

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

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**ANNUAL REPORT**  
**OF THE**  
**BOARD OF TRUSTEES**  
**FOR**  
**CALENDAR YEAR 2014**

**BOARD OF TRUSTEES**

Eric A. Seiff, Chairman  
Anthony J. Baynes  
Peter A. Bellacosa  
Nancy Burner  
Stuart M. Cohen  
Patricia L. Gatling  
Charlotte G. Holstein



Submitted to the  
Judges of the Court of Appeals  
and the  
State Comptroller  
pursuant to the provisions of

General Order of the Court of Appeals dated November 16, 1981

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## The Fund's Mission Statement:

To protect legal consumers from dishonest conduct in the practice of law, to preserve the integrity of the bar, to safeguard the good name of lawyers for their honesty in handling client money, to promote public confidence in the administration of justice in the Empire State.

## Introduction

This 32nd Annual Report focuses on the activities and operations of the Lawyers' Fund for Client Protection in calendar year 2014. New York's legal profession finances the Lawyers' Fund which is an independent public trust that reimburses law clients for financial losses caused by dishonest conduct in the practice of law. The legal profession is alone in providing such protection to its clients. The Court of Appeals appoints a Board of Trustees to administer the Lawyers' Fund. The Trustees serve renewable three-year terms as a public service without compensation.

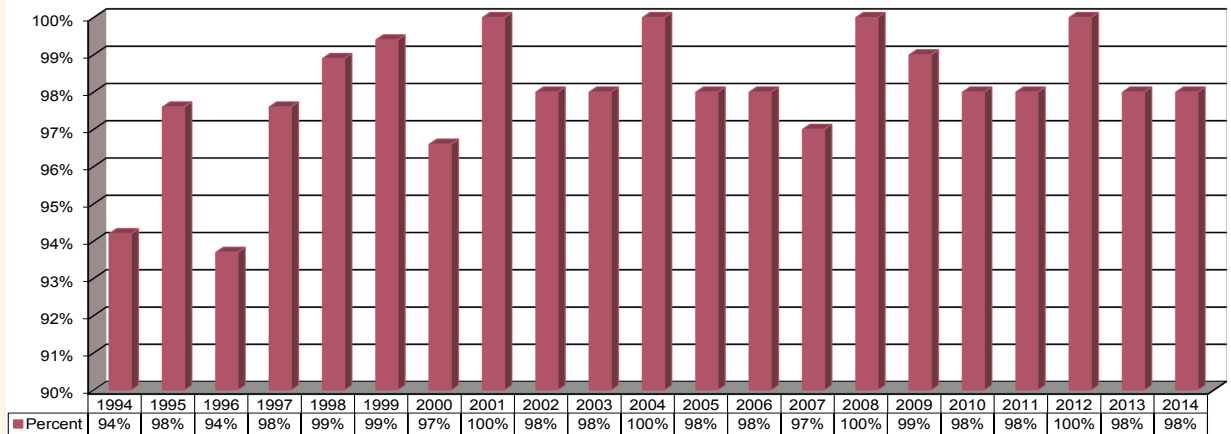
Since the Fund's inception in 1982, a small number of former lawyers each year have been responsible for the dishonest conduct resulting in the Fund's awards. Over 32 years, the Trustees' experience has firmly established that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their clients' trust. In 2014, 69 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 69 former lawyers, 39 appear for the first time in the Fund's awards. There are over 297,000 registered lawyers in New York.

In 2014, the Trustees approved 559 awards providing \$6.1 million in total reimbursement to eligible law clients for losses caused by dishonest conduct of 69 former New York State attorneys. One former lawyer was responsible for 405 (72%) of these 559 total awards. All but three eligible law clients received 100 percent reimbursement for their losses in 2014. Since 1982, the Trustees have granted 8,032 awards totaling \$176.8 million.

The Trustees are pleased to announce that in 2014 the Fund's maximum award was increased from \$300,000 to \$400,000, effective January 1, 2015. The New York Fund now provides the greatest protection among the Nation's client fund programs.

The Trustees are forever grateful to the Court of Appeals and Chief Judge Jonathan Lippman, and all those in State government, our judiciary and the attorney disciplinary system for their continued assistance to the Lawyers' Fund. The Trustees are also proud of New York's legal profession for its financial and other support to the Lawyers' Fund. Special recognition is due those members of the bar who generously donate their time and talents in assisting claimants before the Fund as a public service, without legal fee.

### Percent of Eligible Claimants Receiving Full Reimbursement 1994-2014



## History and Purpose of Law Client Protection

Bar associations in New York State in the 1960's first formed law client reimbursement programs. Inadequate financing later caused these associations to appeal to the Court of Appeals and the New York court system which assumed the responsibility for operating a statewide client reimbursement program.

The Lawyers' Fund, originally known as The Clients' Security Fund, was created by Chapter 714 of the Laws of 1981, effective June 1, 1981. The Fund is an independent public trust administered by a Board of Trustees appointed by the Court of Appeals. The Fund's mission, as set forth in section 468-b of the State Judiciary Law and the Trustees' Regulations, is to maintain the integrity and protect the good name of the legal profession, protect law clients from dishonest conduct in the practice of law, and promote public confidence in the administration of justice in New York State.

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

Loss prevention is an important component of an effective client protection program. The Trustees' loss prevention efforts include recommending changes in court rules and policies to improve our legal system and protect law clients; the publication of materials to educate lawyers and clients; and engaging in programs which detect lawyer misconduct and assist lawyers in complying with their fiduciary and escrow obligations.

## Revenue of the Lawyers' Fund

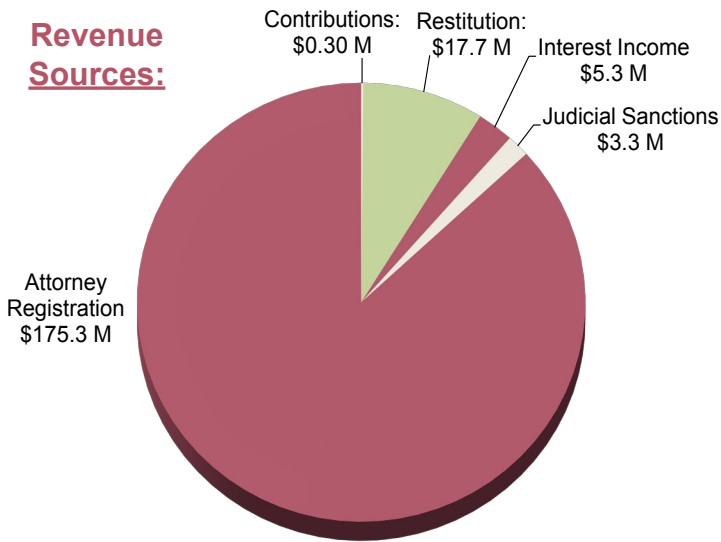
New York lawyers financially support the Lawyers' Fund. The biennial attorney registration fee required of every practicing attorney in the State is the primary source of revenue for the Lawyers' Fund. Section 468-a of the Judiciary Law allots \$60 of each \$375 registration fee, or \$30 per year, to the Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

**No tax dollars are used to finance the Lawyers' Fund. The Fund also does not receive any revenue from the Interest on Lawyer Account (IOLA) program.**

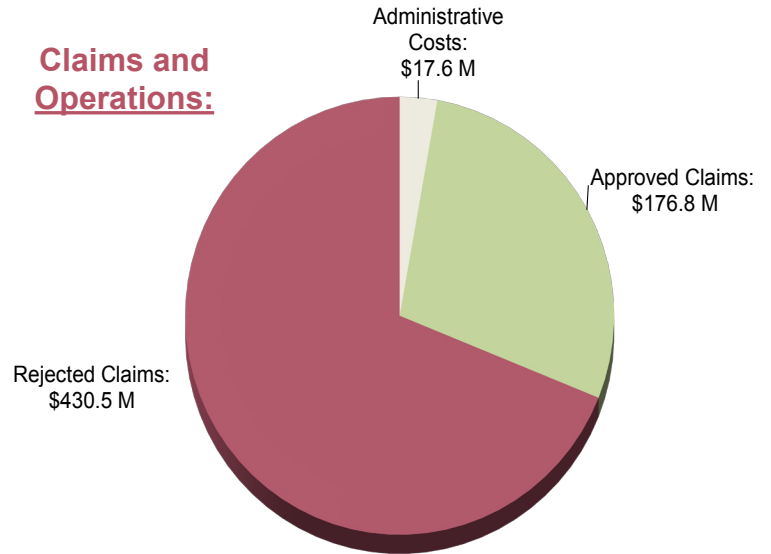
The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$175.3 million from attorney registration fees; \$17.7 million in restitution; \$5.3 million in interest income; \$3.3 million in judicial sanction revenue; and \$303,000 in contributions from lawyers and the public. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one portion of the Judiciary Budget.

### The Fund's Finances Since 1982

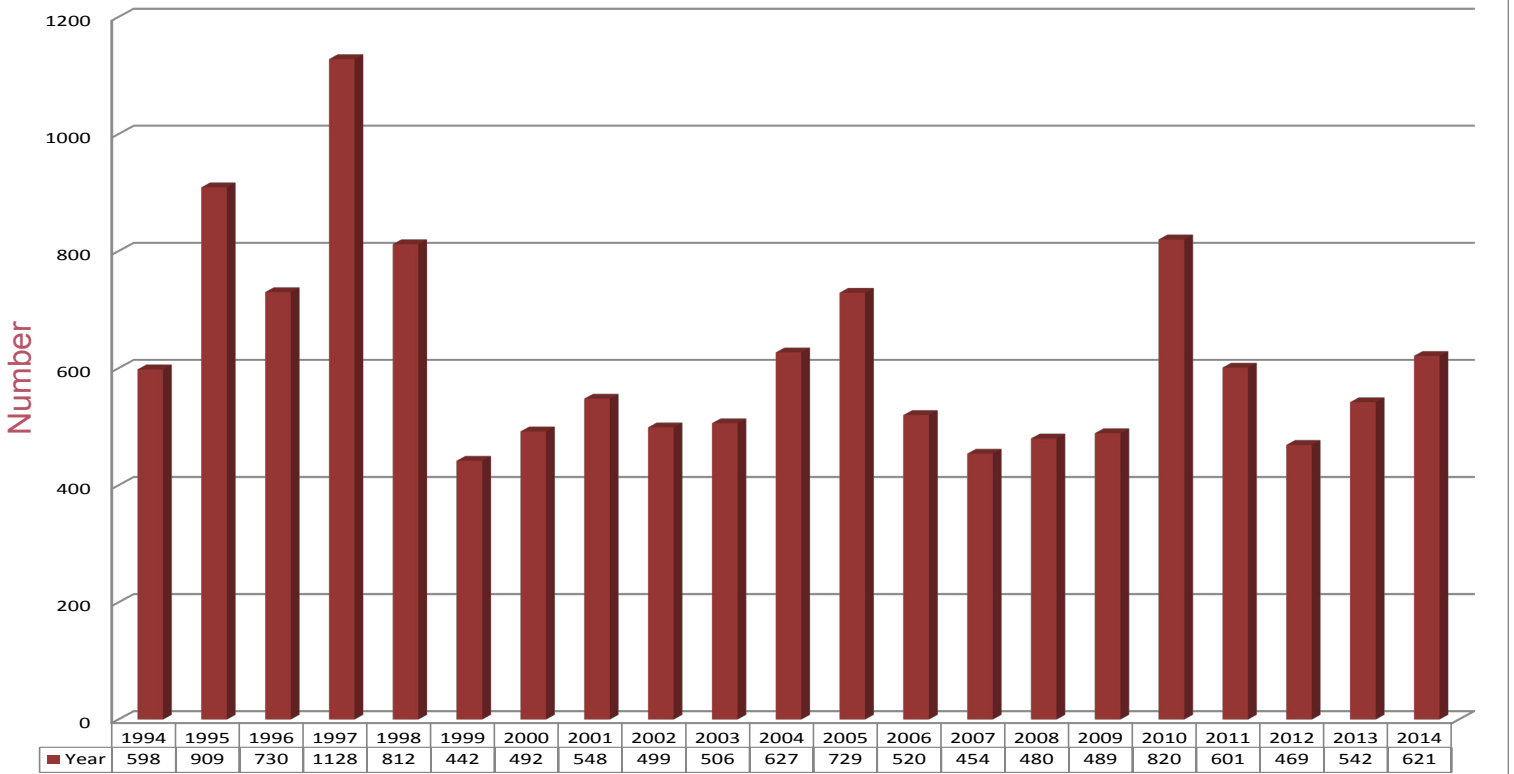
#### Revenue Sources:



#### Claims and Operations:



### Number of Reimbursement Claims Filed, 1994 - 2014 (Total Number of Reimbursement Claims Filed Since 1982: 18,192)



## Special Recognition

**THE BOARD OF TRUSTEES OF THE LAWYERS' FUND PROUDLY RECOGNIZES THE GENEROUS ACT OF PUBLIC SERVICE DISPLAYED BY THE ATTORNEYS LISTED BELOW WHO HAVE ASSISTED CLAIMANTS IN RECEIVING AWARDS OF REIMBURSEMENT IN 2014:**

### **ALBANY COUNTY**

Jeffrey L. Zimring, Esq.

### **ERIE COUNTY**

David H. Elibol, Esq.

John W. Murray, Esq.

### **KINGS COUNTY**

D. Bunji Fromartz, Esq.

Joseph Giaramita, Esq.

### **OTSEGO COUNTY**

George R. Silvernail, Esq.

### **QUEENS COUNTY**

Alex Antzoulatos, Esq.

Elias N. Fillas, Esq.

Adam Meiskin, Esq.

Gerard J. Sweeney, Esq.

### **NASSAU COUNTY**

Ariel Aminov, Esq.

Dorian R. Glover, Esq.

Joseph R. Harberson, Esq.

Joseph A. Hyland, Esq.

Diane Memmoli, Esq.

Robert S. Rubine, Esq.

Benjamin Weinstock, Esq.

### **NEW YORK COUNTY**

Mark J. Alonso, Esq.

Mario Biaggi, Jr., Esq.

Matthew L. Goldberg, Esq.

Ryan Miller, Esq.

Martin R. Munitz, Esq.

### **SUFFOLK COUNTY**

Paula Mauro, Esq.

Vincent J. Trimarco, Esq.

### **WESTCHESTER COUNTY**

Veronica I. Banton, Esq.

Richard Cohan, Esq.

John Doherty, Esq.

Jeffrey I. Klein, Esq.

Linda Perry, Esq.

### **OUT OF STATE**

Erin O. Anderson, Esq.(NM)

Eric O. Ibis, Esq.(CA)

Michael P. Paige, Esq.(NJ)

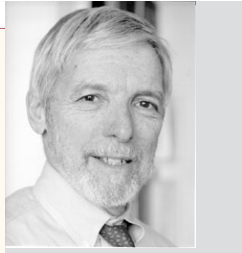


**“The conduct of attorneys is not measured by how close to the edge of thin ice they skate. The measure of an attorney’s conduct is not how much clarity can be squeezed out of the strict letter of the law, but how much honor can be poured into the generous spirit of lawyer-client relationships.”**  
***Matter of Cooperman, 83 N.Y.2d 465 (1994) (Bellacosa, J)***



## The Board of Trustees

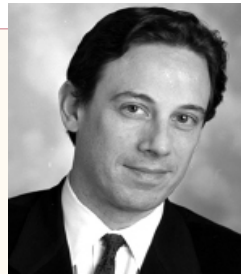
The Court of Appeals appoints the Board of Trustees to administer the Lawyers' Fund. As a public service, without compensation, the Trustees serve renewable three-year terms. Since December 1, 1981, the Board has been composed of five members of the bar and two business and community leaders. A total of 18 Trustees have served with the Fund since the Fund's inception. The Fund's officers, elected by the Trustees, consist of a Chairman, Vice-Chairman and a Treasurer. The Fund's Executive Director serves as the Fund's Chief Administrative Officer and the Board's Secretary and Counsel. The Trustees currently serving are listed below.



**Eric A. Seiff** of the Bronx is Chairman of the Board. He is a partner in the Manhattan law firm of Scoppetta, Seiff, Kretz & Abercrombie. Mr. Seiff is a graduate of Yale University and the Columbia University Law School (1958). Mr. Seiff is a charter member of the Board. His present term expires on November 30, 2015.



**Nancy Burner** of Suffolk County, is Vice-Chairman of the Board and is the founding partner of Nancy Burner & Associates, P.C., an estate planning and elder law firm in Setauket, Westhampton Beach and New York City. She is a graduate of the State University at Stony Brook and Hofstra University School of Law (1988). She was first appointed in 2002. Her present term expires on December 10, 2017.



**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a partner in the litigation group of the Kirkland & Ellis law firm. He is a graduate of Georgetown University and St. John's University School of Law (1988). He was first appointed to the Board of Trustees in 2009. His present term expires on November 30, 2015.



**Anthony J. Baynes** of Williamsville, Erie County, is the founder and current Chairman of the AJ Baynes Group, a Buffalo based development and logistics company. Mr. Baynes is a graduate of Buffalo State College (1979). He was first appointed in 2012. His present term expires on October 17, 2015.



**Stuart M. Cohen** of Rensselaer County served for 14 years as the Clerk of the Court of Appeals. Mr. Cohen is a graduate of Connecticut College and New York University School of Law (1979). He is a sole practitioner in Rensselaer concentrating on appellate matters. He was first appointed in 2013. His present term expires on December 4, 2016.



**Patricia L. Gatling**, of Manhattan, is the Commissioner and Chair of the New York City Commission on Human Rights. She is a graduate of Johns Hopkins University and the University of Maryland School of Law (1982). She was first appointed in 2008. Her current term expires on November 19, 2017.



**Charlotte G. Holstein** of Syracuse is a civic leader, founder and Executive Director of F.O.C.U.S. Greater Syracuse, a community interest group. She is a graduate of Brockport State University (1946) and the 1998 recipient of an honorary degree, Doctor of Humane Letters, from LeMoyne College in Syracuse. She was first appointed in 2001. Her present term expires on November 30, 2016.

**"I commend your organization for its tenacity, and I profoundly appreciate your sustained efforts on my behalf."  
Message from a claimant, 2014**

## The Staff of the Lawyers' Fund

The Board of Trustees appoints the Fund's staff. In 2014, the staff consisted of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Ray Wood, Investigator; Jahnel Kaczor, Administrative Secretary; and Harriett Tremblay, Secretary.



Timothy J. O'Sullivan



Michael J. Knight



Ray Wood



Jahnel Kaczor



Harriett Tremblay

## Former Members of the Board of Trustees and Administration

Former members of the Board of Trustees include the Hon. Judith S. Kaye, former Chief Judge of the State of New York and Chief Judge of the Court of Appeals (1981-1983); Joseph Kelner, Esq. of Manhattan (1981-1982); Anthony R. Palermo, Esq. of Rochester (1981-1990); John F. X. Mannion of Syracuse (1981-1992); Ray W. Manuszewski of Cheektowaga (1981-2002); Theodore D. Hoffmann, Esq. of Hicksville (1990 to 2002); Shirley B. Waters of Rome (1992 to 2001); Bernard F. Ashe, Esq. of Delmar (1981-2008), Hon. Charles J. Hynes, former Kings County District Attorney (1982-2009); Theresa B. Mazzullo of Rochester (2002-2012) and Eleanor Breitel Alter, Esq. of Manhattan (1985-2013).



**Hon. Judith S. Kaye** of Manhattan served as a charter member of the Board of Trustees from 1981 to 1983. Judge Kaye is the former Chief Judge of the State of New York and Chief Judge of the Court of Appeals.



**Anthony R. Palermo** of Monroe County, served as the Charter Chairman of the Board from 1981-1985, and as Trustee from 1981-1990. Mr. Palermo is a partner in the Rochester law firm of Woods Oviatt Gilman LLP.



**Eleanor Breitel Alter** of Manhattan served as Trustee from 1983 to 1985 and Chairman of the Board of Trustees from 1985 until 2013. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman.



**Bernard F. Ashe** of Delmar, Albany County, served as a charter member of the Board of Trustees from 1981 to 2008 and as Vice-Chairman of the Board from 2003 to 2008. Mr. Ashe is a former General Counsel to New York State United Teachers.



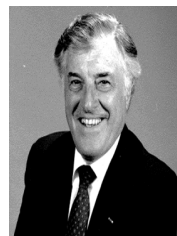
**Ray W. Manuszewski** of Erie County, served as a charter member and Treasurer of the Fund from 1981 to 2002. He was a former Regional Vice President with Manufacturer's Hanover Trust Company and a principal with an accounting firm.



**John F. X. Mannion** of Onondaga County served as a charter member of the Board from 1982 - 1992 and as Vice-Chair from 1982 to 1989. He is the former Chairman of the Board of Unity Mutual Life Insurance Company in Syracuse.



**Charles Joseph Hynes** of Brooklyn is the former District Attorney of Kings County. Mr. Hynes served on the Board of Trustees from 1982 until 2008.



**Theodore D. Hoffmann** of Nassau County, served as a Trustee and Vice-Chair for the Fund from 1990 to 2002. Mr. Hoffmann was counsel to the Garden City law firm of Albanese, Albanese & Fiore.



**Joseph Kelner** of Manhattan was a charter member of the Board and served from 1981 to 1982. He was a partner in the Manhattan law firm of Kelner and Kelner.



**Shirley B. Waters** of Oneida County, is Vice President of the Rome Sentinel Company, the publisher of the Daily Sentinel newspaper. Mrs. Waters served on the Board of Trustees from 1992 to 2001.



**Theresa B. Mazzullo** of Rochester, Monroe County, served as a Trustee and the Fund's Treasurer from 2002 to 2012. She is the CEO of Excell Partners, Incorporated, a state supported seed capital fund.



**Frederick Miller** served as the Fund's charter Executive Director and Counsel from 1982 through his retirement in July 2000.

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

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

The Trustees' Regulations for administration and claims procedures are published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200, et seq.). In 2014, the Trustees adopted two amendments to their Regulations which were both effective January 1, 2015. Section 7200.9 (a) of the Trustees' Regulations was amended to codify the policy that claimants are required to file disciplinary and criminal complaints against lawyers accused of dishonest conduct. Section 7200.13 (a) of the Trustees' Regulations was also amended to increase the Fund's maximum award from \$300,000 to \$400,000. The Appendix includes section 97-t of the State Finance Law, section 468-b of the Judiciary Law and the Trustees' Regulations.

## Revenue, Awards and Disbursements

Since 1982, the Fund has received total revenue of \$201.9 million. As of December 31, 2014, the Trustees have approved a total of \$176.8 million in reimbursement awards. The Fund's administration cost in 2014 was \$969,412.04. In 32 years of operations, 91 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement. At the close of 2014, the Fund held \$9.4 million in revenue in the state treasury.

## Restitution Revenue and Litigation

Since 1982, the Fund has recovered a total of \$17.7 million in restitution from dishonest attorneys, their estates, and third parties civilly liable for losses reimbursed by the Fund.

The New York State Attorney General represents the Lawyers' Fund in restitution and other litigation. Since December 1999, the Fund has financed the payroll expense of an Assistant Attorney General assigned exclusively to the Fund's restitution efforts.

Assistant Attorney General Richard L. Rodgers has served as the Fund's restitution counsel since 2001. Mr. Rodgers also defends the Fund in Article 78 proceedings. The Trustees and staff are indebted to Mr. Rodgers for his dedicated and talented service to the Lawyers' Fund.

The Trustees are also grateful to the following members of the Attorney General's Office who assisted in restitution litigation in 2014: Assistant Attorneys General John V. Cremo, Kathryn Blake, Norman Fivel, William Maldovan and Michael Russo. The Trustees also wish to acknowledge the assistance provided by Assistant Attorneys General Melissa J. O'Neill and Amy D. Schallop in the Fund's review of claims involving loan modification fraud.

## Public Information and Consumer Education

The Trustees encourage public information about the Fund and its activities. Responsible public information efforts promote public confidence in the integrity of the legal profession and the administration of justice in New York State.

Educational publications by the Fund for legal consumers and members of the bar have included editions of *Know Your Escrow Rights*; *Know Your Escrow Rights: The Lawyers' Edition*; *Attorney Trust Accounts: The Video*; *What's A Power of Attorney? Answers for New Yorkers*; *Avoiding Grief With A Lawyer: A Practical Guide to Attorney Trust Accounts and Record Keeping*; and an Appendix of CLE Materials. A documentary video on the history and purpose of the Lawyers' Fund was produced in 2007 in recognition of the Fund's 25th anniversary. In 2014, the Trustees completed an updated edition of *A Practical Guide* for release in January 2015.

The Fund's website at [www.nylawfund.org](http://www.nylawfund.org) includes frequently asked questions, Fund procedures, the Trustees' Regulations, reimbursement claim forms, 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 Fund's website also includes ethics and escrow materials such as the Rules of Professional Conduct, the Dishonored Check Notice Rule, a list of approved banking institutions, court rules and sample pleadings concerning escrow funds of missing clients and deceased attorneys, and selected New York State Bar Association ethics opinions.

The New York Lawyers' Fund can also be found on Facebook and Twitter.

## Processing Applications for Reimbursement

To be considered for reimbursement, a law client must file with the Fund a completed application form along with documentation supporting the alleged loss. The Executive Director will dismiss a claim with a written explanation if an alleged loss does not appear to qualify for an award. Section 7200.8 (b) of the Trustees' Regulations provides that a claimant has the responsibility to provide satisfactory evidence of an eligible loss. The Fund's staff will also conduct any necessary investigation of a claim for reimbursement.

Claimants alleging a misappropriation of money or property in the practice of law must report their losses to the appropriate Attorney Grievance Committee and District Attorney and cooperate with these agencies in their investigations. Notice of a claim, and the opportunity to respond, is provided to lawyers accused of dishonest conduct.

A claimant with the Fund does not have to be represented by counsel. Claimants may wish to consult with a lawyer concerning problems or other issues raised by their loss. As a public service, lawyers in New York State generously assist claimants with the Fund, without legal fee. Appellate Division rules and the Trustees' Regulations prohibit lawyers from charging or accepting legal fees for assisting claimants, except with the prior approval of the Board of Trustees. (See, 22 NYCRR 603.24, 691.24, 806.16, 1022.35 and 22 NYCRR 7200.14).

Section 468-b of the Judiciary Law and the Trustees' Regulations provide the Trustees with the sole discretion to determine the merits of claims, set the amount of an award of reimbursement, and the terms and conditions for awards. The Trustees do not render final determinations in claims until Appellate Division disciplinary proceedings and related criminal proceedings involving the accused attorney are completed. The Fund therefore coordinates its investigations of claims with those of the Attorney Grievance Committees in the four judicial departments and criminal prosecutors.

## Judicial Review of Rejected Claims

In 32 years, 17,720 determinations have been rendered in claims filed with the Fund. The Trustees have approved 8,032 awards of reimbursement. The remaining 9,688 claims were determined to be ineligible for failure to provide satisfactory evidence of eligible losses. Since 1982, eighteen claimants denied reimbursement have pursued Article 78 or other proceedings against the Fund. All of these judicial challenges were dismissed after the courts held that there was a rational basis for the Trustees' denials in the claims.

In 2014, two of these Article 78 proceedings against the Lawyers' Fund were dismissed. In *Cho v Lawyers' Fund*, No. 4890-13 (Sup. Ct., Albany Co. 2014) and in *Amaxopoulos v Lawyers' Fund*, No. 2041-14 (Sup. Ct., Albany Co. 2014), the Courts both held that the Trustees did not abuse their discretion in denying the claims which each sought reimbursement for alleged investment losses when there was no satisfactory evidence that the losses occurred in an attorney-client relationship and the practice of law.

In *Carbone v Lawyers' Fund*, No. 6589-2012 (Sup. Ct., Albany Co. 2013), one former attorney against whom an award was granted unsuccessfully pursued an Article 78 proceeding against the Lawyers' Fund.

## The Dishonored Check Reporting Rule

A dishonored attorney escrow account check indicates the possible misuse of client funds. To protect law clients, the Trustees recommended a version of the ABA's model overdraft reporting rule which was implemented by court rule in New York State by the Appellate Divisions effective January 1, 1993.

The "Bounced Check Rule" (22 NYCRR 1200.46(b) (1), (2); Part 1300) requires that a lawyer in possession of funds belonging to another person incident to the lawyer's practice of law must maintain such funds in a special account separate from the lawyer's business, personal or other accounts. These separate fiduciary accounts must be designated as an "Attorney Special Account", "Attorney Trust Account", or "Attorney Escrow Account". Lawyers may only deposit client funds with banks which have agreed to report dishonored checks on these accounts. A list of approved banks is available on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org).

A "bounced" escrow check is mailed to the Lawyers' Fund. If not withdrawn within 10 days due to bank error, the Fund forwards the notice to the appropriate attorney disciplinary committee for investigation. The majority of bounced check notices are caused by innocent mistakes in law office banking practice. In these cases, the rule serves an educational role, alerting lawyers to the accounting, banking and recordkeeping requirements of the Rules of Professional Conduct.

The Dishonored Check Reporting Rule has proven to be an effective loss prevention and detection device. Since 1993, bounced check reports have identified and led to the discipline of approximately 276 lawyers for misusing client funds.

## Escrow Funds of Deceased Lawyers and Missing Clients

Rule 1.15 (e) of the Rules of Professional Conduct provides that only an attorney admitted to practice law in New York State shall be an authorized signatory on an attorney's trust, escrow or special account. This limitation is intended to protect law clients from the misuse of their money. Practical problems arise when a sole practitioner dies without a successor signatory.

In 1994, at the Trustees' suggestion, the Appellate Divisions amended court rules to permit a Justice of the Supreme Court to designate a successor signatory for a deceased attorney's trust, escrow or special account. Effective April 1, 2009, this Disciplinary Rule was renumbered as Rule 1.15 (g) of the Rules of Professional Conduct. A Court may now direct that money from a deceased attorney's client funds account be disbursed to persons who are entitled thereto, or deposited with the Lawyers' Fund for safeguarding.

The Trustees also recommended court rules to prevent the escheat of law client escrow funds to the State which were unclaimed or owed to missing clients as abandoned property.

Rule 1.15 (f) of the Rules of Professional Conduct provides that an application can be made for a court order directing that unclaimed escrow funds or funds owed to a missing client be deposited with the Lawyers' Fund for safeguarding and disbursement to persons entitled thereto. To prevent the depletion of nominal deposits, the Fund's policy is to accept deposits of \$1,000 or less, owed to any one client, without a court order.

The Fund's staff attempts to locate missing clients to return these deposits. The Fund's staff has so far successfully located 278 missing clients and returned to them \$709,473.

These court rules are reproduced below. Sample pleadings pursuant to these rules can be found on the Fund's website at [www.nylawfund.org](http://www.nylawfund.org) in the escrow and ethics material section.

### 22 N.Y.C.R.R. Rule 1.15 (f), (g)

#### (f) Missing Clients.

Whenever any sum of money is payable to a client and the lawyer is unable to locate the client, the lawyer shall apply to the court in which the action was brought if in the unified court system, or, if no action was commenced in the unified court system, to the Supreme Court in the county in which the lawyer maintains an office for the practice of law, for an order directing payment to the lawyer of any fees and disbursements that are owed by the client and the balance, if any, to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

#### (g) Designation of Successor Signatories.

(1) Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory for such trust, escrow or special account, who shall be a member of the bar in good standing and admitted to the practice of law in New York State.

(2) An application to designate a successor signatory shall be made to the Supreme Court in the judicial district in which the deceased lawyer maintained an office for the practice of law. The application may be made by the legal representative of the deceased lawyer's estate; a lawyer who was affiliated with the deceased lawyer in the practice of law; any person who has a beneficial interest in such trust, escrow or special account; an officer of a city or county bar association; or counsel for an attorney disciplinary committee. No lawyer may charge a legal fee for assisting with an application to designate a successor signatory pursuant to this Rule.

(3) The Supreme Court may designate a successor signatory and may direct the safeguarding of funds from such trust, escrow or special account, and the disbursement of such funds to persons who are entitled thereto, and may order that funds in such account be deposited with the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

## Thefts in Real Property Transactions

The problem of lawyer theft of real estate escrow funds continues to be a major concern for the Trustees. Since 1982, real estate escrow losses are the largest single category of awards from the Fund in both the number of awards approved and amount of reimbursement provided. In 32 years, 28.9 percent of the number of all awards from the Fund and 39.9 percent of all money paid out by the Fund have reimbursed real estate escrow losses. Since 1982, the Trustees have approved 2,316 awards totaling \$70.1 million for real property losses.

In 2014, real estate awards accounted for 31 of the 559 awards, or 5.5 percent of all awards. This represents a decrease from 2013 when real estate awards accounted for 54 of the 218 awards, or 24.8 percent of all awards. The 31 real estate awards in 2014 represented the second largest category of awards by number.

In 2014, real estate awards accounted for \$1.9 million of the \$6.1 million total payout by the Fund for all awards. This \$1.9 million dollar payout represents 32.5 percent of the total amount reimbursed by the Fund in 2014. This \$1.9 million payout also represents a small decrease from 2013 when realty awards comprised \$2 million of the total \$6.9 million reimbursed or 29.4 percent of the total payout for that year.

A lawyer's theft of a purchaser's down payment in the sale of residential property has historically constituted the majority of these real estate losses.

**“I write...to express [my] thanks and gratitude to the Fund for having taken the time to examine and consider the claims we made...Words fail to express our gratitude sufficiently.”**

**Message from a claimant, 2014**



## Losses in Investment Transactions

In establishing the Fund, the State Legislature made clear that reimbursement was intended for losses arising within an attorney-client relationship and the practice of law. Section 468-b of the Judiciary Law defines “dishonest conduct” as the misappropriation or wilful misapplication of **clients’** (emphasis supplied) money, securities, or other property by an attorney. Therefore, losses caused by a lawyer’s breach of fiduciary obligations outside an attorney-client relationship and the practice of law are not eligible for reimbursement.

The Trustees carefully review claims alleging losses from investment and loan transactions with lawyers. In 1984, the Trustees adopted the following policy guidelines in order to fully explain the eligibility of claims involving these types of losses:

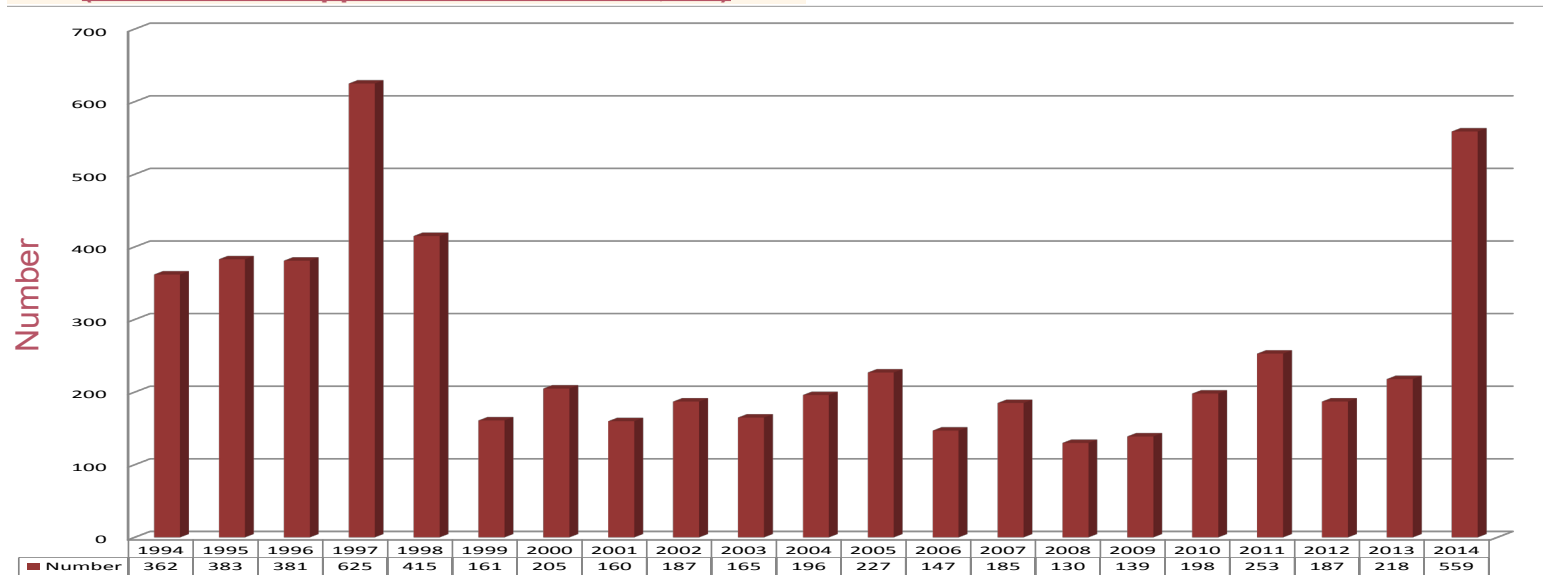
*“The Trustees will consider for payment only those claims arising out of an attorney-client relationship. Investment advice given by the claimant’s attorney, although such advice may result in the loss of claimant’s money, is not, in and of itself, a ground for seeking reimbursement from the Fund.*”

*Claims arising out of investments may be considered for payment, however, when the attorney is in the possession of the claimant’s money, which the attorney has obtained by virtue of an attorney-client relationship with the claimant, when the attorney advises the claimant to invest the money in a business or other venture, and the attorney then misappropriates the claimant’s money.*

*Ordinarily, interest on investments will not be reimbursed. Unless a claimant establishes otherwise, all payments received on an investment will be considered to be return of principal and will be deducted from the claimant’s initial investment with the attorney in order to determine, for Fund purposes, the claimant’s reimbursable loss.”*

The Trustees also apply a “but for” test in evaluating claims alleging investment losses. Under this test, a loss is eligible if the Board finds that the loss would not have occurred “but for” dishonest conduct within an attorney-client relationship. Since 1982, 1,686 claims have been filed with the Fund alleging \$285.3 million in losses from investment transactions with lawyers. The Trustees approved awards in 381 of these claims providing total reimbursement of \$22.2 million.

### Number of Awards Approved From 1994-2014 (Total Awards Approved Since 1982: 8,032)



## Legal Fee Claims and Loan Modification Losses

Since 1982, the largest single category of claims filed with the Fund (36.5%) seek reimbursement of legal fees.

The Fund has no authority to settle fee disputes, or to compensate for alleged negligence, malpractice, or dissatisfaction with legal services. To qualify for a refund of a legal fee, a claimant must provide satisfactory evidence of dishonest conduct. Section 7200.8 (e)(1) of the Trustees’ Regulations provides that dishonest conduct in legal fee claims includes an attorney’s misrepresentation, or false promise, to provide legal services in exchange for an advance fee.

The Trustees are concerned about the increasing claims to the Fund involving lawyer fraud in home loan modification scams and the resulting losses suffered by vulnerable home owners defrauded of advance legal fees in this type of fraud. The Trustees recommend that new legislation be enacted to prohibit lawyers from accepting advance legal fees in home loan modifications in order to prevent these losses from occurring.

### Theft of Personal Injury Settlements and Payee Notification

One type of loss experienced by the Trustees involved a dishonest lawyer settling a client’s action without authority by forging the client’s signature on a general release and settlement draft and converting the proceeds. The settlement would be issued without notice of payment to the law client.

In 1988, to detect and prevent these losses, the Trustees recommended the adoption of a payee notification rule codified as Insurance Department “Regulation 64” notice. This 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). Regulation 64 detects and prevents losses involving the theft of personal injury settlements and shifts liability for forgery losses to banks that improperly honor forged indorsements on negotiable instruments.

New York’s Regulation 64 has been approved as a Model Rule for attorney disciplinary systems by the American Bar Association. Variations of this payee notice rule have now been adopted in the Canadian Province of New Brunswick and in the following other sixteen states: Arkansas, California, Connecticut, Delaware, Georgia, Hawaii, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, Pennsylvania, Rhode Island, Texas, Virginia and Washington.

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# Claims Filed and Processed

## Claims Filed in 2014

In 2014, there were 621 claims filed with the Lawyers' Fund. This represents a 15 percent increase from 2013 when the Fund received 542 claims. The 621 filed claims in 2014 alleged \$88 million in losses, a 65 percent increase from the \$53.2 million in alleged losses from the previous year. This substantial increase is attributable to only nine claims which alone allege \$63.4 million in losses.

## Claims Filed, 1982 to 2014

Since 1982, 18,192 claims have been filed with the Lawyers' Fund alleging \$893 million in total losses. Annual filings have ranged from a low of 230 in 1984 to a record high of 1,128 in 1997.

## Claims Filed by Category of Loss in 2014

Claims to the Lawyers' Fund are classified into the following eight categories: (1) trusts and estates; (2) real property escrow funds; (3) debt collection proceeds; (4) settlements in litigation; (5) other escrow transactions; (6) unearned legal fees; (7) investment transactions with lawyers; and (8) a miscellaneous category of "other" for other claims.

In 2014, of the 621 filed claims, 345 (55.6%) claims sought reimbursement of legal fees. Nearly one-half of these 345 fee claims involve only six lawyers. There were 133 claims (21.4%) alleging theft of personal injury settlements and 63 claims (10.1%) alleging losses of real property escrows.

Of the \$88 million in alleged losses in 2014, \$44.9 million involved alleged investment losses. This represents 51.1% of all alleged losses. Filed claims in 2014 involving personal injury settlements totaled \$15.9 million (18.1%). Alleged losses in filed claims involving unearned legal fees totaled \$8.6 million (9.8%).

## Claims Filed by Category of Loss, 1982 to 2014

Since 1982, by category, the largest number of filed claims have sought reimbursement of legal fees. In 32 years, 6,649 claims have been filed alleging unearned legal fees. These legal fee claims account for 36.5 percent of all filed claims. The second largest category of filed claims alleged losses in real property transactions. The Fund has received 3,960 real property claims comprising approximately 21.8 percent of all filed claims.

Since 1982, the largest alleged dollar losses in filed claims were in claims alleging losses from investment transactions with lawyers. Investment claims have alleged losses of \$285.3 million, or 31.9 percent of all alleged losses in filed claims. Real property claims were second with alleged losses of \$212 million constituting 23.7 percent of all alleged losses. The third largest category of alleged losses involve alleged thefts from estates and trusts. These claims have alleged \$121 million in losses or 13.6 percent of all alleged losses.

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## Awards of Reimbursement in 2014

In 2014, the Trustees approved 559 awards. This represents a 156 percent increase from 2013 when 218 awards were granted. This increase is due to 405 awards approved in claims involving Andrew F. Capoccia. The awards in 2014 reimbursed a total of \$6.1 million. This payout represents a 13 percent decrease from 2013 when \$6.9 million in reimbursement was paid out by the Fund. In 2014, all but three eligible claimants received 100 percent reimbursement for their eligible loss. The median client loss and award in 2014 was \$1,086, down from \$6,000 in 2013.

## Awards of Reimbursement, 1982 to 2014

Since 1982, the Trustees have approved 8,032 awards of reimbursement totaling \$176.8 million. On average, since 1982, 94 percent of all eligible claimants have received full reimbursement for their eligible loss. Since 2003, 99 percent of eligible claimants were fully reimbursed by the Lawyers' Fund.

**“Thank you so very much for your assistance in investigating and processing [our] claim. A terrible injustice has been corrected and for that I am truly grateful....”**  
**Message from a claimant, 2014**

## Awards by Category of Loss in 2014

In 2014, the largest category of awards by the number of awards reimbursed unearned legal fees. Of the 559 awards in 2014, 484 (86.6%) reimbursed unearned legal fees. One former lawyer was responsible for 405 (84%) of these 484 legal fee awards. The second largest category of awards by the number of awards in 2014 was real property escrows with 31 awards, or 5.5 percent of the 559 total awards.

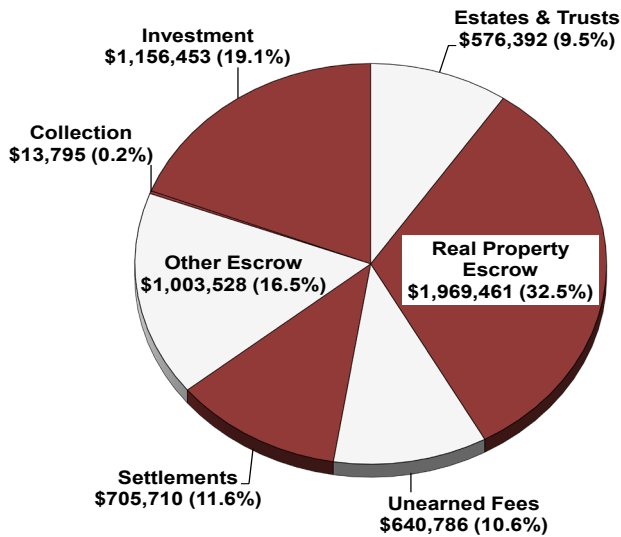
By dollar amount, the largest category of awards in 2014 reimbursed real property escrows. Of the \$6.1 million paid out by the Trustees in 2014, \$1.9 million (32.5%) reimbursed realty losses. The second largest category of awards in 2014 by dollar amount involved investment losses. These awards totaled \$1.2 million which is 19 percent of the \$6.1 million reimbursed in 2014.

## Awards by Category of Loss, 1982 to 2014

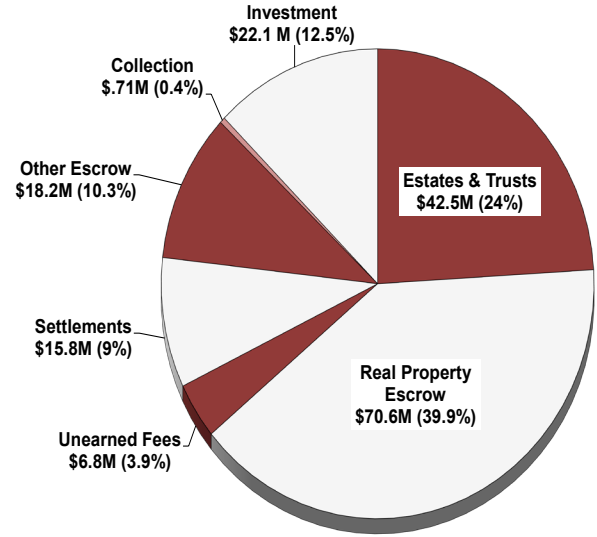
By category since 1982, the largest number of awards approved are for unearned legal fees. Unearned legal fee awards total 2,730 or 34 percent of all awards. The second largest category of awards reimbursed real property losses. Since 1982, there have been 2,316 real property awards comprising 28.9 percent of all awards.

Since 1982, by dollar amount, awards reimbursing real property losses represent the largest payout by the Fund. Real property awards total \$70.5 million, or 39.9 percent of all money reimbursed. The second largest dollar amount of awards involve thefts from estates and trusts. These awards total \$42.5 million or 24 percent of all awards.

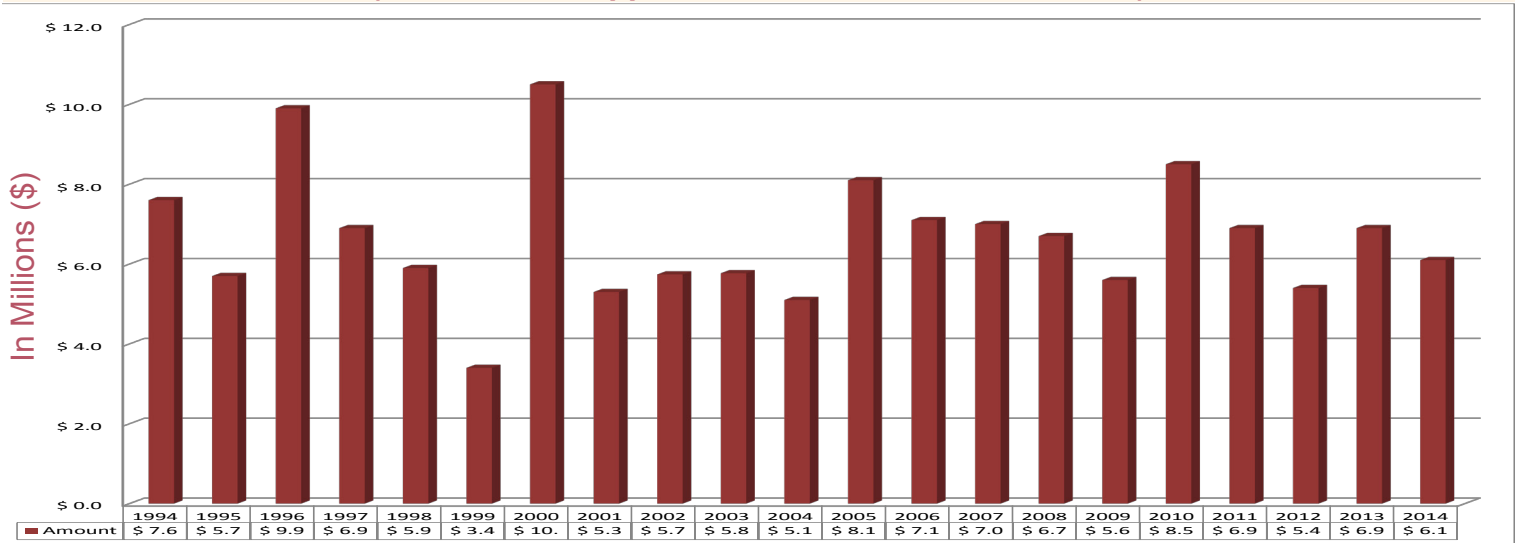
### Amount of 2014 Awards By Misconduct: \$6.1 Million



### Amount of Awards Since 1982 By Misconduct: \$176.8 Million



### Amount of Awards Approved From 1994-2014 (In Millions \$) (Total Awards Approved Since 1982: \$176.8 Million)



### Ineligible Claims Since 1982

In 32 years, the Fund has rendered 17,720 determinations in claims. Of these 17,720 claims, 9,688 or 55 percent, were found to be ineligible for reimbursement.

### Claims Pending as of December 31, 2014

There were 525 pending claims at the close of 2014. This is a decrease of 289 claims from the 814 claims which were pending at the end of the prior year. This 35 percent decrease in pending claims is largely due to the disposition of 430 claims involving one law firm.

These 525 pending claims allege total losses of \$76.2 million. The Fund's exposure on these pending claims, adjusted for the \$300,000 maximum limit on awards, is \$31.1 million. This represents an 8 percent decrease in the Fund's exposure on pending claims from the end of 2013. Only six lawyers account for 40 percent of the Fund's \$33.1 million exposure on pending claims.

## Lawyers Involved in Awards 1982 to 2014

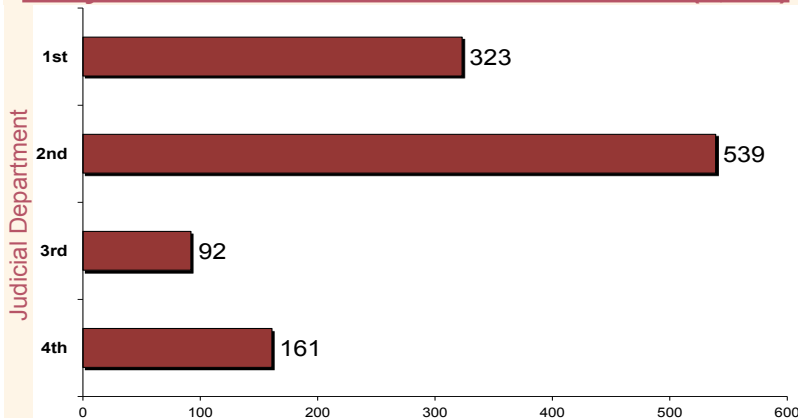
The Trustees' experience over 32 years has firmly established that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their law clients' trust.

A tiny percentage of the bar's membership is responsible each year for the dishonest conduct resulting in awards from the Lawyers' Fund. There are now over 297,000 registered lawyers in New York State. In 32 years, from a much larger pool of admitted lawyers over that time, only 1,115 former lawyers have caused the 8,032 awards granted by the Fund. In 2014, the Trustees' 559 awards were attributable to dishonest conduct by 69 now suspended, disbarred or deceased lawyers. Of these 69 former lawyers, 30 were respondents in awards from prior years. The names of 39 dishonest lawyers appear for the first time in 2014 awards.

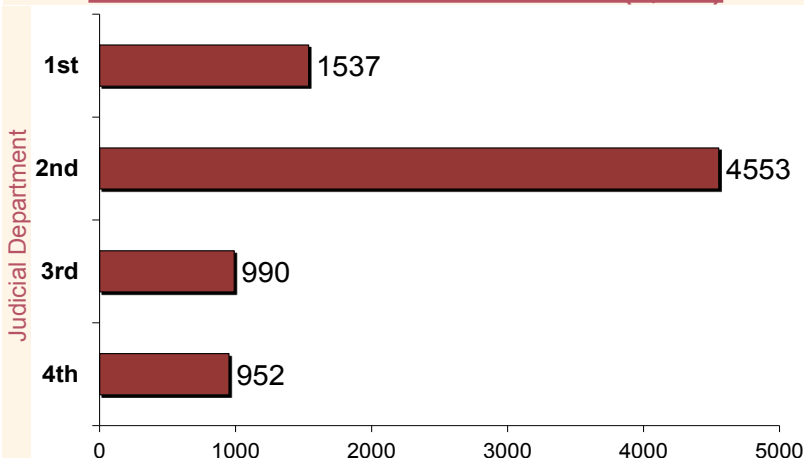
A list of lawyers involved in awards in 2014 is provided in the Appendix. The complete list of lawyers involved in all awards since 1982 is provided on the Lawyers' Fund website: [www.nylawfund.org](http://www.nylawfund.org).

Most losses involve sole practitioners, the majority of whom are male and middle-aged. Apparent causes of misconduct are often traced to alcohol or drug abuse and gambling. Other causes are economic pressures, mental illness, marital, professional and medical problems. The geographic distribution of these 1,115 former lawyers, and the Fund's 8,032 awards, among the state's judicial departments is represented in the following bar graphs:

### Lawyers Involved in All Awards Since 1982 (1,115)



### Distribution of Awards Since 1982 (8,032)



### First Judicial Department Includes:

New York and Bronx Counties



### Second Judicial Department Includes:

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



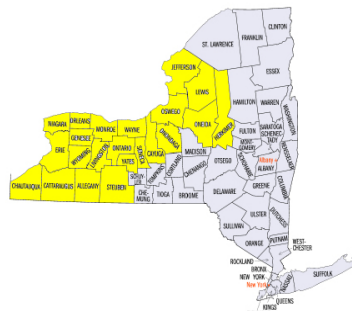
### Third Judicial Department Includes:

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



### Fourth Judicial Department Includes:

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



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## Recommendations

Section 468-b of the Judiciary Law and the Fund's Regulations delegate to the Trustees the statutory responsibility to maintain the integrity of the legal profession and promote public confidence in the administration of justice. To fulfill this responsibility, the Trustees annually recommend changes in legal practice and policy.

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### Lawyer Fraud in Home Loan Modification Scams

**The Trustees recommend new legislation to prohibit advance legal fees for representation in a home loan modification in order to protect homeowners from being defrauded in loan modification scams.**

The Trustees have observed increasing losses suffered by vulnerable homeowners defrauded of advance legal fees in loan modification scams. In 2008, New York passed legislation to prevent unscrupulous loan modification companies from defrauding homeowners struggling to meet their mortgage obligations. Real Property Law section 265-b created new rules for "distressed property consultants" that prohibit the payment of advance fees to these consultants for mortgage loan modifications. Attorneys are exempt from this prohibition against advance fees for mortgage loan modifications.

To circumvent the consumer protection of RPL 265-b, fraudulent loan modification companies will use as a front, an inexperienced or financially stressed attorney in order to continue taking advance fees. The desperate legal consumer is defrauded when the promised services are not provided. As soon as the attorney involved is disbarred, the loan modification company will recruit a replacement attorney to continue this pattern of fraud.

California recently experienced a significant problem with this type of loan modification fraud. Corrective legislation there prohibiting attorneys from receiving advance fees for loan modification representation was effective in addressing this type of fraud.

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### Escrow Thefts in Real Property Transactions

**The Trustees continue to encourage our bar and judicial leaders to consider and adopt measures to address the recurring problem of escrow thefts in real property transactions.**

In 2014, real estate escrow thefts were responsible for the largest dollar amount of reimbursement by the Lawyers' Fund. Of the \$6.1 million awarded in 2014, \$1.9 million (32.5%) reimbursed realty losses.

Since 1982, the Trustees have paid 2,316 awards totaling over \$70 million for real estate escrow thefts. These totals constitute 28.9 percent of the number of all awards and 39.9 percent of the amount of all awards from the Fund in 32 years.

There is no doubt that a tiny percentage of lawyers in New York State cause these realty losses. These few disgraced lawyers though cause substantial harm to law clients and to the reputation of the over 297,000 registered lawyers in New York State. The Trustees continue to urge the New York State Bar Association, local bar associations and other interested parties to study and address this problem.

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### Escrow Accounts of Suspended and Disbarred Lawyers

**The Trustees recommend the enactment of clear and precise court rules directing a suspended or disbarred lawyer to transfer client funds and property and prohibiting further use of attorney escrow accounts.**

Present court rules in New York make no specific provision for the transfer or protection of law client escrow funds and property in possession of members of the bar who are suspended or disbarred for professional misconduct. The Trustees are concerned that law client assets are not adequately safeguarded when it is clear that they may be in danger if left under the control of a lawyer who has lost his or her license to practice law for serious misconduct.

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### Interim Suspensions and Restraining Escrow Funds

**The Trustees propose that court rules be augmented by granting discretion to the Appellate Divisions to restrain attorney escrow accounts of lawyers who are determined to be a public threat.**

Court rules in New York State allow for the temporary suspension of an attorney when there is a judicial finding that the attorney is guilty of professional misconduct immediately threatening the public interest. These rules should require the Appellate Divisions to restrain attorney escrow accounts of these lawyers who are found to be a public threat. This measure will protect the interests of legal consumers.

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## **Recommendations (Cont'd)**

### **Disbarment for Conversion**

**The Trustees again recommend a consistent, firm statewide disciplinary policy imposing disbarment for a lawyer who injures clients by converting escrow funds.**

This clear, evenhanded penalty will deliver a strong message to victims, the public and lawyers about the administration of justice in our State. The Trustees are grateful to the Appellate Divisions and their disciplinary staff for including orders of restitution in disbarment proceedings involving clear cases of lawyer theft. This important use of the provisions of the Judiciary Law has proven to be beneficial to victims and the Lawyers' Fund.

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### **Confidentiality in Attorney Disciplinary Proceedings**

**The Trustees recommend a uniform disciplinary policy that a Disciplinary Committee will make a prompt referral to the local District Attorney when the Committee has admitted or uncontested evidence of theft by a lawyer.**

Section 90 of the State Judiciary Law provides that lawyer disciplinary proceedings shall be "deemed private and confidential", and that all "papers, records and documents" be sealed unless the court sustains the charges of misconduct filed against the respondent lawyer. The Judiciary Law now permits the Appellate Divisions, by written order, to divulge all or any part of disciplinary papers, records and documents upon a showing of good cause.

Lawyers who steal should be criminally prosecuted. A Disciplinary Committee with admitted or uncontested evidence of larceny by a lawyer should promptly secure an Appellate Division sharing order in order to notify the District Attorney. This policy should help protect law clients and promote public confidence in our justice system.

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### **Business Transactions with Lawyers and Conflict of Interest Rules**

**The Trustees recommend that court rules be amended in order to educate law clients about the conflict of interest limitations on lawyers involved in business transactions with their clients.**

The Lawyers' Fund continues to receive claims alleging substantial losses caused by the theft of monies entrusted to lawyers in investment transactions. Rule 1.8 of the Rules of Professional Conduct prohibits an attorney from entering a business transaction with a client due to a conflict of interest. Such business transactions are permitted though if specific safeguards are observed. The lawyer must provide a client with written terms of the transaction, written advice to seek independent counsel, and obtain the client's written, informed consent to the transaction which includes the lawyer's interest in the matter.

Legal consumers need to be made aware of these conflict of interest safeguards designed for their protection. This can be accomplished by amendments to court rules for the Statement of Client's Rights, the Matrimonial Rules and Written Letter of Engagement Rule which will alert law clients to these conflict of interest limitations.

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### **Bank Notices to Fiduciaries**

**The laws of New York should require that the named fiduciary for an estate or trust be provided with a copy of the estate's monthly bank statement.**

The Trustees' experience in claims involving the theft of estate or trust assets has shown that these types of losses can be concealed when someone other than the fiduciary controls the bank account and receives the monthly bank statements. Absent legislative action, the Trustees propose a court rule be adopted to prohibit lawyers from depositing fiduciary monies in banking institutions that do not agree to forward copies of bank statements to legal fiduciaries of estates and trusts. This rule could be patterned after the Dishonored Check Reporting Rule. This simple step would discourage and detect thefts.

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### **Bar Examinations & Legal Education**

**The Trustees continue to recommend that the New York bar examination test for knowledge and competence with respect to a lawyer's fiduciary obligations to safeguard and account for law clients' money and property and that these necessary skills be reinforced in Continuing Legal Education programs.**

The necessary knowledge and skills to properly administer client trust funds as fiduciaries or escrow agents should be taught in law school and enhanced through the bar examination and New York's Continuing Legal Education program. The Trustees firmly believe that our system of legal education should prepare students and lawyers for this vital aspect of lawyering.

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## Recommendations (Cont'd)

### Thefts by Suspended, Disbarred and Bogus Lawyers

**The Trustees recommend a court rule to require every lawyer to endorse his or her Attorney Registration Number on each pleading the lawyer files with a court or a court agency.**

The Trustees applaud the recent upgrade of the unauthorized practice of law to a felony offense under New York's penal laws. In the past though, this crime was not always prosecuted. Also, attorney disciplinary committees lack the resources to monitor suspended or disbarred lawyers. These shortcomings in law enforcement encourage the illegal practice of law and exploitation of the public.

The Office of Court Administration maintains an Official Register of Attorneys, which assigns to each lawyer a unique identification number. That simple endorsement will provide a cost-free and reliable opportunity for court clerks or court officials to verify the credentials of persons who represent themselves to be licensed to practice law in New York State.

The Trustees also support legislation to authorize the state attorney general to pursue criminal prosecutions for the unauthorized practice of law. This additional enforcement of the penal laws will serve to protect the public and deter the illegal practice of law.

The Trustees also propose that the attorney disciplinary committees require of an attorney resigning from the bar for professional misconduct an agreement in the resignation affidavit not to accept any advance legal fees after the resignation is submitted.

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### Multijurisdictional Practice and Pro Hac Vice Rules

**The Trustees recommend that any changes in court rules which permit out-of-state attorneys to practice law in New York State also require payment of the attorney registration fee required of New York attorneys so that they will contribute financially to our State's disciplinary system and the Lawyers' Fund.**

Bar leaders in New York State are considering multijurisdictional practice of law and whether lawyers should be granted the privilege to practice in states where they are not admitted to the bar. The Trustees are concerned about the impact multijurisdictional practice of law will have on legal consumers, the Lawyers' Fund and our disciplinary system. It is equitable that out-of-state attorneys authorized to practice law here share in the responsibilities all New York attorneys bear in our justice system.

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### Attorney Malpractice Insurance Disclosure

**The Trustees propose that New York attorneys be required to disclose on their attorney registration statement whether they maintain malpractice insurance.**

The Lawyers' Fund is only authorized to reimburse law client losses caused by dishonest conduct in the practice of law. The Fund can not compensate for damages due to attorney malpractice. If law clients wish to be protected from this type of loss they should have access to information which would allow them to choose a lawyer who maintains malpractice insurance.

Twenty-two states now require some form of attorney malpractice insurance disclosure. One method is to require that attorneys disclose on their biennial registration statement whether they maintain professional liability coverage and the limits of their policy. Legal consumers can then access this information and make an informed choice when seeking legal representation.

**"I want to take the time to say I really appreciate all you have done. You don't know how much this means to me. The Lawyers' Fund has never given up."  
Message from a Claimant, 2014.**

### Conclusion

The Trustees are encouraged by their 32 years of experience which has demonstrated that the overwhelming majority of New York's lawyers are honest and caring for their law clients and maintain the highest standards of integrity when entrusted with law client money and property. There remains though a persistent problem of dishonest conduct in the practice of law perpetrated by a small number of lawyers. These few who disgrace the legal profession cause significant harm to law clients. The Lawyers' Fund therefore continues to serve a vital role in our justice system in New York State.

The Trustees wish to once again publicly recognize the invaluable support and assistance the Lawyers' Fund receives without fail from our colleagues in public service. Our special thanks is again extended to the Court of Appeals; the Office of Court Administration; the staffs of New York's Attorney Grievance Committees; the Attorney General and his assistants; District Attorneys statewide and their prosecutors; and the Office of the State Comptroller. The support and professionalism of these dedicated public servants enables the New York Lawyers' Fund to remain one of our nation's leading client protection programs.

## Trustees Regulations (22 NYCRR 7200, et seq.)

**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 accordance 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, interviews or informal meetings 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;

## Trustees Regulations (22 NYCRR 7200, et seq.)

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

(3) there is, in the trustees' discretion, a sufficient nexus between the dishonest conduct alleged in the claim and the practice of law in New York State;

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

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

(6) 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 Rules of Professional Conduct, "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. Unless the attorney accused of dishonest conduct is deceased, a claimant may be required to file both disciplinary and criminal complaints against the attorney and provide copies of such complaints within 30 days of the date of the Fund's letter acknowledging receipt of an application for reimbursement. 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 representatives, 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

## Trustees Regulations (22 NYCRR 7200, et seq.)

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 \$400,000.

(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 autho-

rize, 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.

**"Words cannot express how grateful we are to you... for all the effort you all put into resolving our case. It brings back faith that not all lawyers are dishonest, but those that are honest are here to serve the public and their cause."**

**Message from a Claimant, 2014**

## Lawyers Involved In 2014 Awards

The following is a list of the 69 now suspended, disbarred or deceased lawyers responsible for the misconduct and resulting client losses reimbursed by the Fund in 2014. The number and amount of awards listed are not cumulative and may not represent awards approved from prior years. **A complete list of lawyers involved in all reimbursement awards since 1982 is available on our website: [www.nylawfund.org](http://www.nylawfund.org).**

Name	JD	#	Amount	Name	JD	#	Amount
Rory M. Alarcon	10	39	\$106,709	Andrew M. Jacobs	01	1	\$ 70,417
Ewan D. Anderson	11	1	\$ 1,129	Dennis A. Kahn	08	2	\$ 51,872
Aaron R. Anderson	04	1	\$ 2,500	James G. Kalpakis	10	6	\$608,000
Eugene C. Anyikwa	12	1	\$ 90,022	Gerard M. Karlen	01	1	\$ 5,000
Derrick G. Arjune	02	1	\$ 20,000	David Katz	01	1	\$ 30,000
James F. Armstrong	08	1	\$ 1,050	Raymond E. Kerno	10	1	\$ 5,000
Anthony Bellettieri	09	2	\$400,000	Bobby H. J. Kim	01	2	\$ 80,000
Thomas F. Bello	02	10	\$ 42,000	Claudine K. King	01	3	\$160,819
Alice Phillips Belmonte	01	1	\$250,000	Stuart N. Kingoff	09	1	\$ 4,387
Kenneth P. Bernas	08	1	\$ 30,000	Christopher K. Kuehn	10	1	\$ 81,696
Marc A. Bernstein	01	2	\$478,333	John M. Lambros	01	1	\$ 16,667
Frederick Bittner, Jr.	09	1	\$ 65,408	Norman J. Learned, III	06	1	\$ 1,040
Diane S. Blank	01	2	\$ 5,616	David A. Linn	10	1	\$ 1,500
S. Lawrence Brotmann	09	1	\$250,675	Joseph J. Mainiero	01	2	\$ 12,400
Stephen J. Bury	01	1	\$ 25,000	Brett K. Margolin	10	1	\$ 5,757
Donna A. Campbell	09	2	\$ 95,000	Mackson P. McDowall	08	1	\$ 2,050
Andrew F. Capoccia	03	405	\$385,274	Derek P. McDowell	02	1	\$250,835
Frank B. Cegelski	07	1	\$ 95,534	Bruce K. Mogavero	09	1	\$ 2,500
Eugene Chmura	11	1	\$ 10,487	Robert I. Oziel	10	1	\$ 73,298
Andrew J. Cohen	07	4	\$ 11,227	William M. Parente	01	2	\$ 10,918
Reinelda Elizabeth Urena DeCheco	10	1	\$ 6,125	Samuel Racer	01	1	\$ 6,878
Alan Frank	03	3	\$ 13,700	Brian H. Reis	01	2	\$103,000
Joseph R. Gagliano, Jr.	01	7	\$451,229	Joseph N. Rizzo, Jr.	10	1	\$265,000
Joseph J. Giordano	10	1	\$ 14,339	Giselle Mary Samuely	01	3	\$ 9,425
Guy G. Giuliano	10	2	\$ 17,520	Edward A. Savran	10	1	\$ 4,000
Colvin C. Goddard	11	1	\$ 33,667	Ingrid L. Seaborn	01	1	\$ 2,500
Lennard S. Goodman	01	1	\$105,858	Sean C. Serpe	01	3	\$ 3,529
Robert R. Goods	08	1	\$ 290	Jeffrey P. Squitieri	01	1	\$ 30,000
Stuart M. Gorman	10	1	\$ 13,500	Susan F. Steier	01	1	\$ 8,500
Alfred I. Greenberg	01	1	\$ 25,000	William A. Stouges	10	4	\$298,042
Joel A. Grossbarth	09	1	\$ 45,000	Yves-Merry Telemaque	01	1	\$189,821
Louis Haddad	02	1	\$ 13,795	Edward I. Yatkowsky	09	2	\$ 2,500
Kevin C. Hymes	09	2	\$318,453	Alan H. Young	02	1	\$100,000
John M. Ioannou	01	3	\$ 80,334	Richard J. Zimmerman	11	1	\$ 10,000
Stephen C. Jackson	01	1	\$ 54,000				

## Helpful Telephone Numbers

### Attorney Grievance & Disciplinary Committees

Manhattan & Bronx - (212) 401-0800  
 Brooklyn, Staten Island, Queens - (718) 923-6300  
 Nassau & Suffolk - (631) 231-3775  
 Westchester area - (914) 824-5070  
 Albany area - (518) 285-8350  
 Syracuse area - (315) 401-3344  
 Rochester area - (585) 530-3180  
 Buffalo area - (716) 845-3630

### NYS Office of Court Administration

Lawyer Licensing Information  
 (212) 428-2800

### NYSBA Lawyer Assistance Program

(800) 255-0569

### NYS Department of Law (Attorney General) Consumer Frauds & Protection Bureau

1-800-771-7755

### Lawyer Referral Services

Contact your local county or city bar association, or call the New York State Bar Association in Albany at 1-800-342-3661.

### Attorney-Client Fee Dispute Resolution Program

(877) FEES-137  
 (877-333-7137)

## Statistical Tables

Losses Alleged in 2014 Claims					Losses Alleged Since 1982				
Category of Client Loss	Number of Claims	Percent of All Claims (#)	Amount of Loss Alleged	Percent of Loss Alleged (\$)	Category of Client Loss	Number of Claims	Percent of All Claims (#)	Amount of Loss Alleged	Percent of Loss Alleged (\$)
Estates & Trusts	20	3.2%	\$1,490,734	1.8%	Estates & Trusts	1232	6.9%	\$121,313,445	13.7%
Real Property Escrow	63	10.1%	\$6,091,439	6.9%	Real Property Escrow	3960	21.8%	\$212,019,167	23.7%
Unearned Fees	345	55.6%	\$8,651,296	9.8%	Unearned Fees	6649	36.5%	\$65,122,609	7.3%
Settlements	133	21.4%	\$15,916,898	18.1%	Settlements	1439	7.9%	\$75,045,937	8.4%
Other Escrow	24	3.9%	\$3,354,693	3.8%	Other Escrow	1609	8.8%	\$72,117,572	8.1%
Debt Collection	2	0.3%	\$22,450	0.0%	Debt Collection	663	3.6%	\$3,716,806	0.4%
Investment	19	3.1%	\$44,986,594	51.1%	Investment	1686	9.3%	\$285,343,378	31.9%
Other	15	2.4%	\$7,506,883	8.5%	Other	954	5.2%	\$58,429,140	6.5%
<b>Totals</b>	<b>621</b>	<b>100%</b>	<b>\$88,020,987</b>	<b>100%</b>	<b>Totals</b>	<b>18192</b>	<b>100%</b>	<b>\$893,108,054</b>	<b>100%</b>

Client Losses in 2014 Awards						
Category of Client Loss	Number of Awards	Percent of All Awards (#)	Amount of All Awards	Percent of All Awards (\$)	Client Losses Involved	Percent of All Losses Reimbursed
Estates & Trusts	7	1.3%	\$576,392	9.5%	\$576,392	100%
Real Property Escrow	31	5.5%	\$1,969,461	32.5%	\$3,918,778	50%
Unearned Fees	484	86.6%	\$640,786	10.6%	\$640,786	100%
Settlements	13	2.3%	\$705,710	11.6%	\$705,710	100%
Other Escrow	15	2.7%	\$1,003,528	16.5%	\$1,003,528	100%
Debt Collection	1	0.2%	\$13,795	0.2%	\$13,795	100%
Investment	8	1.4%	\$1,156,453	19.1%	\$2,656,453	44%
<b>Totals</b>	<b>559</b>	<b>100%</b>	<b>\$6,066,125</b>	<b>100%</b>	<b>\$9,515,442</b>	

Client Losses in All Awards Since 1982						
Category of Client Loss	Number of Awards	Percent of All Awards (#)	Amount of All Awards	Percent of All Awards (\$)	Client Losses Involved	Percent of All Losses Reimbursed
Estates & Trusts	755	9.4%	\$42,509,190	24.0%	\$64,607,310	66%
Real Property Escrow	2316	28.9%	\$70,556,426	39.9%	\$79,744,959	88%
Unearned Fees	2730	34.0%	\$6,839,223	3.9%	\$6,865,323	100%
Settlements	645	8.0%	\$15,832,026	9.0%	\$16,528,723	96%
Other Escrow	752	9.4%	\$18,159,726	10.3%	\$24,925,973	73%
Debt Collection	453	5.6%	\$705,544	0.4%	\$760,544	93%
Investment	381	4.7%	\$22,173,918	12.5%	\$27,610,405	80%
<b>Totals</b>	<b>8032</b>	<b>100%</b>	<b>\$176,776,053</b>	<b>100%</b>	<b>\$221,043,237</b>	

**“We are writing to express our gratitude to you and all lawyers in the State of New York for allowing us to recoup the money we lost as a result of [our former lawyer’s] deceitful practices. While our reimbursement may have seemed small to some, it was huge to us. We are very thankful to you to have this money returned to us.”**  
**Message from a Claimant, 2014**

## Statistical Tables

Claims Activity Since 1982	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998
Claims Filed	534	375	230	332	341	311	351	486	438	515	627	636	598	909	730	1128	812
Losses Alleged (In 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
Claims Approved	1	494	130	183	178	159	202	177	219	200	288	318	362	383	381	625	415
Actual Losses (In Millions \$)	\$ 0.05	\$ 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
Awards (In Millions \$)	\$ 0.0	\$ 0.7	\$ 0.9	\$ 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
Lawyers Involved	1	13	26	43	26	24	36	26	38	44	38	52	45	60	38	39	29
% Losses Reimbursed	50%	46%	46%	52%	85%	95%	74%	60%	96%	71%	54%	60%	73%	64%	72%	76%	87%
% Clients Fully Reimbursed	0%	74%	65%	39%	91%	99%	100%	98%	96%	94%	95%	94%	94%	98%	94%	98%	99%
Claims Disallowed	33	201	105	73	164	120	119	169	186	360	253	384	247	366	439	620	522
Total Dispositions	34	695	235	256	342	279	321	346	405	560	540	702	610	749	820	1245	937
Claims Pending Dec. 31	500	180	175	251	250	282	312	452	485	440	526	460	449	609	579	462	337
Losses Alleged In Pending Claims (In 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
Exposure on Pending Claims (In 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
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

Claims Activity Since 1982	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Totals
Claims Filed	442	492	548	499	506	627	729	520	454	480	489	820	601	469	542	621	18,192
Losses Alleged (In Millions \$)	\$ 15.9	\$ 20.5	\$ 22.6	\$ 21.8	\$ 17.4	\$ 26.7	\$ 28.1	\$ 18.6	\$ 31.8	\$ 43.7	\$ 40.6	\$ 89.4	\$ 51.8	\$ 41.8	\$ 53.2	\$ 88.0	\$ 893
Claims Approved	161	205	160	187	165	196	227	147	185	130	139	198	253	187	218	559	8,032
Actual Losses (In Millions \$)	\$ 3.7	\$ 14.2	\$ 5.3	\$ 5.9	\$ 5.8	\$ 5.1	\$ 8.6	\$ 7.3	\$ 7.1	\$ 6.7	\$ 5.8	\$ 9.3	\$ 9.8	\$ 5.4	\$ 7.5	\$ 9.5	\$ 221
Awards (In Millions \$)	\$ 3.4	\$ 10.5	\$ 5.3	\$ 5.7	\$ 5.8	\$ 5.1	\$ 8.1	\$ 7.1	\$ 7.0	\$ 6.7	\$ 5.6	\$ 8.5	\$ 6.9	\$ 5.4	\$ 6.9	\$ 6.1	\$ 181.6
Lawyers Involved	28	49	28	28	37	26	32	35	44	23	36	31	26	31	44	39	1,115
% Losses Reimbursed	92%	74%	100%	98%	99%	100%	94%	98%	98%	100%	97%	96%	69%	100%	96%	64%	
% Clients Fully Reimbursed	99%	97%	100%	98%	98%	100%	98%	98%	97%	100%	99%	98%	98%	100%	98%	99.9%	
Claims Disallowed	383	329	383	281	338	323	327	284	307	351	257	428	310	338	337	351	9,688
Total Dispositions	544	534	543	468	503	519	554	431	492	481	396	626	563	525	555	910	17,720
Claims Pending Dec. 31	235	193	198	229	232	340	515	604	566	565	658	852	883	827	814	525	
Losses Alleged In Pending Claims (In Millions \$)	\$ 16.1	\$ 10.2	\$ 11.1	\$ 13.7	\$ 14.6	\$ 20.7	\$ 17.5	\$ 17.8	\$ 15.7	\$ 30.9	\$ 38.8	\$ 82.3	\$ 81.1	\$ 76.4	\$ 75.9	\$ 76.2	
Exposure on Pending Claims (In Millions \$)	\$ 11.6	\$ 8.3	\$ 9.2	\$ 10.2	\$ 10.3	\$ 15.1	\$ 13.9	\$ 14.8	\$ 14.1	\$ 21.7	\$ 27.1	\$ 42.7	\$ 40.9	\$ 37.0	\$ 33.9	\$ 31.1	
Fund Balance (Millions \$)	\$ 6.3	\$ 3.4	\$ 4.1	\$ 5.4	\$ 5.5	\$ 8.1	\$ 5.4	\$ 7.0	\$ 3.5	\$ 5.0	\$ 4.5	\$ 5.7	\$ 3.8	\$ 8.4	\$ 7.3	\$ 9.4	

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## NY Judiciary Law Sec. 468-b

### **§ 468-b. Clients' security fund of the state of New York.**

1. The court of appeals shall appoint a board of trustees to administer the lawyers' fund for client protection of the state of New York established pursuant to section ninety-seven-t of the state finance law. Such board shall consist of seven members. Of the trustees first appointed, three shall be appointed for a term of three years; two for a term of two years; and two for a term of one year. As each such term expires, each new appointment shall be for a term of three years. The court of appeals may require such reports or audits of the board as it shall from time to time deem to be necessary or desirable.
2. The board shall have the power to receive, hold, manage and distribute the funds collected hereunder for the purpose of maintaining the integrity and protecting the good name of the legal profession by reimbursing, in the discretion of the trustees to the extent they may deem proper and reasonable, losses caused by the dishonest conduct of attorneys admitted to practice in this state. For purposes of this section, the term "dishonest conduct" shall mean misappropriation or wilful misapplication of clients' money, securities, or other property, by an attorney admitted to practice in this state.
3. The board of trustees shall adopt regulations for the administration of the lawyers' fund for client protection of the state of New York and the procedures for presentation, consideration, allowance and payment of claims, including the establishment of a maximum limitation for awards to claimants.
4. The board of trustees shall have the sole discretion to determine the merits of claims presented for reimbursement, the amount of such reimbursement and the terms under which such reimbursement shall be made. Such terms of reimbursement shall require that the claimant execute such instruments, take such action or enter into such agreements as the board of trustees shall require, including assignments, subrogation agreements and promises to cooperate with the board of trustees in making claims against the attorney whose dishonest conduct resulted in the claim.
5. The board of trustees shall serve without compensation but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.
6. The board of trustees may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor.
7. The board of trustees shall be considered employees of the state for the purpose of section seventeen of the public officers law.
8. All payments from the lawyers' fund for client protection of the state of New York shall be made by the state comptroller upon certification and authorization of the board of trustees of said fund.
9. Acceptance of an award of reimbursement from the lawyers' fund for client protection shall, to the extent of such award, (a) subrogate the fund to any right or cause of action that accrued to the claimant as a consequence of the dishonest conduct that resulted in the claimant's award and (b) create a lien in favor of the fund that shall attach to any money asset that is designated to be paid to the claimant from, or on behalf of, the attorney who caused the claimant's loss. If the fund fully reimburses the claimant's loss, as determined by the board of trustees, the lien shall be in the amount of the fund's award. If the claimant's loss exceeds the fund's award, the lien shall not extend to the claimant's right to recover additional restitution from the attorney for the claimant's unreimbursed loss. In the event of a recovery by the fund, a claimant shall be entitled to any money recovered in excess of the fund's award of reimbursement to the claimant.

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## NY State Finance Law Sec. 97-t

### **§ 97-t. Lawyers' fund for client protection of the state of New York.**

1. There is hereby established in the custody of the state comptroller a special fund to be known as the "lawyers' fund for clients protection of the state of New York".
2. The full amount of the allocable portion of the biennial registration fee collected pursuant to the provisions of section four hundred sixty-eight-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, shall be deposited to the credit of the lawyers' fund for client protection of the state of New York. All deposits of such revenues not otherwise required for the payment of claims as hereinafter prescribed shall be secured by obligations of the United States or of the state having a market value equal at all times to the amount of such deposits and all banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund, may be invested in obligations of the United States or of the state, or in obligations the principal and interest on which are guaranteed by the United States or by the state.



## The Lawyers' Fund For Client Protection

Of the State of New York

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### Our Mission:

**To protect** legal consumers from dishonest conduct in the practice of law, **to preserve** the integrity of the bar, **to safeguard** the good name of lawyers for their honesty in handling client money, **to promote** public confidence in the administration of justice in the Empire State.

### Click for our 25th Anniversary Video!

You may increase the size of the screen in your browser.)  
(Presented in Windows Media Player (.wmv) format.)

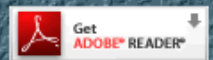
[This short video, with an introduction by former Chief Judge Judith S. Kaye, provides the history and purpose of the Lawyers' Fund. The video includes interviews with Fund Trustees and law client victims.](#)

### The Lawyers' Fund for Client Protection

119 Washington Avenue  
Albany, New York 12210  
Phone: (800) 442-3863  
(518) 434-1935  
Fax: (518) 434-5641  
E-mail: [info@nylawfund.org](mailto:info@nylawfund.org)

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# El Fondo De Abogados' Para la Protección Del Cliente del Estado de Nueva York

## What is the Lawyers Fund?

The Lawyers Fund For Client Protection was established in 1982 to provide reimbursement to law clients who have lost money or property because of a lawyer's dishonest conduct in the practice of law. The Fund is a remedy for law clients who cannot get reimbursement from the lawyer who caused the loss, or from insurance or other sources.

## Que es el "Lawyers' Fund"?

El "Lawyers Fund For Client Protection" fué establecido en 1982 para reemborsar a los clientes de los abogados que perdieron dinero o propiedad a causa de las acciones deshonestas de éstos abogados en la práctica de la ley. El "Fund" es un remedio para clientes que no pueden ser reemborsados por el abogado que causó la pérdida, o por un seguro o por otros medios.

## Why was the Fund established?

The legal profession depends upon the trust of clients. Very few lawyers violate that trust. Nonetheless, it's important to protect the profession's reputation for honesty, and help injured clients recover their losses.

## Por qué se estableció el "Fund"?

La profesión legal depende en la fe de los clientes. Pocos abogados violan esta fe. De todas maneras, es importante que la reputación de la profesión sea protegida por honestidad, y ayudar a los clientes dañados a recuperar sus pérdidas.

## How is the Fund Financed?

No tax dollars are used. The Fund is financed by registration fees and contributions from more than 200,000 members of the New York bar. Since 1982, more than \$180 million in awards have been paid to eligible law clients.

## Como se financia el "Fund"?

El "Fund" no usa dinero de los impuestos. El "Fund" está financiado por los costos de registración y por contribuciones de mas de 200,000 miembros de la Abogacía del estado de Nueva York. Desde 1982, se ha pagado más de \$180 millones en premios a clientes con derecho a una compensación.

## Who administers the Fund?

A Board of Trustees appointed by the Court of Appeals, New York's high court. The seven Trustees, both lawyers and non-lawyers, serve as public service and without compensation.

## Quien administra el "Fund"?

Un Consejo de Administradores elegidos por el Court of Appeals, la corte de más alto cargo del estado de Nueva York. Los siete Administradores, abogados y no abogados, estan al servicio público y sin ninguna compensación.

## What Losses are covered?

The Trustees may reimburse losses caused by the dishonest conduct of lawyers admitted to the practice of law in New York, up to a maximum of \$400,000 for each client loss.

Dishonest conduct means the wrongful taking of client's money or other property, in the practice of law, after June 1, 1981. Clients must apply for reimbursement within two years after they discover their loss.

Typical losses include theft of money from estates; escrow funds in real property transactions; and settlements in personal injury actions.

The Trustees cannot discipline lawyers for professional misconduct, resolve fee disputes, or determine legal malpractice claims. Fee disputes and complaints of misconduct or malpractice should be pursued by notifying an Attorney Disciplinary Committee or by civil lawsuit against the lawyer

County bar associations also have fee conciliation committees to resolve disputes over legal fees. The

client should contact the county bar association in the county or borough where the lawyer's office is located.

## Que pérdidas estan cubiertas?

Los Administradores pueden reemborsar hasta un máximo de \$400,000 por cada pérdida causadas por el conducto deshonesto de los abogados admitidos a la práctica de ley en el estado de Nueva York.

El actuar deshonestamente es el apropiarse indebidamente del dinero o propiedad de un cliente mediante la práctica de la ley, después de Junio 1, 1981. Los clientes tienen que aplicar para un reemborsamiento durante los dos primeros años de la pérdida.

Pérdidas típicas incluyen el robo de dinero de las herencias; fondos de dinero durante transacciones de propiedad; y ajustes de pago en las demandas de daños personales.

Los Administradores no pueden disciplinar a los abogados por su mala conducta profesional, ni resolver las disputas de pago por los servicios dados a un cliente o determinar una demanda legal por inmoralidad profesional. Estos casos deben de ser perseguidos mediante una notificación al Comité Disciplinario de Abogados o por una demanda civil en contra del abogado.

Las asociaciones de las abogacías del distrito también tienen un comité de reconciliación de pagos para resolver disputas sobre pagos legales. El cliente deberá consultar con la Asociación de Abogacía del distrito donde la oficina del abogado está situada.

## Where Does a Client File a Claim?

Application forms and other information and help is available from the Fund's office at 119 Washington Avenue, Albany, NY 12210. Telephone 518/434-1935 or 800/442-FUND. Theft by a lawyer must also be reported to the local District Attorney and Attorney Disciplinary Committee.

## Donde registra el cliente su demanda?

Aplicaciones, información y ayuda se puede obtener de la oficina del "Fund": 119 Washington Avenue, Albany, NY 12210. Teléfono 518/434-1935 o 800/442-FUND. El robo por un abogado también se tiene que reportar al "District Attorney" local y al Comité Disciplinario de Abogados.

## Are there any Fees Involved?

No. The Fund charges no fees, and claimants are not required to be represented by lawyers to process claims. But, if you feel you need legal help, you should consult counsel.

Court rules in New York State do not permit lawyers to charge legal fees for helping clients process claims with the Fund.

## Se tiene que pagar?

No. El "Fund" no carga ningún costo, y los demandadores no necesitan ser representados por un abogado para procesar una demanda. Pero, si creen que necesitan ayuda legal, deberán de consultar un abogado.

La ley de la corte en el estado de Nueva York no permite que abogados cargen ningún costo legal por ayudar a clientes al procesar una demanda con el "Fund".

## How are Claims Processed?

Each claim is screened to see if the loss is eligible. Ineligible claims are dismissed promptly with an explanation why the loss cannot be reimbursed. Eligible claims are investigated and reports prepared for the Trustees. The Trustees meet for times each

year to evaluate claims, and determine the amount of reimbursement that will be allowed.

Losses are not generally reimbursed until disciplinary proceedings or other court proceedings involving the accused attorney have been completed. It's important, therefore, that clients cooperate fully in all official investigations involving dishonesty in the practice of law. Once a claim is approved, payment of the award follows in about six weeks.

## Como se procesan las demandas?

Cada demanda es revisada para ver si la pérdida es elegible. Las demandas que no son elegibles son rechazadas prontamente con una explicación por qué no se puede reemborsar la pérdida. Demandas elegibles son investigadas y se preparan reportes para los Administradores. Los Administradores se reúnen cuatro veces al año para evaluar demandas y determinar la cantidad de reemborsamiento permitido.

Generalmente, pérdidas no son reemborsadas hasta que el procedimiento disciplinario o otros procedimientos legales en el que envuelven al abogado acusado han terminado. Consecuentemente, es importante que los clientes cooperen completamente con todas las investigaciones oficiales que envuelven deshonestidad en la práctica de la ley. Cuando una demanda es aprobada, el pago de la compensación tarda aproximadamente seis semanas.

## Numeros de Teléfonos Útiles

### Comité Disciplinario de Abogados

(Para demandas por mala conducta de abogados)

Manhattan & Bronx - (212) 401-0800  
Brooklyn, Staten Island, Queens - (718) 923-6300  
Nassau & Suffolk - (631) 231-3775  
Westchester area - (914) 824-5070  
Albany area - (518) 285-8350  
Syracuse area - (315) 401-3344  
Rochester area - (585) 530-3180  
Buffalo area - (716) 845-3630

### Oficina de Administración de la Corte

(Para información de las licencias de los abogados)  
Registro oficial de abogados  
(212) 428-2800

### NYS Department of Law (Attorney General) Consumer Frauds & Protection Bureau

1-800-771-7755

### Servicios de referencia de abogados

Contactar la asociación de abogacía local en su distrito o ciudad; o llamar a la Asociación de la Abogacía del estado de Nueva York.

1-800-342-3661.

### Servicios de Disputas de Pagos

Contactar la asociación de la abogacía en el distrito donde la oficina del abogado está situada para información sobre el comité de reconciliación de la abogacía local.



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# APPLICATION FOR REIMBURSEMENT FRONT

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# APPLICATION FOR REIMBURSEMENT BACK