Division, Third Department, applied a six-year statute of limitations, in contract, to the fund's subrogation claim against a disbarred lawyer's depository bank (Gateway). The court also approved Albany County as a proper county of venue in restitution actions by the Lawyers' Fund. The Appellate Division and the Court of Appeals subsequently denied Gateway leave to appeal to the Court of Appeals.

Upon remand, the trial court dismissed all of the defenses raised by Gateway and granted judgment to the Lawyers' Fund for the face amount of the law client's check, notwithstanding its claim that it acted in a reasonably commercial manner in servicing this attorney escrow account. *Lawyers' Fund for Client Protection v. Gateway State Bank*, 181 Misc. 2d 660 (Sup. Ct., Albany Co. 1999). Gateway has appealed to the Appellate Division, Third Department. The appeal was argued in January, 2000.

Fergang v. Flanagan, 174 Misc.2d 790 (Sup. Ct., Nassau Co., 1997) clarified the liabilities of payee and depository banks in forged endorsement litigation. This action was prosecuted by the Lawyers' Fund, as subrogee, following a \$100,000 award of reimbursement to the claimant Fergang. The decision of Mr. Justice Phelan holds the claimant's bank (the drawee) is liable for the face amount of the check which bears the forged endorsement. The drawee bank, in turn, recovers from the dishonest lawyer's depository bank for breach of warranty, plus attorney fees. Affirmed, 259 A.D.2d 597 (2nd Dept., 1999).

Lawyers' Fund v. Chemical Bank, 246 A.D.2d 403 (1st Dept. 1998). The First Department's decision holds that a law client who loaned a portion of her personal injury settlement to her law firm ratified the forgery of her endorsement on the settlement check. The ratification occurred despite the claimant's ignorance of the forgery and her status as a co-payee.

Lawyers' Fund v. Bank Leumi Trust Co., et al., 286 A.D.2d 836 (3rd Dept. 1998). Special Term denied summary judgment to the Lawyers' Fund on its subrogation claim against an insurance company that paid a personal injury settlement over the forged endorsement of the client-payee. The settlement check was "payable through" the insurer's bank. The Third Department reversed, and gave judgment to the fund in the amount of its award.

RESTITUTION AS A DISCIPLINARY SANCTION

At the Trustees' behest, the State Legislature in 1989 amended section 90 of the Judiciary Law to grant the Appellate Divisions of the Supreme Court authority to order a lawyer to make restitution for the theft of client property.

Subdivision (6-a) of section 90 permits an Appellate Division to order restitution in resignation as well as contested disciplinary proceedings. The statute also provides that restitution orders are enforceable as civil money judgments.

The Appellate Division, Third Department, was the first court to invoke the new statute. In *Matter of Cooper*, 168 A.D.2d 695 (3rd Dept. 1990), it ordered a disbarred lawyer to make restitution of \$1.03 million in thefts from three estates and a conservatorship. The Court also ordered that restitution be paid to Cooper's victims, or the Lawyers' Fund to the extent it reimbursed those losses.

Since *Cooper*, all of the Appellate Divisions have exercised their statutory

restitution authority. Representative cases include *Matter of Israel*, 230 A.D.2d 293 (1st Dept. 1997); *Matter of Pollack*, 229 A.D.2d 73 (2nd Dept. 1997); *Matter of Chestara*, 244 A.D.2d 699 (3rd Dept. 1997); and *Matter of Wedlock*, 230 A.D.2d 422 (4th Dept. 1997).

The restitution statute has proven to be helpful to the victims of dishonest lawyers. It's also a flexible complement to an Appellate Division's broad authority to regulate the practice of law in the interests of protecting the public.

Matter of Natale, 211 A.D.2d 36 (2nd Dept. 1995) is an apt example. In that disbarment proceeding, the Appellate Division, Second Department, approved a unique restitution arrangement to be administered by the Lawyers' Fund.

The Court authorized a reimbursement pool to be funded by legal fees owed to the disbarred lawyer. Those fees were assigned to the Lawyers' Fund. The principal beneficiary of the restitution pool was a young lady named Christine. Her attorney stole \$388,000 from the settlement of a medical malpractice action.

I wish to thank the Trustees and staff of the Lawyers' Fund and particularly the lawyers of New York State who made this award possible. My faith in the law profession has been restored.

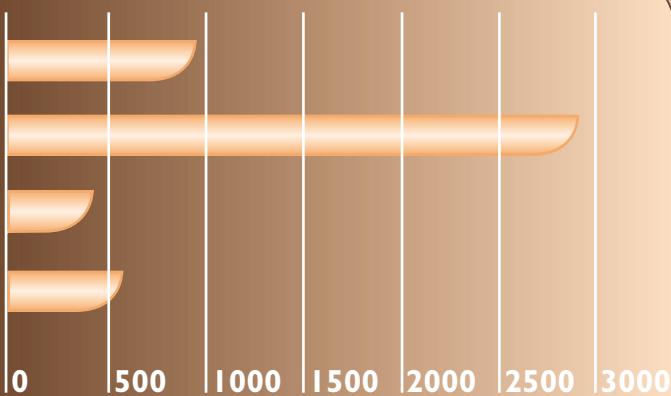
— Message from a claimant (1999)

Together with a \$100,000 award of reimbursement from the Lawyers' Fund, the reimbursement pool provided Christine with an additional \$288,000, which was paid to her court-appointed guardians for her benefit. A similar restitution arrangement was established in 1997 to benefit the clients of another lawyer who misappropriated settlement proceeds in personal injury litigation.

Matter of Dussault, 215 A.D.2d 843 (3rd Dept. 1995) involves a different innovative use of the restitution statute. In that disbarment proceeding, the Appellate Division, Third Department, provided judgments of restitution to 100 escrow beneficiaries who were creditors of the dishonest lawyer's clients. Those judgments were converted into awards of reimbursement totaling \$1,686,900.

The civil judgment authorized by the restitution statute proved especially helpful when a disbarred attorney, in May 1997, won \$1 million in the New York State Lottery. The fund had previously awarded \$100,000 to one of his client victims. With the section 90 restitution judgment in hand, the Lawyers' Fund froze payment of his lottery prize, and later recouped the \$100,000 award, plus interest and attorney fees.

DISTRIBUTION OF AWARDS SINCE 1982



First Department: 960 Third Department: 434
 Second Department: 2,935 Fourth Department: 547

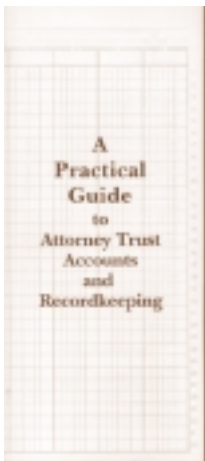
PUBLIC INFORMATION AND CONSUMER EDUCATION

The Board of Trustees encourages public information about its efforts and programs to protect consumers from dishonest conduct in the practice of law. Indeed, the Board's experience since 1982 confirms that responsible affirmative efforts in public information promotes public confidence in the bar's basic integrity, and its concern for the well-being of clients.

Nowhere in the United States has there been a public information effort more extensive or varied. Early on the Trustees were fortunate to retain the Paige Marketing Communications Group, Inc., of Utica for expert help in this area. It's been a rewarding collaborative experience, with Paige Marketing providing the fund with creative counsel in all its outreach efforts.

These efforts began, simply enough, with a plain-English brochure explaining the fund's organization, its jurisdiction and its procedures. That brochure, in revised form, is widely distributed to bar associations, government offices likely to encounter complaints of lawyer dishonesty, lawyer discipline agencies and law schools.

Related projects have included radio, television, and newspaper interviews about the fund, and two commercially produced public service announcements.

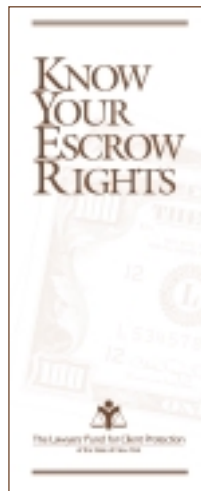


To help lawyers, law office staffs and law students to better understand the Appellate Divisions' banking and recordkeeping rules, the fund has

produced **A Practical Guide to Attorney Trust Accounts and Recordkeeping**, now in its third edition.

In 1995, the Trustees published a plain-English guide to the law of escrow, **Know Your Escrow Rights**. That consumer pamphlet was prompted by the fact that 30 percent of all client losses involve the misuse of escrow funds by lawyers.

Know Your Escrow Rights has been distributed widely in downstate counties where escrow losses occur most frequently. As a help to the bar, the Trustees published a companion pamphlet, **Know Your Escrow Rights: The Lawyers' Edition**, with citations to relevant cases, statutes and administrative regulations. Complimentary copies are provided, in bulk, to all bar associations and law schools in New York.



These practical guides have been supplemented with the publication of a series of eye-catching public service announcements about the Lawyers' Fund for legal and law school publications.

Trustees and staff address professional and civic service organizations, and participate in state and national disciplinary conferences. The fund's Executive Director served, from 1987-1990, as a member of the American Bar Association's Standing Committee on Lawyers' Responsibility for Client Protection; and as Chair of the ABA's Advisory Commission on Client Protection Funds from 1991 to 1993.

In 1999, Trustee Bernard F. Ashe was appointed to the ABA's Standing Committee for Client Protection. Bar associations are provided articles about the fund's activities for publication in their journals and newsletters. All awards of reimbursement are announced publicly by press releases that are distributed to the media statewide.

ATTORNEY TRUST ACCOUNTS: THE VIDEO



In 1996, the fund joined with the New York State Bar Association in producing **Attorney Trust Accounts and Law Office Record Keeping**, a 15-minute video that focuses on court rules and accounting standards that govern the fiduciary obligations of lawyers to maintain escrow and client trust accounts, IOLA bank accounts and law office record systems.

The video also covers court rules regarding the reporting of bounced checks on attorney trust accounts, missing clients, and signatories for attorney bank accounts. The video was designed for a broad audience, including law office staffs, law students, accounting firms, banks, and other businesses that have escrow transactions with New York lawyers and law firms.

As a public service, complimentary copies of the video were distributed to county and city bar associations statewide, deans of law schools, law school teachers of legal ethics, and Attorney Disciplinary Committees.

WHAT'S A POWER OF ATTORNEY? ANSWERS FOR NEW YORKERS

With the help of the Government Law Center of the Albany Law School of Union University, the Lawyers' Fund in 1996 published a consumer pamphlet guide on the subject of powers of attorney.



What's A Power of Attorney? is a 12-page guide, in plain English and question and answer format, that addresses basic principles of law, fiduciary conduct and important changes in New York statutes that took effect on January 1, 1997. The pamphlet has been widely distributed to the senior citizen community, including 100,000 copies purchased by the New York State Department of Law.

AVOIDING GRIEF WITH A LAWYER — A PRACTICAL GUIDE

In the Spring of 1998, the Trustees published another plain-English consumer guide which points out pitfalls to be avoided in attorney-client relationships. **Avoiding Grief With A Lawyer** covers the practical problems that consumers frequently encounter in typical legal engagements, warning signs of troubles and problems, and ways to avoid and deal with them. The pamphlet is being widely distributed to bar associations, consumer protection agencies, legislative offices, and public libraries throughout New York State.

With the cooperation of the state's judicial leaders, a special version of

In February 1997, the Lawyers' Fund opened its Web site on the Internet. The site was financed by a bequest from the Last Will and Testament of John E. Kingston, a Justice of the Supreme Court in the Tenth Judicial District. It was designed and constructed by Global 2000, an Albany-area Internet Server.

Available on the fund's Web site is a wealth of information about the Lawyers' Fund, including the frequently asked questions about the organization of the fund and its procedures; the Trustees' Regulations; reimbursement claim forms; the text of recent Annual Reports; consumer publications and press releases; addresses and telephone numbers of Attorney Grievance Committees; and a roster of client protection funds nationwide.

The "Links to Internet Resources" button on the fund's home page provides visitors with links to numerous court rules and related practice materials; the web sites of law libraries and other legal research resources in the United States; bar associations; and state and federal government web sites.

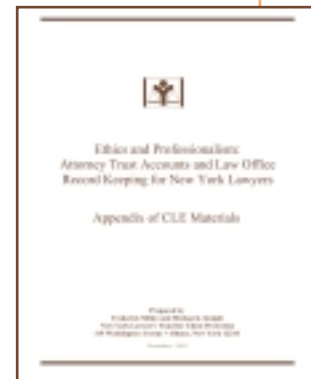
It's the first Web site of its kind on the Internet. In its first year of operation, it was accessed by more than 26,000 visitors from around the world. The site currently averages 1,200 "visitor hits" weekly.



Avoiding Grief has been prepared for the New York State Unified Court System. It bears a message from Chief Administrative Judge Lippman, and arrangements have been made to distribute 300,000 to court users using the auspices of the courts and court-related agencies of the judicial branch.

Appendix of CLE Materials

New York's Mandatory Continuing Legal Education program requires that members of the bar acquaint themselves with the fiduciary and record-keeping obligations of lawyers when they are entrusted with money and property belonging to clients and escrow beneficiaries. To assist bar associations and educational institutions develop CLE seminars in this area of practice, the Lawyers' Fund published this 70-page compendium of applicable statutes, court rules, ethics opinions of bar associations, and practical advice for lawyers and law firms.



EVALUATING REIMBURSEMENT CLAIMS

A claimant seeking reimbursement is provided a two-page application form, together with necessary instructions and a copy of the Trustees' procedural regulations.

When the claim is filed, it's assigned an identifying number; acknowledged and assigned to a member of the staff for investigation. Claims are screened to establish *prima facie* eligibility. An alleged loss that's not eligible for reimbursement is dismissed by the Executive Director with a written explanation to the claimant why it does not qualify for reimbursement.

Clients who allege a misappropriation of money or property in the practice of law are instructed to report their losses to the appropriate Attorney Grievance Committee and District Attorney, and to cooperate with these agencies in their investigations.

Unless a claim is clearly unfounded or ineligible, the lawyer cited by the claimant is provided a copy of the claim and supporting papers, and is invited to respond to the client's allegations.

Claims are readied for the Trustees promptly following an Appellate Division's disciplinary decision involving the lawyer complained about or; in appropriate cases, promptly following the lawyer's criminal conviction for larceny or similar conduct.

Section 468-b of the Judiciary Law gives the Trustees sole discretion to determine the merits of claims, the amount of reimbursement to be awarded and to fix terms and conditions for its awards.

All claims presented to the Trustees are accompanied by a written report which summarizes the facts relating to the client's alleged loss, and a recommendation for action by the Trustees.

The Trustees evaluate these claims at their quarterly meetings — upwards of



Thank you all for turning a dismal experience into a positive one, and returning my faith in the system.

— Message from a claimant (1998)

100 claims per meeting. Meetings of the Board have been held in all 12 districts in New York State. Venues in 1999 included Cooperstown, Manhattan and Mineola.

As a convenience to clients and the lawyers who assist them, most claims are processed on the client's papers and supporting documents and evidence. Rarely does an attorney who is charged with dishonest conduct contest or oppose an award. Hearings with the Trustees, or a panel thereof, are held when they deem necessary, or when requested by a party to the claim.

Awards are paid by the State Comptroller, usually in lump sums, upon vouchers certified jointly by the Chairman, Treasurer and the Executive Director.

JUDICIAL REVIEW OF REJECTED CLAIMS

Since 1982, the Lawyers' Fund has fully processed 9,795 applications for reimbursement. The Trustees determined that 4,876 claims merited reimbursement; another 4,744 claims were rejected with findings that the claimants had not provided satisfactory evidence of reimbursable losses.

Only three claimants have judicially challenged adverse determinations by the Board of Trustees pursuant to Article 78 of the Civil Practice Law and Rules.

In the Claim of Tabak, the Trustees declined to make an award where it appeared that the transaction with the claimant's attorney involved a personal loan of money, not the theft of law client money in the practice of law.

Mr. Justice Canfield sustained the Trustees' determination in *Matter of Tabak v. Lawyers' Fund*, 166 Misc.2d 502 (Sup. Ct., Albany Co. 1995). The court reviewed the Trustees' broad grant of discretion from the Legislature, their procedural regulations and their determination that the claimant had not provided satisfactory evidence of a reimbursable loss. The court held that the fund's procedures provided adequate due process, that the Trustees' determination was supported by the record, and that it was neither arbitrary nor capricious.

In the Claim of Bluth, the Trustees determined that the claimant did not provide satisfactory evidence of an eligible loss in a real estate transaction with a lawyer

REPRESENTATION BY COUNSEL

who was disbarred for unrelated professional misconduct. The claimant's Article 78 proceeding in the Supreme Court, Kings County (Clemente, J.) was dismissed on the merits by motion of the Lawyers' Fund. (*Matter of Bluth v. Lawyers' Fund*, No. 044062/97 (Sup. Ct., Kings Co. 1998)).

The Appellate Division, Second Department, affirmed the dismissal on March 8, 1999, writing that: "The Lawyers' Fund . . . properly exercised its discretion in this proceeding."

In the Claim of Haskins, the Trustees determined that the claimant did not provide satisfactory evidence that his loss resulted from a theft of escrow funds, rather than the repayment of a loan to his attorney. The claimant's Article 78 proceeding is pending in the Supreme Court, Suffolk County.

Claimants are not obliged to be represented by counsel. The fund's procedures are straightforward and uncomplicated, and the fund's staff provides help in documenting client losses.

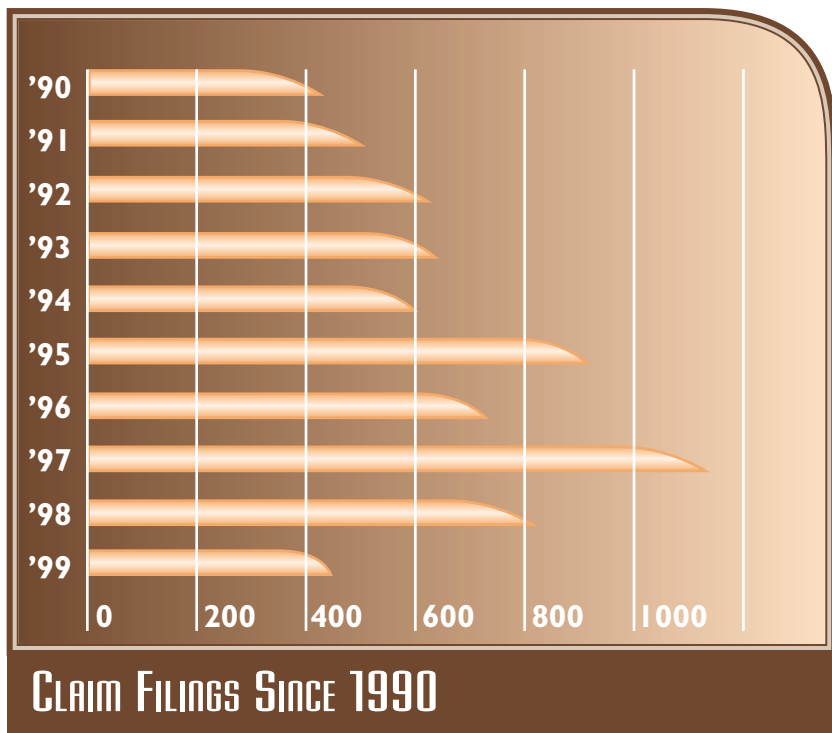
The Trustees nonetheless encourage the participation of counsel. The theft of money in the practice of law invariably confronts law clients with legal problems. The theft of a buyer's down payment in the purchase of a residence, for example, precipitates financial, legal and practical problems for the buyer; the seller; lending institutions, title insurers and the like.

Members of the bar have come forward enthusiastically to accept this opportunity of public service. Indeed, nearly half of all claimants have counsel helping them with their applications.

Court rules of the Appellate Divisions do not allow lawyers to charge or accept legal fees for this professional service, except with the prior approval of the Board of Trustees. See 22 NYCRR 603.24, 691.24, 806.16, 1022.35.

This statewide policy has been implemented in section 7200.14 (b) of the Trustees' regulations: no fee applications by lawyers, including public officers and court-appointed fiduciaries, will be approved by the Trustees "absent a showing of extraordinary circumstances." Since 1982, only three law firms have requested the Trustees' approval of fee applications. The Trustees declined in each case.

Schettino v. Alter, 140 A.D.2d 600 (2d Dept. 1988) is an encouragement for the bar to participate in the work of the Lawyers' Fund. In *Schettino*, the Appellate Division, Second Department, held that the fund is a quasi-judicial agency, and that all participants in its proceedings are absolutely immune from defamation liability. This immunity extends to claimants and to lawyers who assist them in the processing of their claims. Counsel are also provided certificates of appreciation as a token of the Trustees' appreciation for this contribution of public service.



UNEARNED LEGAL FEES

Disciplinary Rule 2-110 of the Lawyer's Code of Professional Responsibility requires a lawyer to refund unearned legal fees to a law client upon the close of a legal representation.

About a third of all claims presented to the Lawyers' Fund involve so-called "unearned retainers": 3,511 of 9,795 claims since 1982. In most cases, the claimants were law clients at the time of their lawyers' disbarment or suspension from practice. Not infrequently, they paid legal fees in advance, oblivious that a disbarment or suspension was imminent.

The typical "unearned retainer" loss that gets reimbursed is relatively small in the scale of all losses, about \$2,000. They are nonetheless difficult to evaluate, as the process requires a search for "dishonest conduct" in a lawyer's refusal or inability to refund the claimant's legal fee.

That requires a difficult sorting of evidence of legal work actually provided from issues of malpractice, neglect and breach of contract. These difficulties are compounded by the usual absence of written retainer agreements, time sheets, law client files, and the accused lawyer's refusal to cooperate.

After much wrestling with these difficulties, the Trustees amended their Regulations in 1990 to codify the criminal-law concept of "larceny by false promise" as a species of dishonest conduct that can result in an award of reimbursement from the fund. That codification is contained in section 7200.8 (e), of the Trustees' Regulations.

THEFT OF PERSONAL INJURY SETTLEMENTS

A common device of lawyer theft nationwide is the forgery of law clients' endorsements on settlement checks in personal injury litigation. The forgery frequently follows the unauthorized settlement of the client's litigation with an insurance carrier, accompanied by the forgery of the client's signature on a general release and a discontinuance of the lawsuit. The theft is facilitated by a long-standing, and well-intentioned, industry practice to make the settlement draft jointly payable to law client and attorney. Notice to the law client was not part of that practice.

In 1988, the Trustees proposed to the State Insurance Department a regulatory device that has proven to be highly effective in deterring and detecting losses in this area of legal practice. It's called the "Regulation 64 Notice" which, since September 1988, requires liability insurers and their agents to provide law clients with written notice of payment

whenever a third-party liability claim is settled for \$5,000 or more. (11 NYCRR 216.9).

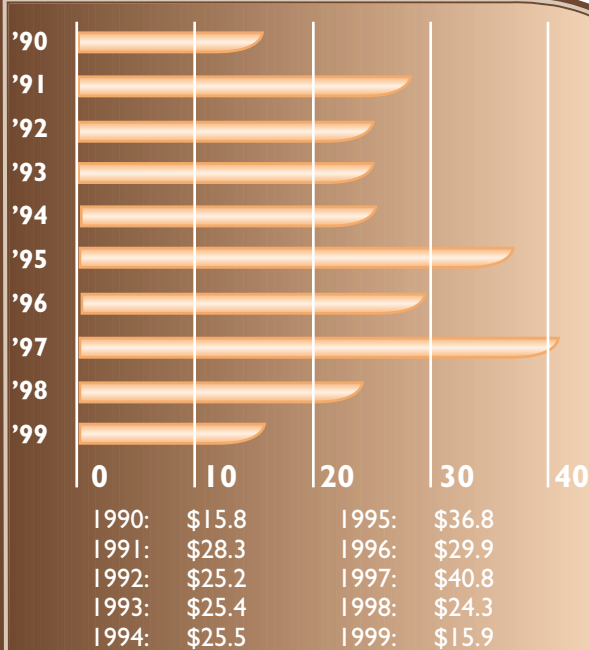
The Regulation 64 Notice has substantially reduced losses and claims to the Lawyers' Fund. In 1993, for example, the fund reimbursed 35 thefts involving forged endorsements on settlement checks. That number has substantially declined over the years (to seven in 1998, and one in 1999) and has led to the criminal prosecution of several lawyers for grand larceny of client settlements.

The Regulation 64 Notice also helps in the prompt discovery of thefts, which shifts clients' losses to the banks which improperly honor forged endorsements in the collection chain. Before the Regulation 64 Notice, civil actions to recover losses were frequently barred by the statute of limitations.

Based on the New York experience, the American Bar Association has approved the Regulation 64

Notice as a Model Rule for attorney disciplinary systems nationwide. Versions of Regulation 64 have been adopted in California, Connecticut, Delaware, Georgia, Maryland, New Jersey, Pennsylvania and Rhode Island. Six states have the regulation under study.

REPORTED LOSSES SINCE 1990
(in millions)



LOSSES IN INVESTMENT TRANSACTIONS

Among the most difficult claims are those which involve the loss of money in investment transactions with lawyers.

By the close of 1999, there had been 1,097 claims which alleged losses in investment deals with lawyers. Those claims reported losses of \$111 million. By way of contrast, the Trustees have approved awards of only \$11.3 million in 296 claims.

Most losses in investment transactions do not qualify for reimbursement from the Lawyers' Fund. One reason rests with the fund's enabling statute, which requires that eligible losses occur in "the practice of law." Another rests with the Legislature's determination to bar losses which result solely from a lawyer's activities as a "fiduciary."

Consistent with the statute and legislative history, the Trustees require that a claimant's loss be caused by a lawyer's dishonest conduct in the practice of law and be traceable to an attorney-client relationship. In the evaluation of claims in this area, the Trustees apply the so-called "but for" test that is used by protection funds in most states: "but for" a dishonest breach of trust in an attorney-client relationship, the claimant's loss would not have occurred.

THEFTS IN REAL PROPERTY TRANSACTIONS

Nearly a third of all losses reimbursed by the Lawyers' Fund involve the theft of money in real property transactions: \$23.5 million in 1,260 awards since 1982.

The typical loss consists of the theft of a down payment in the purchase and sale of residential real estate: one- and two-family residences, cooperatives and condominiums. In downstate New York, it's the usual practice for sellers to require a down payment equal to 10 percent of the purchase price, and for the seller's lawyer to hold the down payment in escrow until title passes.

The theft of a down payment presents immediate problems for everyone: buyers and sellers, lenders, title insurers, etc. These problems are magnified when the loss is discovered on the eve of a closing.

The Trustees persist in efforts to sensitize clients, lawyers and real estate agents to the importance of escrowed down payments. At the Trustees' recommendation, the Legislature added a new Article 36-c to the General Business Law, effective January 1, 1991, which codifies their fiduciary obligations to segregate and safeguard contract deposits in special bank accounts. The statute requires that each contract of purchase and sale identify the escrow agent and the bank where the down payment is to be deposited pending the closing.

The Trustees have also produced and printed a consumer guide called **Know Your Escrow Rights**, with an annotated version for lawyers called **Know Your Escrow Rights: The Lawyer's Edition**. And work continues on the development of a model escrow agreement for down payments in residential transactions in New York State.

CLAIMS INVOLVING PERRY V. FERRARA

Mr. Ferrara maintained his law office in Valley Stream, Nassau County. His practice specialized in mortgage financings and among his clients was a mortgage banker who provided financing for buyers of residential real estate.

Mr. Ferrara was convicted, in 1998, of grand larceny in Nassau County in connection with the misappropriation of escrow funds which were entrusted with him by his client to fund mortgages. He was sentenced to state prison, and ordered to pay restitution of \$3 million.

The Lawyers' Fund received 83 claims seeking reimbursement and accusing Ferrara of dishonest conduct in the practice of law. The fund ultimately approved 59 awards of reimbursement, and restored more than \$2 million to his victims.

Mr. Ferrara's misappropriation of mortgage funds has raised innumerable legal issues concerning the validity of the underlying real property conveyances and mortgages, and the enforceability of title insurance. Those issues are being litigated in numerous civil actions in the Supreme Court, Nassau County, with the fund participating as subrogee for reimbursed victims.

Mr. Ferrara's misuse of escrow money in personal business and real estate ventures in upstate New York, including a Cooperstown wax museum of baseball greats, has likewise required the Lawyers' Fund to pursue restitution and creditor claims in the Supreme Court in Albany, and Otsego County. The fund is also prosecuting an action against the bank where Mr. Ferrara maintained his attorney escrow account, based upon its failure to provide the fund with notices of bounced checks on that account.

In all these actions, the Lawyers' Fund is represented by the Department of Law.

THE BOUNCED CHECK RULE

A bounced check on a lawyer's trust or escrow account is an obvious signal that a client's funds may be in jeopardy. Additionally, a bank's advice to a client/customer that a lawyer's check has been dishonored for insufficient funds is one of the few early-warning signals that's available to a client. Time after time, however, the anxious client excuses the incident when offered a plausible explanation. That forbearance often enables a dishonest lawyer to manipulate and conceal the misuse of other clients' funds, sometimes for years.

One practical solution to deter and detect losses is the reporting of bounced checks on lawyer trust and escrow accounts to attorney disciplinary agencies, in a manner proposed by the American Bar Association's Model Overdraft Rule.

In 1989, the Trustees adapted the ABA's model rule for use in New York State, and proposed it to the Administrative Board of the Courts as a rule of court. Discussions with representatives of the New York State Bankers and Bar Associations were successful, and the Appellate Divisions promulgated necessary rule changes effective January 1, 1993.

The rules (22 NYCRR 1200.46(b)(1), (2); Part 1300) require practitioners to designate their client fiduciary accounts as either "Attorney Trust Account," "Attorney Special Account" or "Attorney Escrow Account." And lawyers may only use banks which have agreed to report dishonored checks on these accounts.

Virtually every qualified bank in New York State participates in this program. The Lawyers' Fund serves as a clearinghouse for these notices, which are mailed to its offices in Albany. They are held for 10 days to allow banks to withdraw notices that were filed in error. If

BOUNCED CHECK REPORTS FILED WITH GRIEVANCE COMMITTEES

	1993	1994	1995	1996	1997	1998	1999	Totals
First Department								
First Judicial District	79	79	119	181	203	220	200	1081
Twelfth Judicial District	22	16	11	16	17	31	18	131
Totals:	101	95	130	197	220	251	218	1212
Second Department								
Second Judicial District	48	163*	38	50	41	34	57	431
Ninth Judicial District	42	19	17	36	71	76	64	325
Tenth Judicial District	51	44	55	94	79	62	97	482
Eleventh Judicial District	24	13	17	23	35	39	38	189
Totals:	165	239	127	203	226	211	256	1427
Third Department								
Third Judicial District	8	6	3	11	14	18	6	66
Fourth Judicial District	2	2	1	3	1	3	1	13
Sixth Judicial District	0	0	1	2	0	1	3	7
Totals:	10	8	5	16	15	22	10	86
Fourth Department								
Fifth Judicial District	4	2	4	9	6	17	12	54
Seventh Judicial District	9	17	10	27	11	10	18	102
Eighth Judicial District	10	20	50	14	16	17	21	148
Totals:	23	39	64	50	33	44	51	304

* 120 bounced check notices involved a single law firm

not withdrawn, each notice is forwarded to the appropriate attorney grievance committee for investigation. A lawyer/law firm named in a bounced check report is required to furnish the committee with a written explanation for the transaction, and bank statements on the attorney trust account for the prior six months.

Over a five-year period, the Lawyers' Fund has processed approximately 3000 bounced check reports. The face amount of those checks exceeds \$57 million.

As anticipated, most reports result from deficiencies in law office banking practices, not dishonest conduct. In these cases, the rule serves the function of identifying those deficiencies, and alerting practitioners to the accounting, banking and recordkeeping requirements of the

Lawyer's Code of Professional Responsibility.

That being said, the effectiveness of the program is reflected in the fact that approximately 40 lawyers have been identified and apprehended for client thefts because of bounced check reports. Most of those lawyers were accused of dishonest conduct in reimbursement claims to the fund by their victims.

The importance of the Bounced Check Rule has been fortified by *Home Savings of America v. Amoros, et al.*, 233 A.D.2d 35, (1st Dept. 1997). In that action, the Appellate Division, First Department, held that a bank's failure to comply with the reporting provisions of the Bounced Check Rule is *prima facie* evidence of its negligence.

DEAD LAWYERS AND MISSING CLIENTS

Disciplinary Rule 9-102 (e) of the Lawyer's Code of Professional Responsibility requires that a signatory on a lawyer's trust, escrow or special account be a member of the New York bar; a limitation that's intended to protect law clients from the misuse of their funds. In sole proprietorships, obvious practical problems can occur upon the death of the practitioner.

With an amendment to Disciplinary Rule 9-102 (g), proposed by the Board of Trustees, the Appellate Divisions have addressed that problem by authorizing an application to the Supreme Court in the local judicial district to appoint a signatory for the account, to disburse the funds on deposit, or to deposit the funds with the Lawyers' Fund for safeguarding and payment to the owners or beneficiaries.

The Lawyers' Fund invoked this new procedure to recover \$147,000 from the stagnant trust accounts of two deceased lawyers (*Matter of Marine Midland Account No. 008-81544-5, #022732-95* (Sup. Ct., Queens Co.)) and *Lawyers' Fund v. Chase Manhattan Bank, #9275-96* (Sup. Ct., Queens Co.). In both cases, the fund had reimbursed clients of the dead lawyers for the misuse of escrow funds.

A comparable remedy was established by the Appellate Divisions in situations where lawyers cannot locate clients who have money on deposit in the trust account. Disciplinary Rule 9-102 (f)

It is reassuring to know that professional ethics exist and that the legal profession in New York has a fund to help victims of the few unethical members of the legal community.

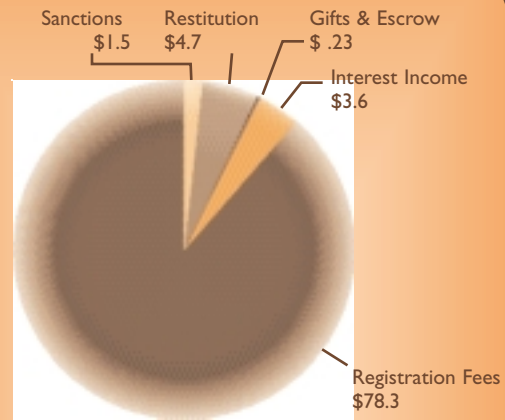
— Message from a claimant (1977)

authorizes a court order directing that the funds be deposited with the Lawyers' Fund.

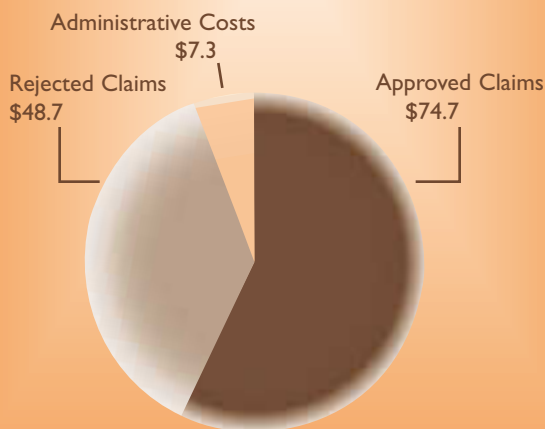
By the end of 1999, the fund had received 124 deposits of escrow funds belonging to missing escrow beneficiaries. The deposits total \$425,447. The fund's staff has located 16 beneficiaries, and restored to them a total of \$66,370. The funds are maintained in a special escrow account in the state treasury.

THE FUND'S FINANCES SINCE 1982 (in millions)

Revenue Sources



Claims and Operations



REIMBURSEMENT CLAIMS PROCESSED

Filed Claims Since 1982

All claims filed by the close of 1999 total 9795. Annual filings have ranged from a low of 230 in 1984, to a record high of 1128 claims in 1997.

Reported Losses Since 1982

Losses in all filed claims total \$323 million, up from \$303 million at the close of 1998. Reported losses have increased from \$3.2 million in 1982 to \$15.9 million in 1999, an increase of 500 percent.

Filings by Category of Loss Since 1982

Losses reported by clients are assigned to the following categories of loss involving client money and property:

- ◆ estate and trust assets
- ◆ real property escrow funds
- ◆ debt collection proceeds
- ◆ settlements in litigation
- ◆ other escrow transactions
- ◆ a lawyer's refusal to refund unearned legal fees
- ◆ embezzlements in investment transactions with clients
- ◆ "other" for all other claims.

The largest number of claims seek reimbursement for unearned legal fees (3511), followed by thefts in real property transactions (1914).

The largest dollar losses involve investment transactions with lawyers (\$111 million); thefts from estates and trusts (\$66 million); and the thefts in real property transactions (\$58 million).

Lawyers Involved in Awards

Awards since 1982 involve dishonest conduct by 606 former members of the bar, up from 578 at the close of 1998. Those lawyers are identified in the

Appendix, together with the judicial districts where they maintained their practices, and the total reimbursement that has been provided to their victims.

The experience in New York State is consistent with the experience nationwide. That is, most thefts involve sole practitioners. Most of those lawyers are male and middle-aged. Very few claims involve female lawyers.

There are patterns to the claims. Losses are generally accompanied by evidence of lawyers beset with marital, professional and medical problems. Gambling and alcoholism are frequently companions, as are economic pressures associated with a lawyer's outside commercial activities. And drug abuse is not uncommon when the misuse of client funds involves younger members of the bar.

Lawyers whose dishonest conduct resulted in awards — "Respondent Lawyers" — and the awards to their clients, are allocated among the state's judicial districts and departments as follows:

Claims Filed in 1999

There were 442 claims filed in 1999, down from 812 filings in 1998. Claims filed in 1999 alleged losses of \$16 million.

The largest number of claims (199) sought reimbursement of legal fees. They alleged losses of \$1.1 million.

The largest reported losses (\$4.3 million) occurred in reported losses involving estates and trusts, followed by \$4 million in investment transactions with lawyers.

LAWYERS INVOLVED IN AWARDS SINCE 1982

	Respondent Lawyers	Number of Awards	Lawyer Population
First Department			
First Judicial District	174	920	62,655
Twelfth Judicial District	13	40	1,956
Totals:	187	960	64,611
Second Department			
Second Judicial District	58	328	6,297
Ninth Judicial District	67	800	9,456
Tenth Judicial District	107	1,374	14,983
Eleventh Judicial District	42	433	3,970
Totals:	274	2,935	34,706
Third Department			
Third Judicial District	23	291	4,820
Fourth Judicial District	15	71	1,549
Sixth Judicial District	12	72	1,491
Totals:	50	434	7,860
Fourth Department			
Fifth Judicial District	14	48	2,974
Seventh Judicial District	32	244	3,355
Eighth Judicial District	49	255	4,845
Totals:	95	547	11,174
Grand Totals:	606	4,876	118,351

LOOKING AHEAD

Reimbursement Awards in 1999

The Trustees approved 161 awards in 1999, down from 415 awards in 1998. The awards involved documented losses of \$3.7 million.

Awards of reimbursement totaled \$3.4 million. They ranged between \$9 and \$200,000. The median client loss, and award, in 1999 was \$5,000.

The 1999 awards reimbursed losses resulting from the dishonest conduct of 62 former members of the New York bar. Of that number, 34 were respondents in awards that were approved in prior years. The names of 28 dishonest lawyers appear for the first time in 1999 awards.

Ineligible Claims

Between 1982 and 1999, final determinations were reached in 9,620 claims. Of that number, 47,44 claims (49%) were rejected as not meriting reimbursement from the fund. Alleged losses in rejected claims since 1982 exceed \$183 million.

Claims Pending, December 31, 1999

There were 235 claims pending at year's end, down from 337 pending claims on December 31, 1998.

Pending claims allege losses of \$16 million. The fund's contingent liability on those losses, adjusted for its \$300,000 maximum limit on awards, is \$11.6 million.

We continue to recommend changes in policy and legal practice to protect consumers from dishonest conduct in the practice of law.

The Trustees' experience since 1982 demonstrates that doubts about the bar's basic integrity in handling client money are unfounded.

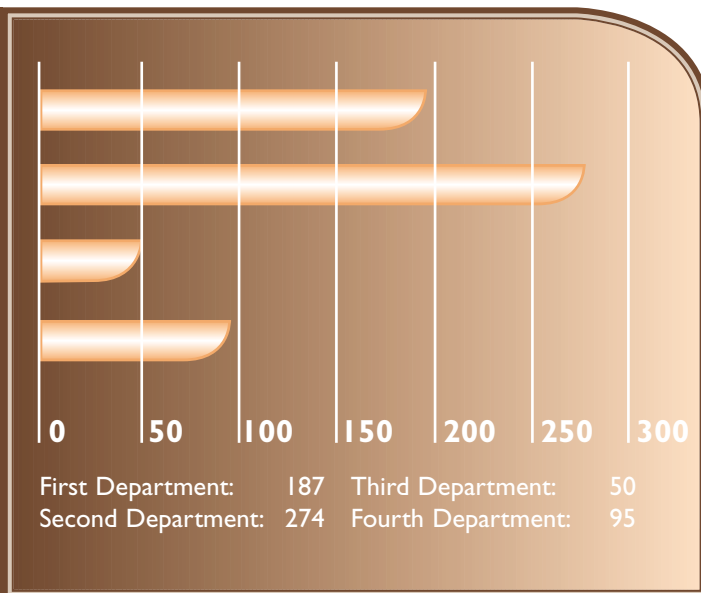
That's not to say that there's no room for improvement.

It's difficult to find a profession that's scrutinized more frequently than the law. Indeed, it's a profession in a constant state of evaluation and critique. In 1993, Chief Judge Kaye and the Appellate Divisions enacted landmark protections for legal consumers in matrimonial litigation. Late in 1995, the bar was presented with a host of additional recommendations in the Final Report of the Chief Judge's Committee on the Profession and the Courts — longhand for the Craco Committee.

The Craco Committee's Report addressed several concerns that the Trustees have discussed in prior Annual Reports: the arbitration of fee disputes, enhanced ethics and skills training for law students, and greater public access to lawyer discipline proceedings.

We conveyed to Chief Judge Kaye our support for other, and complementary, reforms advanced by the Craco Committee: court rules to require an engagement letter where the legal fee to be charged a client is expected to be \$1,000 or more; the broadening of the existing lawyer discipline process to authorize mediation in matters not involving serious professional misconduct; the recasting of available disciplinary sanctions to include remedial training and mentoring to prevent future ethical lapses; and the establishment of a legal ethics institute to provide the profession with a continuing program of ethics, research and education.

LAWYERS INVOLVED IN ALL AWARDS



Alcohol and Substance Abuse in the Profession

In October 1999, Chief Judge Kaye organized the Commission on Alcohol and Drug Abuse in the Profession, which is chaired by Senior Associate Judge Joseph L. Bellacosa. Implicit in the Chief Judge's action is the recognition that the court system and the legal profession in the State of New York share the mutual obligation to deal with the consequences of alcohol, chemical and related afflictions among lawyers, judges and court personnel.

A high percentage of claims filed with the Lawyers' Fund involve problems of alcohol, gambling, substance abuse, and mental disability. Unfortunately, most client losses surface long after the onset of a lawyer's illness, which is oftentimes terminal in so many respects.

The legal profession statewide has demonstrated an enlightened concern to the problem through the quiet and compassionate work of Lawyer Assistance Programs. So too have other professions, and government agencies on all levels. The Lawyers' Fund lends its support to this effort, and the Bellacosa Commission's promise to produce a plan of action for judicial and bar leaders early in 2001.

Bar Examinations

For several years we have proposed that the bar examination test on the subject of a lawyer's fiduciary obligations to safeguard and account properly for law clients' money and property. Implicit in this recommendation is that our system of legal education should prepare students for this important aspect of lawyering.

The announcement in early 2000 that the Court of Appeals has changed the

basic format of the bar examination to include performance testing on practical and ethical issues is welcome news indeed. A lawyer's fiduciary obligations are a complex mix of ethics, procedural and substantive law, accounting principles, and statutory construction. A lawyer's failure to avoid subtle pitfalls can lead not only to terminal discipline, but to civil liability through the application of tort, agency and partnership laws.

This development in legal education, when combined with mandatory continuing legal education, should go far in addressing the deficiencies in the training of lawyers. We applaud these efforts in professionalism by the Board of Law Examiners and the Court of Appeals.

Disbarment for Misusing Client and Escrow Money

The Board of Trustees has consistently urged a firm statewide disciplinary policy that disbarment will be ordered by an Appellate Division court when a lawyer injures a client by theft, fraud or embezzlement. Moreover, there should be no room to doubt our court system's evenhandedness in matters involving the fundamental integrity of lawyers, notwithstanding geography.

We are also similarly concerned with the absence of a statewide policy requiring an attorney grievance committee to report evidence of a lawyer's theft to a District Attorney or other criminal justice agency. A lawyer who steals is a threat to the public, and no public agency should conceal evidence of that lawyer's criminal activity.

Thefts by Lawyer-Fiduciaries

More than a third of all thefts reimbursed since 1982 have involved money embezzled from estates, trusts, guardian-

ships and the like: \$22 million. These losses can devour a lifetime's savings, far beyond the ability of the Lawyers' Fund to reimburse fully.

Insurance is one obvious way of protecting beneficiaries from a fiduciary's breach of trust. Other remedies include mandatory training for fiduciaries, the effective monitoring of fiduciary appointments by the courts, and the tight supervision of their financial accounts.

Dishonest and incompetent fiduciaries persist in shaming the legal profession and the courts who enjoy vast powers of appointment and supervision. Theft by a lawyer-fiduciary is no ordinary larceny. It's an assault on the integrity of the justice system itself.

Early in 2000, Chief Judge Kaye appointed a blue-ribbon Commission on Fiduciary Appointments to examine current law and procedures that govern judicial appointments of fiduciaries. The Lawyers' Fund looks forward to sharing its experiences with the Commission, and its recommendations to eliminate opportunities for fiduciary abuse.

Fiduciary Bank Accounts

The theft of estate assets is readily facilitated, and concealed, when someone other than the fiduciary controls the bank account. If that person is also the signatory on the bank account, it's unlikely that the actual fiduciary receives the monthly bank statements.

The laws of New York should require that the named fiduciary for an estate or trust be provided with a copy of the monthly bank statement. This protection would be similar, in effect, to the notice that insurance carriers are required to send to clients when litigation settlements are mailed to their lawyers.

Existing law requires every bank to have written proof of a fiduciary's appointment before it can open an estate or similar trust account. Requiring the bank to mail a copy of the monthly bank statement to the fiduciary's residence would create no new burden on banks. But most important, it would discourage thefts and alert fiduciaries to irregularities in their bank accounts.

Absent legislative action, we propose that the courts act and bar lawyers, by court rule, from depositing fiduciary funds in banking institutions that do not commit to sending copies of these monthly bank statements to the legal fiduciaries of these estates and trusts.

Confidentiality in Lawyer Discipline Proceedings

Section 90 of the Judiciary Law provides that lawyer discipline proceedings shall be "deemed private and confidential," and that all "papers, records and documents" be sealed unless the court sustains the charges of misconduct lodged against the respondent lawyer.

We persist in our belief that confidentiality should not apply in situations involving the theft of client money and property. Confidentiality should be lifted when a court has probable cause to believe that a lawyer has stolen law client and escrow funds.

The fund's experience proves that dishonest lawyers can and do exploit the laws of confidentiality to conceal dishonest and criminal activity. It's time, in our view, to lift the veil of secrecy in disciplinary proceedings involving the theft of client money and property.

Thefts by Suspended, Disbarred and Bogus Lawyers

It's a crime of misdemeanor rank to engage in the "unauthorized" practice of

law in New York State. It's also a fact that this species of crime is seldom prosecuted in the state's urban and suburban counties. The problem is compounded by the inability of attorney grievance committees to monitor lawyers who have been suspended or disbarred, and forbidden to engage in the practice of law. These kinks in law enforcement encourage the illegal practice of law, and the exploitation of the public, lawyers, judges and court personnel.

The Office of Court Administration maintains an Official Register of Attorneys, which includes current licensing information. See Judiciary Law §468. The Official Register also assigns to each lawyer a unique identification number. At the urging of the Trustees, the Legislature in 1988 declared the Official Register to be a public record.

To deter fraud in our courts and the practice of law, we propose a rule of court that every lawyer be required to endorse his or her Attorney Registration Number on each pleading or brief that the lawyer files with a court or a court agency. That simple endorsement will provide a cost-free and reliable opportunity to verify the credentials of persons who claim to be licensed to practice law in the Empire State. Clearly it would ferret out imposters who threaten both the public and the integrity of the justice system itself.

Escrow Thefts in Real Property Transactions

About 26 percent of all awards since 1982 have involved documented thefts in real property purchases and sales: \$27 million.

These losses typically occur in residential transactions, and frequently they involve the theft of the buyer's down payment by the seller's attorney. These losses can

be harsh, particularly downstate where the usual down payment is 10 percent of the purchase price. And if the theft involves the proceeds from the sale of a residence, a person can be left literally homeless.

As with thefts involving estates, regulatory measures could readily protect home buyers and sellers from the theft of escrow money in real property transactions, particularly down payments. By statute, for example, the Department of Law protects escrow accounts in condominium and cooperative conversions.

Escrow deposits in the purchase and sale of residences are deserving of comparable protection.

Interest on Down-Payment Escrows

Section 778-a of the General Business Law requires that down payments in the purchase and sale of residential real property be safeguarded in special bank accounts, and that the contract identify the escrow agent and the bank where the down payment is to be deposited.

The statute is flawed insofar as it permits escrow agents to use non-interest bearing accounts. We suggest that the statute be amended to require interest-bearing accounts. Also, that the interest be paid or credited to the buyer, unless the contract provides otherwise.

Given the state of modern banking and electronic technology, there's no sound reason for using non-interest bearing bank accounts. Indeed, current law encourages, albeit inadvertently, conflicts of interests in violation of fiduciary law.

Moreover, there's the practical reality that home buyers would be more careful in these escrow transactions if the law provided them with an economic interest in the form of bank interest.

Arbitration of Fee Disputes

Fee disputes constitute a large part of the work of lawyer discipline systems nationwide. The same is true with client protection funds. In New York State, for example, claims seeking the refund of unearned fees constitute 35 percent of all filings. While fee disputes fall outside the jurisdiction of the Lawyers' Fund, they involve issues that are important to law clients. They are also the most visible of all lawyer-client disagreements. It's therefore important that they be resolved in an atmosphere of fairness and efficiency.

The Appellate Divisions in 1993 promulgated rules for fee arbitration in matrimonial actions prosecuted in the Supreme or Family Courts. We endorsed that program, and expressed the hope that it proved adaptable to all fee disagreements. We support the Craco Committee's proposal to extend arbitration to all areas of legal practice.

Public service on behalf of law client protection continues to be a rewarding experience, personally as well as professionally. The support that's been extended to the Lawyers' Fund by the legal profession and the governmental representatives of New York State continues to be a source of encouragement for the Board of Trustees, and the fund's staff.

While the incidence of theft in the practice of law persists and disappoints, there's comfort in the fact that the overall number of dishonest lawyers represented in the fund's statistics represents only a tiny percentage of the bar's total membership. We therefore believe that the overwhelming majority of lawyers observe high standards of integrity when entrusted with law client money and property.

As a small government agency, the fund depends mightily upon the kindness of colleagues in public service. We readily acknowledge our special appreciation to:

The Clerk of the Court of Appeals and his associates for their wise counsel as the fund's liaison to the Judges of the Court;

The staffs of Attorney Grievance Committees statewide for their help in investigating claims, and the support they provide to victims of dishonest lawyers;

Assistant District Attorneys for their efforts to secure restitution for victims of dishonest conduct in the criminal justice process;

The Office of Court Administration for the efficient collection of our revenue, technical help in budgeting and the other tasks of management;

The Attorney General and his assistants for their skilled legal counsel; and

The Office of the State Comptroller for the prudent investment of the fund's assets, and the prompt processing and payment of awards and other expenses from the fund's special revenue account.



This report was prepared by Frederick Miller. Special thanks to Michael J. Knight for his invaluable help in this annual effort.

*Albany, New York
April, 2000*

APPENDIX

ALL LOSSES REPORTED SINCE 1982

Category of Client Loss	Number of Claims	Percent of all Claims	Amount of Loss Alleged	Percent of all Losses
Estates & Trusts	791	8.1	\$ 66,059,364	20.5
Real Property Escrow	1914	19.5	58,439,421	18.1
Unearned Fees	3511	35.8	14,216,623	4.4
Settlements	667	6.8	17,455,793	5.4
Other Escrow	828	8.5	37,101,703	11.5
Debt Collection	598	6.1	2,042,641	0.6
Investment	1097	11.2	111,331,970	34.6
Other	389	4.0	15,549,599	4.8
Totals:	9795	100	\$322,197,114	100

LOSSES REPORTED IN 1999 CLAIMS

Category of Client Loss	Number of Claims	Percent of all Claims	Amount of Loss Alleged	Percent of all Losses
Estates & Trusts	24	5.4	\$ 4,282,607	26.8
Real Property Escrow	67	15.2	1,426,612	8.9
Unearned Fees	199	45.0	1,149,825	7.2
Settlements	65	14.7	3,000,658	18.8
Other Escrow	28	6.3	1,341,532	8.4
Debt Collection	2	0.5	16,110	0.1
Investment	30	6.8	4,080,107	25.5
Other	27	6.1	688,880	4.3
Totals:	442	100	\$15,986,331	100

CLIENT LOSSES IN 1999 AWARDS

Category of Client Loss	Number of Awards	Percent of All Awards	Amount of All Awards	Client Losses Involved	Percent of All Losses	Percent of All Losses Reimbursed
Estates and Trusts	17	10.6	\$1,225,132	\$1,225,132	32.9	100.0
Real Property Escrow	44	27.3	555,345	555,345	14.9	100.0
Unearned Fees	66	41.0	153,897	153,897	4.1	100.0
Settlements	7	4.3	202,282	202,282	5.4	100.0
Other Escrow	19	11.8	523,824	523,824	14.1	100.0
Debt Collection	0	0.0	0	0	0.0	
Investment	8	5.0	726,896	1,059,737	28.5	68.6
Totals	161	100	\$3,387,376	\$3,720,217	100	

CLIENT LOSSES IN ALL AWARDS SINCE 1982

Category of Client Loss	Number of Awards	Percent of All Awards	Amount of All Awards	Client Losses Involved	Percent of All Losses	Percent of All Losses Reimbursed
Estates and Trusts	551	11.3	\$22,355,057	\$40,112,280	37.0	55.7
Real Property Escrow	1260	25.8	23,482,890	27,005,790	24.9	87.0
Unearned Fees	1426	29.2	2,731,141	2,756,241	2.5	99.1
Settlements	367	7.5	6,049,929	6,581,626	6.1	91.9
Other Escrow	532	10.9	9,201,060	15,273,048	14.1	60.2
Debt Collection	444	9.1	536,811	591,811	0.5	90.7
Investment	296	6.1	11,304,395	15,949,757	14.7	70.9
Totals	4876	100	\$75,661,283	\$108,270,553	100	

CLAIMS ACTIVITY SINCE 1982

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Totals
Claims Filed	534	375	230	332	341	311	351	486	438	515	627	636	598	909	730	1128	812	442	9795
Losses Alleged (Millions \$)	\$3.2	\$5.4	\$6.1	\$5.3	\$5.1	\$5.7	\$10.8	\$14.1	\$15.8	\$28.3	\$25.2	\$25.4	\$25.5	\$36.8	\$29.9	\$40.8	\$24.3	\$15.9	\$323.6
Claims Approved	1	494	130	183	178	159	202	177	219	200	288	318	362	383	381	625	415	161	4876
Actual Losses (Millions \$)	\$0.1	\$1.5	\$1.9	\$2.5	\$1.3	\$2.0	\$3.8	\$6.3	\$4.8	\$5.8	\$13.5	\$12.4	\$10.4	\$8.9	\$13.7	\$9.1	\$6.8	\$3.7	\$108.5
Awards (Millions \$)	\$0.03	\$0.69	\$0.87	\$1.3	\$1.1	\$1.9	\$2.8	\$3.8	\$4.6	\$4.1	\$7.3	\$7.5	\$7.6	\$5.7	\$9.9	\$6.9	\$5.9	\$3.4	\$75.4
Lawyers Involved	1	13	26	43	26	24	36	26	38	44	38	52	45	60	38	39	29	28	606
% Losses Reimbursed	50%	46%	46%	52%	85%	95%	74%	60%	96%	71%	54%	60%	73%	64%	72%	76%	87%	92%	
% Clients Fully Reimbursed	0.0%	73.5%	65.4%	38.8%	91.0%	98.7%	99.5%	97.7%	96.3%	93.5%	95.0%	94.3%	94.2%	97.6%	93.7%	97.6%	98.9%	99.4%	
Claims Disallowed	33	201	105	73	164	120	119	169	186	360	253	384	247	366	439	620	522	383	4744
Total Dispositions	34	695	235	256	342	279	321	346	405	560	540	702	610	749	820	1245	937	544	9620
Claims Pending Dec. 31	500	180	175	251	250	282	312	452	485	440	526	460	449	609	579	462	337	235	
Losses Alleged In Pending																			
Claims (Millions \$)	\$2.9	\$4.6	\$7.4	\$8.5	\$9.5	\$10.2	\$15.3	\$18.0	\$23.9	\$32.0	\$30.1	\$24.2	\$27.3	\$43.5	\$46.9	\$46.6	\$18.0	\$16.1	
Exposure on Pending																			
Claims (Millions \$)	\$1.7	\$1.6	\$2.3	\$2.7	\$3.5	\$5.2	\$6.3	\$9.8	\$15.1	\$14.9	\$16.0	\$13.9	\$15.2	\$24.4	\$25.1	\$17.4	\$11.3	\$11.6	
Fund Balance (Millions \$)	\$1.8	\$1.4	\$2.1	\$1.3	\$4.4	\$3.3	\$5.1	\$4.2	\$3.6	\$2.8	\$3.4	\$1.8	\$2.4	\$3.4	\$2.5	\$2.1	\$6.6	\$6.3	

TRUSTEES' REGULATIONS

7200.1 Purpose of fund. The purpose of the Lawyers' Fund for Client Protection is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of attorneys admitted and licensed to practice law in the courts of New York State.

7200.2 Organization. (a) The fund shall be administered by a board of trustees appointed by the Court of Appeals of the State of New York.

(b) The board of trustees shall consist of seven members. Of the trustees first appointed, three shall be appointed for terms of three years, two for a term of two years, and two for a term of one year. As each term expires, each new appointment shall be for a term of three years.

(c) The trustees shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.

(d) The trustees shall from time to time elect from their membership a chairman, vice-chairman, treasurer and such additional officers as they deem necessary or appropriate.

(e) The trustees shall retain an executive director to serve as the chief administrative officer of the fund.

7200.3 Meetings. (a) The trustees shall meet at least four times each year at such locations, or in such manner, as the chairman shall designate. Special meetings may be called by the chairman, and shall be called by the chairman upon the request of at least two

trustees. Special meetings may be conducted by telephone conference. The chairman shall provide reasonable notice of all meetings.

(b) Four trustees shall constitute a quorum. A majority of the trustees present at any meeting of the board may exercise any power held by the trustees, except as otherwise provided in this Part.

7200.4 Powers of trustees. In the exercise of the authority granted the trustees, the trustees have the power to:

(a) receive, hold, manage and distribute 50 per centum of the monies collected pursuant to the provisions of section 468-a of the Judiciary Law and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions together with any interest accrued thereon. All deposits of such revenues not otherwise required for the payment of claims shall be secured and invested as required by the provisions of section 97-t of the State Finance Law;

(b) adopt regulations for the administration of the fund and procedures for the presentation, determination and payment of claims, including the establishment of a maximum limitation for awards to claimants;

(c) investigate claims for reimbursement of losses as the trustees deem appropriate using staff and other available resources;

(d) coordinate and cooperate with the Appellate Divisions of the Supreme Court in the investigation of claims;

(e) examine witnesses and, in accor-

dance with the Provisions of the Civil Practice Law and Rules and the regulations of the trustees, administer oaths or affirmations and issue subpoenas;

(f) hold such hearings as the trustees deem appropriate;

(g) determine, in the trustees' sole discretion, the merits of claims presented for reimbursement, the amount of reimbursement to be awarded, the terms under which reimbursement shall be made and the order of payment;

(h) prosecute claims for restitution to which the fund may be entitled;

(i) engage in studies and programs for client protection and prevention of dishonest conduct in the practice of law;

(j) employ and at pleasure remove employees, legal counsel, agents and consultants, and fix their compensation within the amounts made available therefor;

(k) furnish the Court of Appeals with such reports and audits as the court may require; and

(l) perform all other acts necessary or proper for the fulfillment of the purposes of the fund and its effective administration.

7200.5 Duties of officers. (a) The chairman shall preside at all meetings of the trustees, generally supervise the administration of the fund, and exercise such other functions and duties that the trustees may assign or delegate, or that are customary to the office of chairman.

(b) The vice-chairman shall assume the duties of chairman in the absence or disability of the chairman.

(c) The treasurer shall maintain the financial records of the fund and, jointly with the chairman, certify vouchers of the fund that authorize the State Comptroller to make payments to claimants.

(d) The executive director shall assist the trustees, supervise the implementation of regulations and policies of the trustees, coordinate the investigation of claims and prepare reports thereon, supervise staff, serve as secretary at meetings, and fulfill such other duties as may be assigned or delegated by the chairman or the trustees.

7200.6 Conflict of interest. A trustee with a past or present relationship with a claimant or the attorney whose alleged conduct is the subject of the claim shall disclose such a relationship to the trustees and, if the trustees deem appropriate, that the trustee shall not participate in any proceeding relating to such claim.

7200.7 Reports. (a) On or before the first day of April each year, the trustees shall prepare an annual report of the activities and operations of the fund during the preceding year. The report shall be transmitted to the Court of Appeals, the Governor, the Legislature and the State Comptroller.

(b) The trustees may also issue periodic reports to the public concerning the activities and procedures of the fund.

7200.8 Eligible claims. (a) The trustees shall consider claims for reimbursement of losses caused by the dishonest conduct of attorneys admitted to practice in New York State, provided that:

(1) the dishonest conduct alleged in the claim constituted the wrongful taking of money, securities or other property belonging to a law client or other person who entrusted it with an attorney admitted to the practice of law in New York State;

(2) the dishonest conduct occurred in the practice of law by an attorney admitted to practice law in New York State;

(3) the claim is made directly by the client or other person, or their representative;

(4) the loss occurred or was discovered on or after June 1, 1981; and

(5) unless the trustees decide otherwise, the attorney has been suspended or removed from practice, is dead, or the attorney's whereabouts cannot be determined.

(b) The claimant shall have the responsibility to provide satisfactory evidence of an eligible loss.

(c) For the purposes of this section, "dishonest conduct" shall include the misappropriation or wilful misapplication of money, securities or property in the practice of law, and unlawful acts in the nature of theft, larceny, embezzlement, fraud or conversion.

(d) Losses not eligible for reimbursement include damages resulting from an attorney's negligence, malpractice or neglect; losses incurred by government agencies; losses incurred by financial institutions; losses incurred by business organizations having twenty or more employees; and losses arising from financial transactions with attorneys that do not occur within an attorney-client relationship and the practice of law.

(e) (1) In a loss resulting from an attorney's refusal or failure to refund an unearned legal fee as required by the Lawyer's Code of Professional Responsibility, "dishonest conduct" shall include an attorney's misrepresentation, or false promise, to provide legal services to a law client in exchange for the advance payment of a legal fee.

(2) An attorney's failure to perform or complete a legal engagement shall not constitute, in itself, evidence of misrepresentation, false promise or dishonest conduct.

(3) Reimbursement of a legal fee may be allowed only if: (i) the attorney provided no legal services to the client in the engagement; or (ii) the legal services that the attorney actually provided were, in the trustees' judgment, minimal or insignificant; or (iii) the claim is supported by a determination of a court, a fee conciliation bureau, or an accounting acceptable to the trustees that establishes that the client is owed a refund of a legal fee. No award reimbursing a legal fee shall exceed the actual fee that the client paid the attorney.

(4) In the event that a client is provided equivalent legal services by another attorney without cost to the client, the legal fee paid to the predecessor attorney will not be eligible for reimbursement, except in extraordinary circumstances.

7200.9 Filing claims. (a) Claims for reimbursement from the fund shall be written and verified. The fund shall provide an official claim form which

shall require the following information: the name and address of the claimant; the name and last-known address of the attorney who is alleged to have committed a dishonest act; the terms of the attorney's professional engagement for the claimant; the amount of the loss incurred; the date of the loss or the period of time when the loss occurred; the place and manner in which the loss occurred; the date and manner in which the claimant discovered the loss; a description of what steps the claimant has taken to recover the loss from the attorney or any other source; and whether there are other sources, such as insurance, fidelity bonds or surety agreements, to reimburse the claimant's loss. The trustees may require a claimant to submit additional information that may be necessary to determine a claim.

(b) The fund shall promptly acknowledge receipt of the claim, which shall be assigned a claim number.

(c) A claim shall be filed with the fund within two years after the following dates, whichever is later:

(1) the date when the alleged dishonest conduct occurred; or

(2) the date when such dishonest conduct was first discovered.

(d) The trustees, in their discretion, may permit the late filing of claims upon a showing that compliance with the time limitations of this section may cause undue hardship or result in an injustice.

(e) In the discretion of the trustees, a claim shall be deemed filed when any writing specifying the claim is received by the fund, a bar association, an attorney

grievance committee, or a police or other government agency.

7200.10 Processing claims. (a) Whenever it appears that a claim is not eligible for reimbursement pursuant to these regulations, the claimant shall be advised of the reasons why the claim is not eligible for reimbursement, and that unless additional facts to support eligibility are submitted to the fund within 30 days, the claim shall be dismissed.

(b) All claims that are eligible for reimbursement from the fund shall be investigated in such manner as the trustees deem appropriate. The trustees shall be furnished a written report of each investigation.

(c) The appropriate Appellate Division of the Supreme Court shall be requested to assist the trustees, to the extent the court deems appropriate, in the investigation of claims for reimbursement from the fund.

(d) A certified copy of an order disciplining an attorney for the same act of conduct alleged in a claim, or a final judgment imposing civil or criminal liability therefor, shall, for the purpose of these regulations, be evidence that the attorney committed such act.

(e) Upon receipt of the investigation report, the trustees shall determine whether to conduct additional investigation. If the attorney whose alleged conduct gave rise to the claim has not been previously notified of the claim, a copy shall be provided the attorney. The attorney shall be invited to respond to the claim within 20 days.

(f) The trustees may request that testimony be presented to complete the record. Upon request, the claimant and the attorney, or their respective repre-

sentatives, shall be given an opportunity to be heard.

(g) The trustees shall determine, in their sole discretion, whether a claim merits reimbursement from the fund and the amount, time, manner of its payment and the conditions upon which payment shall be made. The award of a claim shall require the affirmative vote of at least four trustees.

(h) Unless the trustees direct otherwise, no claim shall be awarded during the pendency of a disciplinary proceeding involving the same act of conduct that is alleged in the claim.

(i) In the exercise of their discretion in determining claims, the trustees shall consider, together with such other factors as they deem appropriate:

(1) the amount of money available and likely to become available to the fund for the payment of claims, and the size and number of claims that have been or are likely to be presented;

(2) the amount of the claimant's loss as compared with the amount of losses sustained by other claimants who may merit reimbursement from the fund;

(3) the degree of hardship suffered by the claimant as a result of the loss;

(4) any conduct of the claimant that contributed to the loss; and

(5) the existence of other sources to reimburse the claimant's loss, such as insurance, fidelity bonds or surety agreements.

(j) Written notice of the trustees' determination shall be provided the claimant and the attorney whose alleged conduct gave rise to the claim, or their representatives.

7200.11 Reconsideration of claims. A claimant who is denied reimbursement in whole or in part may request that the trustees reconsider the claim by filing an application with the fund no later than 30 days following receipt of the trustees' determination. If a claimant fails to request reconsideration, or the original determination of the trustees is confirmed, the trustees' determination shall be final.

7200.12 Legal right to payment from fund. No person or organization shall have any legal right to payment from the fund as a claimant, third-party beneficiary or otherwise.

7200.13 Payment of awards. (a) Claimants shall be reimbursed for losses in amounts to be determined by the trustees. No award shall exceed \$300,000.

(b) Awards shall not include interest. Attorneys' fees and other incidental and out-of-pocket expenses shall not be reimbursed by the fund. Additional taxes, interest, late charges and similar penalties finally incurred by a claimant as the direct result of an attorney's misappropriation may be eligible for reimbursement in the discretion of the trustees. The investigation report in a claim which involves such an element of loss shall contain an estimate of the amount of such loss and a recommendation whether the loss merits reimbursement from the fund. Unless the trustees determine otherwise, payment thereof may be processed as a supplemental award of reimbursement without further action by the trustees, provided the claimant provides proof of loss within six months following the trustees' approval of the underlying claim. The executive director shall report quarterly to the trustees on the payment of all supplemental awards during the preceding quarter.

(c) No claim for reimbursement shall be paid until the claimant transfers to the fund, in such form as the trustees shall authorize, the claimant's rights against the attorney whose dishonest conduct caused the claimant's loss and any other person or entity who may be liable for the claimant's loss.

(d) Payment of claims shall be made in such amounts and at such times as the trustees deem appropriate and may be paid in lump-sum or installment amounts.

(e) If a claimant is a minor or an incompetent, the award may be paid to a parent, guardian, committee or the attorney of the claimant, on the behalf of and for the benefit of the claimant.

(f) All payments of awards of reimbursement from the fund shall be made by the State Comptroller on vouchers certified by the chairman and the treasurer.

7200.14 Representation by counsel. (a) A claimant and the attorney whose alleged conduct resulted in the claim shall have the right to be represented by an attorney.

(b) In accordance with the rules of the Appellate Divisions of the Supreme Court, no attorney who assists a claimant process a claim with the fund shall charge or accept compensation for those services, without the prior written approval of the trustees. No fee applications by attorneys, including public officers and court-appointed fiduciaries, shall be approved by the trustees absent a showing of extraordinary circumstances.

7200.15 Confidentiality. (a) Except as otherwise provided, all claims and proceedings and the records relating thereto shall be sealed and confidential.

(b) All information provided by an Appellate Division of the Supreme Court shall remain sealed and confidential to the extent required by section 90 of the Judiciary Law.

(c) The trustees' final determination awarding reimbursement of a claim, and the facts relating to the claimant's loss, shall be a public record.

(d) An attorney whose alleged conduct gave rise to the claim may waive confidentiality.

(e) This section shall not be construed to deny access to information by the Court of Appeals, and Appellate Division of the Supreme Court, or to any court of competent jurisdiction in a judicial review proceeding.

7200.16 Amendment of regulations. New regulations may be adopted, and any regulation may be amended or repealed by the trustees at any regular or special meeting, provided that notice of the proposed adoption, amendment or repeal has been given to all trustees at least seven days before the meeting. New regulations, amendments and repeals shall be published in the State Register. Copies of all regulations shall be made available to the public at all offices of the fund.

7200.17 Construction of regulations. These regulations shall be liberally construed to accomplish the objectives of the fund and the policies of the trustees.

LAWYERS INVOLVED IN AWARDS SINCE 1982

Name	Judicial District	Awards	Amount	Name	Judicial District	Awards	Amount
Edward P. Abbott	1	1	\$10,624	William M. Burke	3	2	\$101,035
James E. Adel	8	3	\$18,656	Jeffrey S. Burns	10	3	\$12,370
Cornelius M. Ahearn	1	1	\$65,712	Gail D. Butler	1	2	\$55,650
George E. Albright	7	1	\$2,150	Nicholas Capobianco	7	4	\$6,530
David B. Alford	3	4	\$8,150	John M. Cassel	3	1	\$65,000
Donald A. Alleva, Jr.	9	3	\$4,938	Stuart B. Cassell	11	32	\$334,343
Nicholas P. Altomerianos	1	1	\$13,425	Richard H. Cataldi	8	3	\$71,810
David W. Alvey	2	10	\$490,852	Vincent J. Catalfo	1	1	\$45,000
Joseph Amaru	11	1	\$83,325	Katherine R. Catanzarite	4	19	\$61,293
Robert B. Anderson	1	1	\$100,000	Harvey Chaly	10	4	\$42,944
Alvin Ashley	1	1	\$71,445	John R. Chaney, Jr.	1	3	\$2,276
Lewis G.P. Ashton	11	2	\$9,000	Michael M. Chasen	12	6	\$38,708
Harley D. Axelrod	7	3	\$3,640	John D. Chestara	3	16	\$89,482
David A. Baker	5	10	\$61,627	John M. Cholakis	3	1	\$52,383
William F. Baker	5	2	\$28,556	Frank A. Cissi	5	2	\$4,996
Richard L. Baltimore, Jr.	1	5	\$42,096	Robert J. Clark	2	5	\$121,990
Norwood K. Banks	7	1	\$573	A. Roger Clarke	7	5	\$193,183
John M. Barth	1	1	\$3,000	James F. Clarke	10	19	\$1,145,491
Richard L. Baumgarten	8	2	\$6,000	W. Andrew Clawson	7	19	\$305,861
Paul L. Beck	1	7	\$105,700	Casey A. Clines	4	1	\$350
Irving Becker	1	10	\$16,330	Joseph A. Cofino	12	2	\$3,500
Herbert H. Bell	1	1	\$40	Daniel I. Cohen	1	4	\$81,720
William F. Benca	8	2	\$57,950	James Harrison Cohen	1	5	\$57,055
Michael D. Benjamin	2	1	\$900	Kenneth H. Cohn	6	9	\$4,010
Bradley C. Bennett	7	2	\$7,554	Kenneth W. Cohn	10	1	\$16,077
Robert J. Bennison	5	1	\$15,815	Theresa N. Coletti	11	25	\$53,317
Richard H. Berg	9	2	\$2,000	Joseph L. Colp	1	3	\$12,300
Adam H. Bernstein	7	3	\$40,339	Frank Coniglio	10	12	\$240,110
Harry J. Bernstein	11	16	\$216,742	Kevin A. Conine	6	2	\$40,861
Peter N. Bertucci	1	1	\$25,000	Joseph A. Contino	8	2	\$200,000
Burton H. Besen	1	9	\$146,616	Stephen E. Cooper	4	2	\$268,455
Jeffrey L. Besse	3	27	\$1,227,453	Edward M. Cooperman	10	3	\$12,700
Lassale Best, Jr.	2	1	\$1,000	Kevin P. Corcoran	9	2	\$16,965
James Bing	1	3	\$4,085	William J. Corcoran	1	1	\$10,000
Charles Birnbaum	2	1	\$594	Gerald M. Cotter	10	28	\$990,471
Warren J. Black	1	1	\$20,576	James P. Cotter	8	1	\$46,036
Walter H. Blaich, Jr.	9	7	\$385,835	Catherine N. Coughlin	8	3	\$7,002
Blaich & Dries	9	7	\$236,162	Coxeter & Coxeter	3	1	\$50,000
Lawrence Bluth	11	1	\$11,500	Ronald P. Crean	1	2	\$22,750
Allen J. Bodner	1	1	\$100,000	Gene Crescenzi	1	2	\$6,880
Howard J. Bodner	10	20	\$968,658	John T. Crone	7	13	\$450,427
Murray Bogatin	1	2	\$9,400	Dennis D. Crowley	9	6	\$261,804
Philip L. Boneta	2	3	\$19,533	Marshall Oakes Crowley	10	2	\$40,722
Anthony J. Bonfiglio	1	2	\$89,000	Martin J. Crowley	10	11	\$71,931
Martin Borakove	1	2	\$16,101	Thomas P. Cullen, Jr.	11	4	\$93,513
Lee H. Bostic	11	3	\$13,083	John L. Curtis	8	4	\$252,344
Darrell L. Bowen	4	1	\$300	R. Scott Daly	2	2	\$11,600
Martin J. E. Bowers	10	1	\$12,750	Benjamin F.L. Darden	6	2	\$67,088
Jonathan N. Boxer	10	12	\$61,364	Kenneth P. Daumen, Sr.	8	1	\$3,211
Raymond D. Bradford	9	2	\$20,779	Mehran W. Davidian	10	1	\$5,000
Karen E. Bragg	10	1	\$250	James J. Davitt	2	1	\$100,000
E. Lawrence Brass	10	13	\$289,657	Mark D. Deinhart	8	1	\$3,250
Leo Bresler	10	2	\$100,000	Lawrence DeMayo	2	15	\$188,227
John D. Bridge	8	1	\$1,000	John L. Desmond	3	1	\$56,000
Harold Brotman	10	1	\$6,667	Bertram S. Devorsetz	9	2	\$1,100
Bradford J. Brown	1	1	\$36,000	James G. deWindt	10	2	\$1,000
Kenneth E. Bruce	9	1	\$800	Steven H. Dickman	10	7	\$59,339
Alan I. Brutton	11	1	\$500	Edward W. Dietrich	5	1	\$36,598
Joseph T. Burchill	6	1	\$25,000	Salvatore DiMisa	10	2	\$55,533
John R. Burgess	8	6	\$30,868	Vincent R. DiPasquale	8	6	\$262,277
Timothy K. Burgess	7	2	\$9,118	Robert E. Dizak	1	19	\$170,293
W. Michael Burke	3	2	\$700	Birol John Dogan	1	6	\$43,673

LAWYERS INVOLVED IN AWARDS

Name	Judicial District	Awards	Amount	Name	Judicial District	Awards	Amount
Jerrold A. Domingo	1	3	\$19,000	Wayne K. Gabel	9	1	\$11,437
Myron Domsky	10	3	\$3,500	Yoram Gafni	1	5	\$7,550
Paul B. Donohue	9	1	\$750	Arthur J. Gallancy	1	1	\$21,500
Michael J. Donovan	1	1	\$27,531	John E. Galligan, Jr.	2	3	\$4,827
Walter M. Donovan	8	23	\$75,050	William M. Gallow, Jr.	3	1	\$49,397
H. Paul Doucette	7	9	\$16,200	Hiram S. Gans	9	2	\$85,000
George E. Dougherty, Jr.	3	6	\$140,388	Edward M. Gasperi	4	5	\$8,231
William J. Dougherty	10	5	\$124,795	Michael S. Gawel	8	1	\$1,200
Frank J. Doupona	9	10	\$602,595	Jack O. Gaylord	8	1	\$12,332
Charles H. Downing	1	1	\$3,950	James G. Gembarosky	8	7	\$15,426
James L. Dowsey, III	10	1	\$8,500	Frank P. Giaramita	2	2	\$7,500
Peter J. Dunne	10	13	\$68,950	Thomas Eric Gill	10	6	\$87,500
Thomas A. Dussault	3	184	\$329,956	James Gilmartin	1	2	\$3,613
Saul L. Eagle	12	1	\$112,817	Joseph A. Giorgi	7	1	\$4,685
Paul W. Eckelman	9	3	\$8,895	Jarrett F. Glantz	1	25	\$1,789,786
Eugene P. Edwinn	1	3	\$107,770	Harold L. Goerlich	10	4	\$65,178
Louis A. Egnasko	2	62	\$1,465,647	Roger J. Gofton	9	1	\$70,000
Ehman & Marino	10	60	\$2,785,394	Fred Gold	11	3	\$113,250
Howard Eisenberg	1	1	\$5,000	Henry S. Goldman	9	9	\$224,823
Robert A. Eisenberg	2	1	\$7,058	Barry E. Goldrod	1	1	\$51,357
Mitchell Eisenstat	1	1	\$450	Charles H. Goldstein	10	1	\$43,000
Dennis P. Elkin	11	1	\$250	Alan R. Golkin	8	5	\$269,624
Robert S. Elkins	10	2	\$6,450	Oscar Gonzales-Suarez	1	1	\$5,000
W. Joseph Embser	8	1	\$100,000	Michael W. Goodman	11	1	\$18,000
Charles E. Ennis	7	3	\$52,427	Robert M. Gordon	1	6	\$29,870
Michael L. Entes	2	2	\$10,000	John P. Gorman	9	2	\$36,000
Michael F. Erdheim	1	19	\$964,321	Jack Gottlieb	2	8	\$74,576
Steven M. Erdheim	9	22	\$12,524	Lora C. Graham	9	2	\$1,655
Jonathan Erickson	7	6	\$111,173	Barry J. Grandeau	9	377	\$564,211
Jerome J. Erlin	1	4	\$42,595	S. Simpson Gray	9	9	\$8,928
John R. Esposito	12	1	\$5,700	Christopher J. Green	1	1	\$30,000
Gene Ira Esser	2	12	\$23,877	Milan K. Gregory	10	2	\$10,200
Arnold H. Fassler	11	12	\$111,658	John N. Griggs, Jr.	1	2	\$350
James H. Fay	2	1	\$400	Robert S. Groban, Sr.	1	2	\$8,500
Charles L. Feely	1	3	\$256,906	Joshua Gross	4	1	\$400
Milton Feinman	1	9	\$520,987	Murray S. Gross	2	1	\$8,000
Harvey Felton	9	1	\$40,426	Marc E. Grossman	9	16	\$192,501
John F. Felton	1	2	\$7,000	Harold W. Grubart	1	3	\$184,335
Willie R. Felton	7	29	\$134,491	James R. Gunderman	8	8	\$269,978
Perry V. Ferrara	10	55	\$1,306,236	Sidney J. Guran	2	1	\$12,159
Steven B. Fidelman	11	9	\$78,532	John A. Gussow	2	31	\$622,568
Carl M. Field	10	23	\$163,804	John A. Guzzetta	1	1	\$6,395
Timothy A. Fischer	8	1	\$155	Richard A. Gwynn, Jr.	5	8	\$8,239
Fischer & Quaintance	8	2	\$110,897	Richard J. Haas	3	2	\$1,800
Michael G. Flanagan	1	13	\$884,137	Robert E. Haley	1	7	\$100,800
Florien Carl Flierl	8	8	\$65,695	Clifton E. Hall	11	3	\$16,465
Dan Foley	9	1	\$203	Fred J. Halsey, Jr.	1	3	\$69,803
Joseph M. Fonte	2	1	\$6,500	Herbert I. Handman	1	1	\$16,500
Seymour Forman	1	1	\$500	John Hargrave	8	3	\$44,051
Henry A. Foster	1	3	\$40,092	Alan David Harris	10	5	\$342,033
Robert L. Fraser	7	4	\$16,846	Alan Jay Harris	1	1	\$14,081
Paul I. Freedman	1	48	\$115,305	H. Hawthorne Harris	9	1	\$5,093
Andrew J. French	10	1	\$9,619	Herbert Harris, Jr.	1	2	\$48,833
Mark G. Fresco	1	5	\$61,961	Leon Sol Harris	1	3	\$30,060
Sydney Friedler	10	17	\$88,075	Peter Andrew Harris	7	8	\$224,475
Arthur S. Friedman	2	1	\$12,916	Morton H. Hartmann	1	3	\$54,576
Martin Fries	11	17	\$81,713	Robert T. Hartmann	9	3	\$42,149
Alfred L. Fritz, III	8	21	\$86,766	John J. Hayden	9	5	\$25,800
Daniel R. Fruitbine	1	1	\$8,750	Richard T. Heelan	10	1	\$275
Jerome H. Funk	9	22	\$12,049	Alan A. Herman	1	1	\$65,000
Henry G. Fury	9	9	\$150,341	Eric E. Heron, Jr.	11	3	\$28,485
Dumas Gabbriellini	1	1	\$4,950	Alfred L. Hetzelt, Jr.	8	1	\$100,000

LAWYERS INVOLVED IN AWARDS

Name	Judicial District	Awards	Amount	Name	Judicial District	Awards	Amount
Leo N. Hirsch	1	2	\$27,083	Michael S. LaBush	9	2	\$3,250
Michael Hirsch	10	2	\$53,127	Jefferson T. Talik	7	8	\$3,505
Ralph Hochstein	1	1	\$1,000	LaLoggia & Gorankoff	7	20	\$738,744
Robert I. Hodes	1	2	\$20,605	Bernard H. LaLone, Jr.	3	1	\$22,210
Walter Hofer	1	8	\$85,880	Robert A. Lamar	10	20	\$597,507
Frank Hoeffey	1	1	\$4,500	George E. Lasch	10	1	\$1,500
William J. Holden	9	12	\$436,677	Eric N. Lazarus	10	26	\$552,494
A. Robert Holman	10	456	\$203,260	John Q. LeCain	4	1	\$25,000
Antoinette Holmes	12	18	\$661,921	Thomas P. Leckinger	7	7	\$87,180
Harold Holtman	10	24	\$313,162	Gerald J. Leibowitz	10	8	\$229,992
Robert Kent Holtsberry	5	1	\$2,178	Lawrence B. Lennon	4	4	\$87,665
Charles S. Horgan	1	1	\$2,500	Richard L. Levine	5	1	\$10,000
Valentine N. Horoshko	1	2	\$15,000	Murray F. Lewis	6	1	\$3,589
Donald G. Houghton	7	3	\$75,000	Jay Robert Lichtman	2	2	\$3,200
Richard A. Howard	9	3	\$2,575	Lawrence Lieberman	2	2	\$33,036
Ralph F. Howe	8	1	\$7,313	Kenneth Linn	1	1	\$25,850
Edward L. Howlette	10	1	\$3,700	Michael S. Linn	9	14	\$418,858
Raymond K. Hsu	1	6	\$24,850	Clifford N. Lipscomb	11	8	\$11,480
John A. Huber	10	4	\$30,500	William F. Lisnerski	8	1	\$600
Thomas P. Hughes	4	2	\$10,914	David W. Little	4	8	\$343,892
William C. Israel	1	4	\$54,863	Vincent J. LoCurto	10	1	\$9,797
Hesper A. Jackson	2	8	\$178,995	Werner Lomker	7	2	\$38,564
Saul Jakubowitz	1	6	\$24,718	John C. Lopes	10	2	\$2,550
Robert E. Johnson	2	1	\$38,000	Samuel Lorenzo	1	92	\$43,125
Robert P. Johnson	8	1	\$4,200	Ronald B. Losner	2	16	\$41,154
Wayne A. Johnson	6	4	\$28,566	Harold E. Lovette	1	1	\$27,500
Leonard Kabat	10	1	\$5,000	David B. Lubash	11	37	\$465,627
Gerald A. Kagan	1	2	\$1,600	Jonathan W. Lubell	1	1	\$6,700
William H. Kain	10	15	\$145,722	Thomas J. Lukas	11	1	\$28,000
Gerald Kaiser	1	34	\$36,365	Joseph F. Lynch	6	1	\$3,736
James D. Kakoullis	1	1	\$1,000	Thomas N. Lyons	10	1	\$800
John C. Kanaley	5	3	\$55,000	Robert D. MacLachlan, Jr.	10	8	\$11,250
Stanton Karnbad	9	3	\$38,500	Fortune S. Macri	9	1	\$25,000
Morris M. Karp	1	2	\$5,618	John R. Maguire	10	1	\$1,000
Thomas Katsaros	2	3	\$84,500	Jenny M. Maiolo	11	27	\$555,808
Harold W. Katz	4	3	\$57,000	Michael M. Maloney	1	1	\$42,040
Howard C. Katz	9	61	\$304,445	Frank M. Manfredi	10	5	\$27,076
Reuben A. Katz	1	1	\$93,072	Lloyd J. Manning	11	1	\$500
Steven C. Kavanaugh	10	3	\$6,041	Marion S. Marable	11	2	\$7,400
William S. Kaye	1	1	\$5,000	Richard P. Maracina	1	8	\$20,205
Paul E. Keith	2	3	\$23,843	Marvin Margolis	1	1	\$40,000
Donald E. Kelly	1	2	\$85,656	Irving Markowitz	1	7	\$261,328
Lawrence V. Kelly	1	1	\$65,975	George T. Martin	6	1	\$500
Robert E. Kelly	7	20	\$12,070	Nancy A. Maruk	7	3	\$3,370
Bernard Kenny	1	8	\$138,269	C. Vernon Mason	1	5	\$32,600
John P. Kilminster	10	6	\$17,950	William J. Mastine, Jr.	5	2	\$17,220
John J. Kim	1	1	\$19,500	Charles M. Mattingly, Jr.	10	3	\$132,500
Wayne W. Kim	1	5	\$31,705	Martin J. Mayblum	11	3	\$13,750
Harold L. King	1	1	\$600	Philip A. McBride	8	1	\$5,958
Paul H. Kirwin	10	1	\$58,000	Teague W. McCarthy	10	11	\$398,537
Rudolph M. Klenosky	2	1	\$45,000	Shannon D. McClam	11	3	\$14,000
William J. Kleunder	11	8	\$75,500	Denis J. McClure	9	2	\$5,155
A. O'Neill Kline	8	3	\$72,100	James F. McCoole	9	11	\$775,522
David C. Kobrin	9	1	\$20,148	Sharyn L. McDonald	7	3	\$73,992
Roger W. Kohn	9	1	\$255	James J. McEnroe	1	6	\$3,000
Timothy Kozyra	8	2	\$8,231	Lloyd A. McFarlane	11	1	\$5,000
Howard Krantz	1	1	\$23,500	Thomas J. McGinn	3	1	\$180,000
Harvey H. Krat	1	3	\$68,525	Dennis J. McLaughlin	1	5	\$46,804
M. Thomas Kuriakose	9	1	\$500	Richard M. McMahan	9	2	\$8,973
Irving Kurtz	1	5	\$154,842	John J. McManus, Jr.	2	2	\$200,000
Larry J. Kushner	1	2	\$21,678	Joseph T. McMaster	2	4	\$168,093
A. James LaBue	7	6	\$298,928	Dominic M. Mello	2	2	\$8,167

LAWYERS INVOLVED IN AWARDS

Name	Judicial District	Awards	Amount	Name	Judicial District	Awards	Amount
Richard M. Messina	1	3	\$169,049	George A. Pins	1	3	\$14,979
William A. Metz	9	3	\$115,497	John L. Pitula	1	1	\$90,000
Stanley M. Meyer	10	1	\$1,830	John B. Poersch	4	2	\$114,161
James J. Michalek	8	20	\$165,238	J. Stanton Pohl	10	3	\$35,490
Charles O. Milham	3	4	\$17,541	Jonathan Pollack	10	2	\$13,762
Alan M. Miller	10	1	\$2,319	Sam Polur	12	1	\$500
Bruce J. Miller	10	2	\$41,858	Edward J. Porcelli	12	3	\$16,650
Nicholas A. Mina	1	1	\$19,500	Ira Postel	1	3	\$38,515
Stephen A. Mishkin	9	55	\$1,318,823	Postel and Rosenberg	1	11	\$619,722
John E. Modjeska	3	7	\$34,356	John V. Potter, Jr.	10	1	\$98,000
Richard T. Monahan	10	2	\$4,500	Mary Powers	1	1	\$89,857
Colin A. Moore	1	4	\$6,500	William J. Powers, III	5	7	\$14,652
Davison F. Moore	9	5	\$206,113	Paul D. Powsner	1	3	\$210,000
Paul A. Moore	9	2	\$2,146	Stanley Pressment	1	1	\$6,960
Richard M. Moran	3	21	\$349,371	Cynthia Lynn Price	2	1	\$81,623
Thomas D. Morath	12	2	\$14,755	Wayne J. Price	2	17	\$359,726
Lawrence D. Moringiello	2	5	\$171,249	Michael Prieto	1	1	\$15,215
Alan D. Morris	10	15	\$221,560	Mark S. Probert	10	6	\$2,900
Charles E. Morrison	1	1	\$4,000	Anthony P. Quinn	11	2	\$12,912
Saul D. Moshenberg	7	5	\$20,749	John J. Raia	11	98	\$3,248,398
James R. Murdock, Jr.	4	19	\$639,650	Leo Raychuk	2	1	\$2,000
Eugene J. Murphy	8	21	\$583,870	William C. Raines	1	3	\$17,512
Morrow D. Mushkin	2	2	\$10,200	Steven P. Rapoport	2	2	\$23,836
Joseph F. Muto	5	1	\$1,100	John D. Reddan	1	1	\$2,500
Willard H. Myers, III	7	2	\$1,700	Steven Paul Reifman	1	1	\$10,000
Eugene V. Natale	10	9	\$245,845	Paul G. Reilly, Jr.	1	2	\$39,500
Nath & Weiss	10	1	\$100,000	Gary M. Reing	12	2	\$23,446
Richard F. Nelson	10	10	\$70,361	Herschel L. Reingold	8	1	\$4,344
Pat Frank Nesci	10	11	\$359,974	Erich H. Reisch	2	1	\$27,692
Kenneth A. Newman	10	6	\$29,054	Willem J. Rimmelink	1	3	\$127,875
Marvin A. Newman	9	1	\$26,924	James R. Rerisi	10	4	\$57,146
John G. Nicholas	11	2	\$57,500	Luis E. Reyes	2	1	\$1,000
Peter B. Nickles	9	2	\$122,623	John Rivera	12	1	\$1,661
Michael B. Nitsberg	10	3	\$34,450	Jose A. Rivera	2	7	\$89,166
William J. Noland	1	1	\$3,600	Robert Rivers	10	7	\$197,000
Thomas P. O'Callaghan	9	1	\$3,200	Stephen R. Roach	9	3	\$23,400
Charles O'Donnell, Jr.	9	1	\$2,000	Edward John Roder	7	15	\$168,505
Mark S. Ogden	7	1	\$8,869	Sy L. Rolnick	2	1	\$25,500
Frank Oliva	11	5	\$36,652	Steven J. Romer	1	14	\$1,076,657
Lynn D. O'Neill	2	2	\$8,770	Michael G. Rose	10	35	\$1,151,528
Joseph E. Orsini	8	3	\$31,887	Peter Rose	11	12	\$160,309
Sheldon Ostro	1	9	\$359,000	Rose & Karnbad	11	1	\$17,000
Roderick E. Owens	1	2	\$21,533	Steven Rosenbluth	2	26	\$394,102
Victor N. Pacor	9	9	\$164,357	Richard J. Rosenthal	1	1	\$4,374
Rafael M. Pantoja, Jr.	1	18	\$168,335	Selig A. Rosenzweig	10	3	\$64,569
John F. Papsidero	8	1	\$17,339	Phillip M. Rossbach	10	1	\$659
Mary Murphy Pardoe	10	15	\$85,436	Arthur J. Rouse	9	1	\$11,435
Richard J. Pariser	8	3	\$7,053	Leonard H. Rubin	1	1	\$83,000
Alfred J. Parisi	11	11	\$332,752	James M. Russell	4	1	\$100,000
Nicholas J. Pastushan	5	1	\$138,500	David Sabghir	2	1	\$14,000
George Patsis	10	2	\$115,798	Carol A. Safier	1	5	\$117,950
Edward S. Patterson	9	2	\$15,286	Steven L. Salpeter	11	6	\$11,444
George F. Pavarini	9	15	\$543,165	Ronald M. Salzer	1	4	\$53,750
Robert J. Pellicane	10	7	\$174,769	Roger G. Sam	12	1	\$2,500
Kenneth S. Pelsinger	1	2	\$14,349	George Sandberg	10	10	\$227,146
Michael M. Perlman	10	7	\$265,331	Ira Jay Sands	1	6	\$7,917
David Ian Pesner	9	11	\$136,291	Richard J. Sanna	10	10	\$248,285
Jacob & David Ian Pesner	9	1	\$25,000	Richard D. Savitsky	1	2	\$47,558
Richard T. Petty	1	2	\$75,441	Stanley D. Scharf	10	16	\$89,719
John Piastra	11	2	\$200,000	Nelson K. Scherer	10	1	\$2,348
Louis N. Picciano	6	2	\$5,296	John C. Schettino	10	1	\$4,000
Richard Pikna	1	9	\$101,278	David Schick	1	5	\$249,616

LAWYERS INVOLVED IN AWARDS

Name	Judicial District	Awards	Amount	Name	Judicial District	Awards	Amount
Robert L. Schlesinger	3	3	\$3,068	Regina M. Tate	10	2	\$6,750
Peter G. Schmidt	1	3	\$400,000	Sergio M. Taub	11	49	\$326,401
Richard C. Schulz	10	1	\$24,035	Louis Taubenblat	2	9	\$718,854
Robert Schutrum	8	1	\$1,500	Sharon Lynch Taureck	2	5	\$40,966
Steven M. Schwartz	9	2	\$3,500	Peter P. Tavalacci	9	1	\$2,400
Schwartz & Gutstein	1	6	\$250,501	Timothy Taylor	1	1	\$19,000
Joel E. Schweitzer	8	6	\$46,294	Theodore E. Teah	12	1	\$13,373
Joseph F. Scirto, Jr.	8	10	\$106,962	Norman Eric Teitler	11	2	\$14,414
Bernard M. Seeman	10	1	\$50,000	Ron Telford	6	1	\$1,100
Arthur J. Selkin	9	11	\$107,300	Milton A. Teplin	1	3	\$26,000
Bernard L. Seltzer	10	11	\$94,609	Michael B. Thomas	9	1	\$600
Ralph Serpico	11	3	\$176,191	Alan S. Tifford	10	14	\$291,016
Barry R. Shapiro	1	16	\$3,065	Robert S. Tobin	1	2	\$16,320
Michael Shapiro	1	1	\$58,231	Thomas P. Tobin	10	4	\$184,450
Phillip E. Shapiro	1	1	\$7,000	Joseph A. Tracy	9	4	\$131,676
Brian A. Sheridan	1	1	\$785	Joseph R. Turner	1	4	\$41,572
John M. Sheridan	7	6	\$371,500	Robert E. Twiste	2	13	\$213,179
Richard M. Sherman	10	25	\$97,623	James W. Ulaszewski	8	2	\$1,048
Alan J. Shimel	10	2	\$26,666	Girard M. Ursitti	8	5	\$76,957
Robert G. Short	9	1	\$800	Norman Ushkow	2	1	\$1,575
Anis A. Siddiqi	2	3	\$75,114	William C. Vaughan	8	1	\$100,000
Matthew A. Siegel	9	2	\$14,147	Tom M. Vetranio	2	4	\$30,056
Oswald B. Silvera	2	7	\$16,125	Lillian R. Villanova	9	3	\$109,636
Mark A. Silverman	10	2	\$2,169	Louis V. Viscomi	1	3	\$31,500
William Sims	8	2	\$8,037	Frank Vitulli	2	1	\$12,000
Barry H. Singer	9	9	\$235,034	Arnold P. Wagner	10	4	\$72,900
Baljit Singh	1	1	\$150	H. Robert Wall	6	46	\$912,929
Indar Singh	11	15	\$139,737	Mortimer Warfman	1	34	\$16,236
Myron W. Siskin	10	1	\$13,436	Patrick T. Wedlock	5	8	\$4,910
Allan Sloan	1	6	\$108,601	Richard B. Weil	1	1	\$48,737
Joseph D. Sloboda	10	2	\$5,458	Martin J. Weinstein	2	1	\$25,000
Peter W. Sluys	9	6	\$113,856	Myles N. Weintraub	10	7	\$123,623
Kendrick C. Smith	1	1	\$3,675	Peter R. Weiss	2	1	\$15,000
Benjamin Sneed	1	4	\$24,833	C. Theodore Wellington	11	6	\$193,815
Jack B. Solerwitz	10	99	\$3,008,734	Leslie M. Westreich	1	1	\$100,000
Joseph F. Soviero, Jr.	10	1	\$5,000	Benjamin P. Whitaker	7	15	\$603,251
Michael T. Spallino	1	2	\$8,800	D. William White	2	15	\$171,308
Jacob Spatz	3	3	\$3,245	Aaron G. Windheim	9	1	\$11,547
Jerome L. Spiegelman	1	48	\$889,719	Steven Winston	1	1	\$9,500
Jerome Spies	10	2	\$126,754	Samuel Ulrich Wiseman	1	2	\$38,280
Howard R. Staller	1	1	\$8,000	Steven D. Wisniewski	8	14	\$6,305
Alexander B. Stein	1	2	\$31,450	Walter S. Wojcik	3	1	\$250
Elliot J. Stein	1	74	\$762,109	Marvin Wolinetz	2	1	\$350
Joel B. Steinberg	1	1	\$1,400	George Wolynetz	1	3	\$244,703
Duane M. Stenstrom, Jr.	8	6	\$6,674	William S. Wood	7	4	\$49,065
Jeffrey S. Stern	2	10	\$244,077	John M. Wourgola	10	11	\$97,534
Stanley R. Stern	1	5	\$325,676	Adam Morgan Wright	1	1	\$500
Joseph Sternschein	11	4	\$75,715	Kathryn B. Wunderlich	3	1	\$600
Frederick D. Stevens	8	1	\$4,185	Henry E. Wyman	8	33	\$496,811
Wallace Sturm	2	1	\$1,500	Louis B. Youmans	1	1	\$5,000
John J. Sullivan	1	1	\$29,990	Floyd A. Young	8	1	\$10,000
Joseph E. Supples	8	3	\$9,150	Nancy J. Young	1	9	\$124,809
Leonard A. Sussman	1	3	\$44,438	Frederick J. Ziems	10	2	\$105,368
Monroe Sussman	10	1	\$46,667	Jacob S. Zimmerman	10	27	\$355,991
Carrie Sutherland	10	1	\$5,000	Victor P. Zodda	10	2	\$282,225
Morton S. Swirsky	1	6	\$62,610	H. Michael Zukowski	1	1	\$8,000
Israel I. Sylvan	1	3	\$22,253	Bertram Zweibon	1	14	\$564,282