

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

119 Washington Avenue, Albany, New York 12210
Telephone: (518) 434-1935 or (800) 442-3863
E-mail: info@nylawfund.org
Web site: www.nylawfund.org

ANNUAL REPORT
OF THE
BOARD OF TRUSTEES
FOR
CALENDAR YEAR 2017

BOARD OF TRUSTEES

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



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 Annual Report of the Lawyers' Fund for Client Protection focuses on calendar year 2017, the 35th year of the operations of the Lawyers' Fund. The Lawyers' Fund is an independent public trust, financed by New York's legal profession, which reimburses law clients for financial losses caused by dishonest conduct in the practice of law.

No other profession provides such protection to its clients. The Lawyers' Fund is administered by a Board of Trustees appointed by the Court of Appeals. The Trustees serve renewable three-year terms as a public service without compensation.

In 2017, the Trustees approved 215 awards providing \$10.6 million in total reimbursement to eligible law clients for losses caused by dishonest conduct of former New York State lawyers. This is the second largest single-year payout in the Fund's history. The Lawyers' Fund is able to reimburse up to \$400,000 per law client loss. All but three eligible law clients received 100 percent reimbursement for their losses in 2017.

The Trustees' experience over 35 years has proven that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their clients' trust. 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. In 2017, 86 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 86 former lawyers, 47 appear for the first time in the Fund's awards. There are over 318,000 registered lawyers in New York State.

With this annual accounting, the Trustees also wish to highlight the achievements by the Lawyers' Fund in 35 years of service to the public, the legal profession, and our court system that have established the New York Fund as a national leader in the client protection field. These achievements include:

- The Trustees' evaluation of nearly 20,000 claims seeking reimbursement from the Fund alleging \$1.1 billion in losses. At no cost to taxpayers, the Lawyers' Fund has restored over \$208 million to 8,676 eligible law clients. The legal profession in New York State has borne the full cost of these awards.
- The efficient administration of the Lawyers' Fund which is demonstrated by the fact that in 35 years of operations, 91 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement.
- The establishment and successful operation of the Dishonored Check Reporting Rule which requires banks to report to the Fund checks drawn on lawyer escrow accounts which are dishonored for insufficient funds. Since this Rule's introduction in 1993, the Fund has processed over 17,000 bounced check notices which have resulted in the detection of approximately 294 lawyers who were misusing their escrow accounts.
- A payee notification rule enacted by a State Insurance Department regulation requiring insurance companies to notify clients when personal injury settlements are paid to their lawyers. The New York Fund was the first to introduce this client protection device now adopted by the American Bar Association and 15 other states.
- Uniform standards, established by court rule, for law office recordkeeping, banking and the maintenance of attorney escrow accounts, along with court rules requiring lawyers to certify their compliance with these standards from the Rules of Professional Conduct.
- Court rules governing escrow funds owed to missing clients and in the accounts of deceased sole practitioners which assist lawyers, protect clients and prevent the abandonment of unclaimed escrow funds. Since 1995, the Fund has safeguarded nearly 24,000 of these escrow deposits and restored \$1.4 million to previously missing clients.
- Legislation making the Official Register of Attorneys a public record, thereby protecting the public and the profession from unlicensed and bogus practitioners.
- Uniform court rules prohibiting the charging of legal fees when lawyers help clients process claims for reimbursement, and the generous *pro bono* representation members of the bar have consistently provided to claimants with the Fund.
- Judicial precedent protecting all participants in the Fund's proceedings from liability in defamation.
- Statutory authority to the Appellate Divisions to order restitution as a disciplinary sanction, enforceable as a civil judgment.
- Court decisions, supplemented by statute, clarifying and strengthening the Fund's creditor rights in its efforts to secure restitution for the benefit of other deserving claimants.
- Restitution recoveries of nearly \$21 million from dishonest attorneys involved in awards and civilly liable third parties, and the New York State Attorney General's invaluable legal representation of the Lawyers' Fund in restitution efforts.

Purpose and History of Law Client Protection

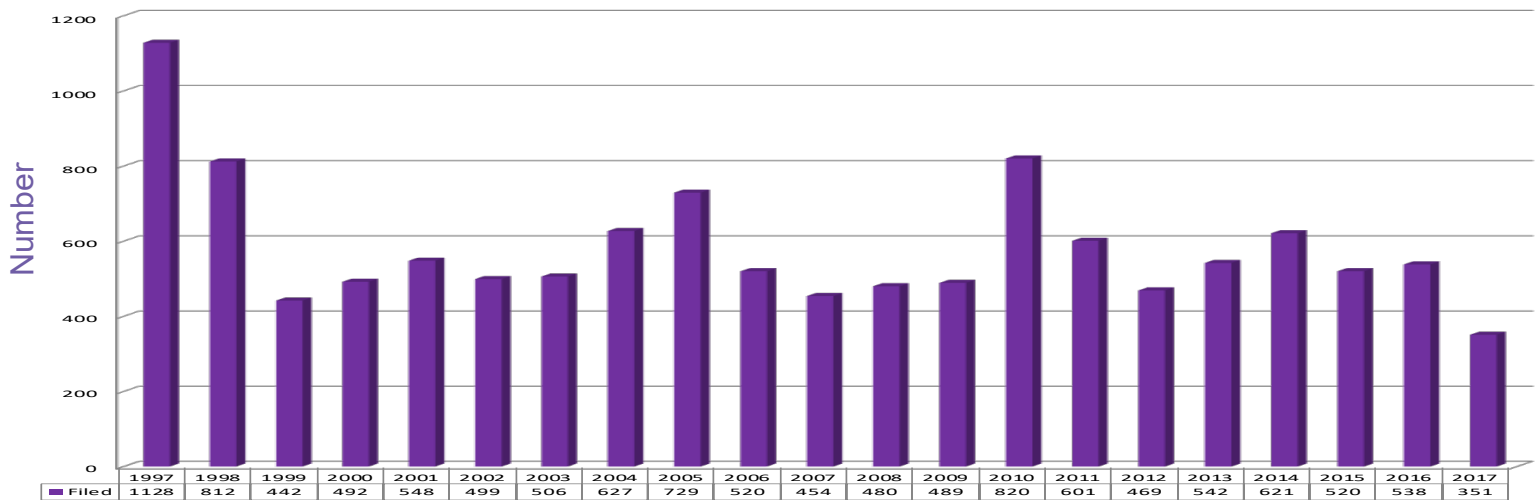
The Lawyers' Fund, originally known as The Clients' Security Fund, was created by Chapter 714 of the Laws of 1981, effective June 1, 1981. Law client reimbursement programs had been first formed in the 1960's by bar associations in New York State. Inadequate financing later caused these associations to appeal to the Court of Appeals and the New York court system which assumed the responsibility for operating the Lawyers' Fund as a statewide client reimbursement program.

The mission of the Lawyers' Fund, as set forth in section 468-b of the State Judiciary Law and the Trustees' Regulations, is to protect law clients from dishonest conduct in the practice of law, maintain the integrity and protect the good name of the legal profession, and promote public confidence in the administration of justice in New York State.

The Fund's primary focus is the reimbursement of 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 a vital aspect 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.

Number of Reimbursement Claims Filed, 1997 - 2017 (Total Number of Reimbursement Claims Filed Since 1982: 19,601)



The Fund's Finances Since 1982

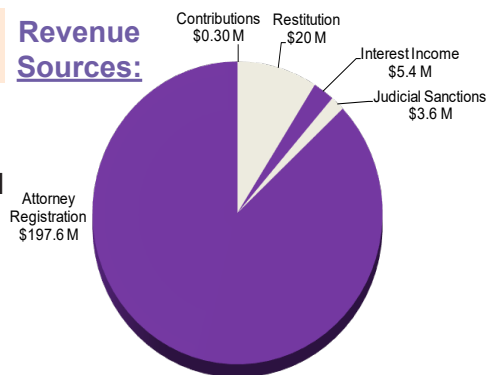
Revenue of the Lawyers' Fund

New York's legal profession financially supports 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.

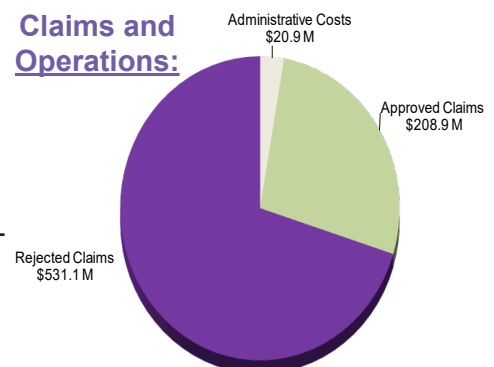
No tax dollars are used to finance the Lawyers' Fund. The Fund also does not receive any revenue from the Interest on Lawyer Account (IOLA) program.

The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Future revenue for the Fund will also include unclaimed missing client and deceased attorney escrow deposits held by the Fund for over five years pursuant to court rules. Since 1982, the Fund has received \$197.6 million from attorney registration fees; \$20.7 million in restitution; \$5.4 million in interest income; \$3.6 million in judicial sanction revenue; and \$313,000 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.

Revenue Sources:



Claims and Operations:



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 2017:

BRONX COUNTY

Edward F. Westfield, Esq.

KINGS COUNTY

Joseph G. Costello, Esq.
Nadia Desyatnikova, Esq.
Alexander Dudelson, Esq.

MONROE COUNTY

Edward C. Radin, Esq.

NASSAU COUNTY

Harvey J. Cavayero, Esq.
Adrienne Flipse Hausch, Esq.
Steven Kaiser, Esq.
David V. Keegan, Esq.
Cary Kessler, Esq.
Jeffrey Levy, Esq.
Robert P. Lynch, Esq.
Simon H. Rothkrug, Esq.
Matthew A. Tedone, Esq.

NIAGARA COUNTY

Walter E. Moxham, Jr., Esq.

NEW YORK COUNTY

Mark M. Altschul, Esq.
Solomon E. Antar, Esq.
Ryan J. Barbur, Esq.
Richard L. Derzaw, Esq.
Scott G. Goldfinger, Esq.
Jeffrey Levine, Esq.
John Lovejoy, Esq.
Peter Moulinos, Esq.
Jose A. Muniz, Esq.
Marc Paley, Esq.
Randi F. Plevy, Esq.
Robert J. Reicher, Esq.
David M. Rubin, Esq.
Stefan Savic, Esq.
Steven Storch, Esq.
Aaron Twersky, Esq.
Pawel P. Wierzbicki, Esq.
Ella Zalkind, Esq.

ONEIDA COUNTY

Armond J. Festine, Esq.

QUEENS COUNTY

Dustin Bowman, Esq.
Ira Penn, Esq.
George Russo, Esq.
Charles Zolot, Esq.

RICHMOND COUNTY

Howard M. File, Esq.
Matthew Marchese, Esq.
Kevin P. McKernan, Esq.

SUFFOLK COUNTY

Timothy Glynn, Esq.
John J. Vizzi, Esq.

WESTCHESTER COUNTY

Louise Martin-Valiquette, Esq.
Norman Naishtut, Esq.

OUT OF STATE

Jeffrey D. Frey, Esq. (PA)
Peggy M. McElgunn, Esq. (VA)
Jonathon R. Moore, Esq. (D.C.)
Alessandra Piras, Esq. (FL)
Fred Reilly, Esq. (FL)



“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. The Trustees serve renewable three-year terms as a public service, without compensation. Since the Fund was established in 1981, a total of 19 Trustees have served with the Fund. The Board has been composed of five members of the bar and two business and community leaders. 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 a charter member and Chairman of the Board. He is of counsel to the Manhattan law firm of Storch Amiri, P.C. Mr. Seiff is a graduate of Yale University and the Columbia University Law School (1958). His present term expires on November 30, 2018.



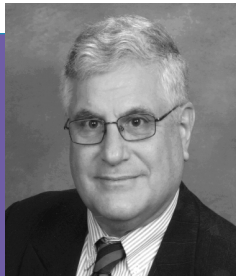
Patricia L. Gatling, of Manhattan, is Vice-Chairman of the Board. She is an attorney with the Manhattan law firm of Windels Marx Lane & Wittendorf, LLP. She served 13 years as the Commissioner and Chair of the New York City Commission on Human Rights. She is a graduate of Johns Hopkins University and the University of Maryland School of Law (1982). Her current term expires on November 19, 2020.



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, 2018.



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, 2018.



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, 2019.



Lisa L. Hutchinson, of Nassau County, is a partner in the Farmingdale law firm of Guercio & Guercio, LLP. She is a graduate of SUNY Albany and the University of Pennsylvania Law School (1995). She was first appointed in 2016. Her present term expires on October 19, 2019.



Charlotte G. Holstein, of Syracuse, is a civic leader, founder and former Executive Director of F.O.C.U.S. Greater Syracuse, a citizen engagement non-profit organization. A graduate of SUNY at Brockport (1946) she is the recipient of two honorary doctorate degrees: LeMoyne College in 1998 and Syracuse University in 2015. She was first appointed in 2001. Her present term expires on November 30, 2019.

The Staff of the Lawyers' Fund

The Board of Trustees appoints the Fund's staff. In 2017, the staff consisted of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Ray Wood, Investigator; Janel Kaczor, Administrative Secretary; and Harriett Tremblay, Secretary. In June 2017, the Fund welcomed a new Investigator, Keri Cleveland, upon the retirement of Ray Wood.



Keri Cleveland



Janel Kaczor

Timothy J. O'Sullivan

Harriett Tremblay

Michael J. Knight

Ray Wood

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), Eleanor Breitel Alter, Esq. of Manhattan (1985-2013) and Nancy Burner, Esq. of Port Jefferson (2002-2016). Frederick Miller served as the Fund's charter Executive Director and Counsel from 1982 through his retirement in July 2000.



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



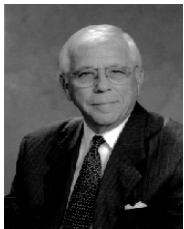
Anthony R. Palermo, of Monroe County, served as the Charter Chairman of the Board from 1981-1985, and as Trustee from 1981-1990. Mr. Palermo is a partner in the Rochester law firm of Woods Oviatt Gilman LLP.



Eleanor Breitel Alter of Manhattan served as Trustee from 1983 to 2013 and was Chairman of the Board of Trustees from 1985 until 2011. She is a partner in the Manhattan law firm of Alter, Wolff & Foley LLP.



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.



Nancy Burner, of Suffolk County, 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. Ms. Burner served on the Board from 2002 to 2016 and as Vice-Chairman of the Board from 2010 to 2016.



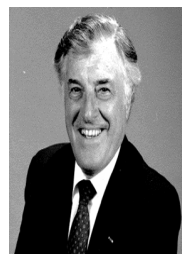
Charles Joseph Hynes of Brooklyn is the former District Attorney of Kings County. Mr. Hynes served on the Board of Trustees from 1982 until 2008.



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.



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.



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.



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.



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.

The Fund's Statutory Authority and the Trustees' Regulations

The Lawyers' Fund was established by section 97-t of the State Finance Law. 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). The Appendix includes section 97-t of the State Finance Law, section 468-b of the Judiciary Law and the Trustees' Regulations.

In June 2017, the Board amended section 7200.4 (a) of the Trustees' Regulations to authorize the Trustees to utilize unclaimed missing client and deceased attorney escrow deposits held by the Lawyers' Fund for over five years, and such deposits held for unknown clients, pursuant to Rules 1.15 (f) and 1.15 (g) of the Rules of Professional Conduct (22 NYCRR Part 7200.4 (a)).

Revenue, Awards and Disbursements

Since 1982, the Fund has received total revenue of \$233.1 million. As of December 31, 2017, the Trustees have approved a total of \$208 million in reimbursement awards. In 35 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 2017, the Fund held \$6.8 million in revenue in the state treasury.

Restitution Revenue and Litigation

Restitution totaling \$20.7 million has been recovered by the Fund since 1982 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.

Since 2001, Assistant Attorney General Richard L. Rodgers has served as the Fund's restitution counsel. Mr. Rodgers also defends the Fund in Article 78 proceedings. The Trustees and staff are grateful to Mr. Rodgers for his 16 years of invaluable service to the Lawyers' Fund.

The Trustees also wish to thank the following members of the Attorney General's Office who assisted in restitution and other litigation in 2017: Assistant Attorneys General John V. Cremo, Kathryn Blake, Michael Difabio, Norman Fivel, Denis Hurley, Michael Russo and Assistant Solicitor General Laura Etlinger.



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 include 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*; eight editions of *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 2017, the Lawyers' Fund updated the Client Protection Fund Bibliography which was donated as a publication for the National Client Protection Organization.

The Fund's website at 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 Fund's staff provides an approved CLE program and regularly addresses law schools and state and local bar associations. The New York Lawyers' Fund can also be found on Facebook and Twitter.

Processing Applications for Reimbursement

A completed application for reimbursement along with supporting documentation must be filed with the Fund in order for a law client to be considered for an award of reimbursement. 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 conduct any necessary investigation of a claim for reimbursement.

Written complaints must be filed with the appropriate Attorney Grievance Committee and District Attorney by claimants alleging a misappropriation of money or property in the practice of law. Claimants must cooperate with any investigations by these offices. A lawyer accused of dishonest conduct is provided with notice of the claim, and given the opportunity to respond.

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 or 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 with criminal prosecutors.

Judicial Review Litigation

In 35 years there have been 19,357 determinations in claims filed with the Fund. The Trustees have approved 8,676 awards of reimbursement. The remaining 10,681 claims were determined to be ineligible for failure to provide satisfactory evidence of eligible losses.

Since 1982, twenty-three 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 of the claims. Two of these claimants had pending appeals at the end of 2017.

One disbarred attorney against whom awards were granted also unsuccessfully pursued an Article 78 proceeding seeking to set aside the awards. Another disbarred attorney sought to apply the provisions of the State's Freedom of Information Law to the Lawyers' Fund in his complaints about awards granted against him. In *Cousins v. Lawyers' Fund*, No. 4459-15 (Sup. Ct., Albany Co. 2015), Albany County Supreme Court Justice Roger McDonough held that the Lawyers' Fund is a judicial agency and is therefore exempt from the application of the FOIL statute.

In 2017, one Article 78 proceeding against the Lawyers' Fund was dismissed. In *Reisman v. Lawyers' Fund*, No. 17-902824 (Sup. Ct., Albany Co. 2017), the claimant challenged the Trustees' denial of a claim for a loss from an investment transaction with an attorney which did not occur within an attorney-client relationship and the practice of law. The Court dismissed the petition and held that there was a rational basis for the Trustees' denial of the claim.

The Dishonored Check Reporting Rule

A clear indicator of the possible misuse of client funds is a dishonored attorney escrow account check. As a client protection measure, 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.

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 grievance

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.

Since 1993, approximately 294 lawyers who were misusing client funds have been identified by bounced check reports. This clearly demonstrates that the Dishonored Check Reporting Rule is a proven and effective loss prevention and detection device.

The Trustees now recommend that the Dishonored Check Reporting Rule be expanded to require that banks also provide the Lawyers' Fund with notice of any overdraft on attorney special, trust or escrow accounts. This expansion of the bounced check rule to include overdrafts as well as dishonored checks will provide greater protection to law clients.

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. When a sole practitioner dies without a successor signatory practical problems arise.

In 1994, the Appellate Divisions amended court rules, at the Trustees' suggestion, 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. See Erie County Bar Association Ethics Opinion #xx1-01 (Jan. 15, 2004).

The Fund's staff attempts to locate missing clients to return these deposits. The Fund's staff has so far successfully located 468 missing clients and returned to them over \$1.4 million.

These court rules and sample pleadings pursuant to the rules can be found on the Fund's website at www.nylawfund.org in the escrow and ethics material section.

In 2017, the Board amended section 7200.4 (a) of the Trustees' Regulations to authorize the Trustees to utilize unclaimed missing client and deceased attorney escrow deposits held by the Lawyers' Fund for over five years, and such deposits held for unknown clients, pursuant to Rules 1.15 (f) and 1.15 (g) of the Rules of Professional Conduct (22 NYCRR Part 7200.4 (a)).

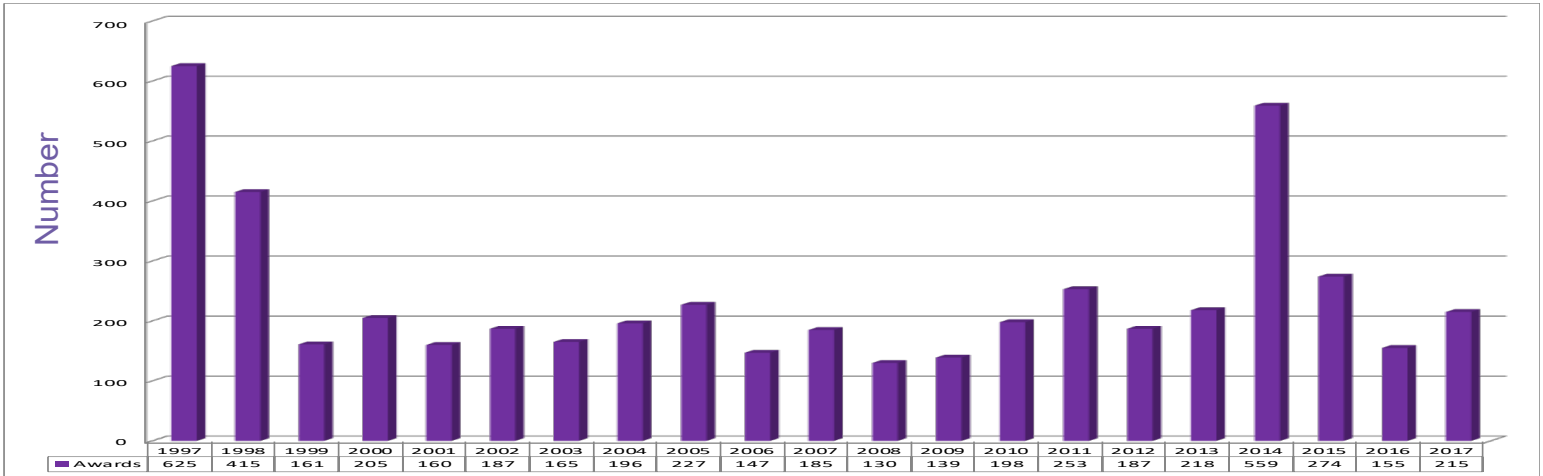
Thefts in Real Property Transactions

Since 1982, real estate escrow losses are the largest single category of awards from the Fund in the amount of reimbursement provided. In 35 years, 39 percent of all money paid out by the Fund has reimbursed real estate escrow losses. Since 1982, the Trustees have approved 2,430 awards totaling \$81.3 million for real property losses.

In 2017, real estate awards accounted for the second largest amount of awards by category. In 2017, \$2.7 million of the \$10.6 million total payout by the Fund reimbursed real estate losses. Real estate awards thus accounted for 25.7 percent of the total amount reimbursed by the Fund in 2017. This \$2.7 million payout represents a decrease from 2016 when realty awards comprised \$3.5 million of the total \$9.2 million reimbursed, or 38 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.

Number of Awards Approved From 1997-2017 (Total Awards Approved Since 1982: 8,676)



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, 1,836 claims have been filed with the Fund alleging \$308.3 million in losses from investment transactions with lawyers. The Trustees approved awards in 400 of these claims providing total reimbursement of \$25 million.

Legal Fee Claims

Since 1982, the largest single category of claims filed with the Fund (36.8%) 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.

Theft of Personal Injury Settlements and Payee Notification

One type of loss brought to the attention of 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 adoption of a payee notification rule codified as Insurance Department “Regulation 64”. This requires liability insurers 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.

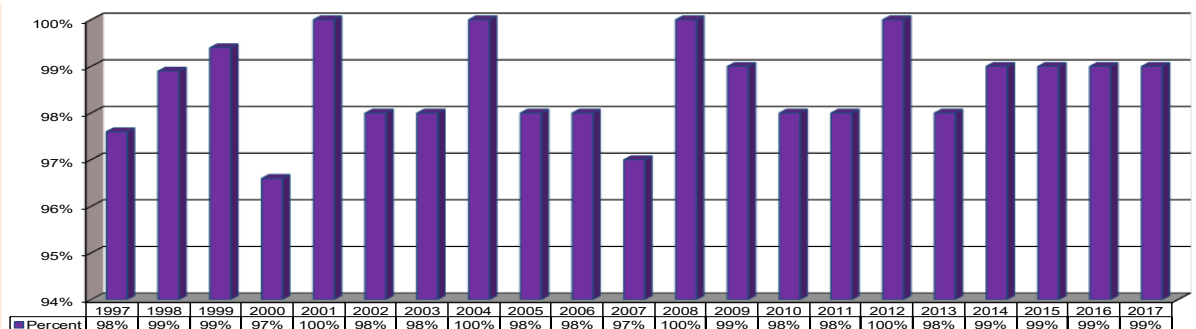
New York’s Regulation 64 has been approved as a Model Rule for attorney disciplinary systems by the American Bar Association. Variations of this payee notice rule have now been adopted in the Canadian Province of New Brunswick and in the following other fifteen states: Arkansas, California, Connecticut,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

In 2017, for only the second time in the Fund’s 35-year history, settlement losses accounted for the largest amount of awards by category. Of the \$10.6 million paid out in 2017, \$3.9 million (37%) involved settlement losses. This continues a disturbing trend over the past three years where settlement losses have accounted for either the largest or second largest category in the number of awards or amount of awards paid by the Fund.

While this trend causes concern, a small handful of dishonest lawyers are causing these losses. For example, in 2017, four lawyers alone accounted for \$3.6 million (92%) of the \$3.9 million paid out for settlement losses. In these settlement losses, the common experience is that the payee notification is provided to the clients who then accept fabricated excuses from these few dishonest lawyers for the delay in the release of their settlement proceeds.

“I am truly thankful to you...the Trustees and Staff (and) all the people that I do not know personally but that work so hard to do good.”
Message from a claimant, 2017

Percent of Eligible Claimants Receiving Full Reimbursement 1997-2017



Claims Filed and Processed

Claims Filed in 2017

In 2017, there were 351 claims filed with the Lawyers' Fund. This represents a 35 percent decrease from 2016 when the Fund received 538 claims. The 351 filed claims in 2017 alleged \$29.2 million in losses, a 32 percent decrease from the \$42.8 million in alleged losses from the previous year.

Claims Filed, 1982 to 2017

Since 1982, 19,601 claims have been filed with the Lawyers' Fund alleging over \$1 billion 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 2017

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 2017, of the 351 filed claims, 157 (44.7%) claims sought reimbursement of legal fees. There were 82 claims (23.4%) alleging thefts of real property escrow and 62 claims (17.7%) alleging losses in personal injury settlements.

Of the \$29.2 million in alleged losses in 2017, \$10.6 million involved alleged losses in realty transactions. This represents 36.2 percent of all alleged losses. Filed claims in 2017 involving personal injury settlements totaled \$6.5 million (22.4%). Alleged losses in filed claims involving alleged investment losses totaled \$6.5 million (22.4%).

Claims Filed by Category of Loss, 1982 to 2017

Since 1982, by category, the largest number of filed claims have sought reimbursement of legal fees. In 35 years, 7,197 claims have been filed alleging unearned legal fees. These legal fee claims account for 36.8 percent of all filed claims. The second largest category of filed claims alleged losses in real property transactions. The Fund has received 4,178 real property claims comprising approximately 21.3 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 \$308.4 million, or 30.5 percent of all alleged losses in filed claims. Real property claims were second with alleged losses of \$246.5 million constituting 24.4 percent of all alleged losses. The third largest category of alleged losses involve alleged thefts from estates and trusts. These claims have alleged \$137.7 million in losses or 13.6 percent of all alleged losses.

Awards of Reimbursement in 2017

In 2017, the Trustees approved 215 awards. This represents a 39 percent increase from 2016 when 155 awards were granted.

The awards in 2017 reimbursed a total of \$10.6 million. This payout represents a 15 percent increase from 2016 when \$9.2 million in reimbursement was paid out by the Fund. The \$10.6 million awarded in 2017 represents the second highest single-year payout in the Fund's 35-year history. The highest single-year payout was in 2015 when \$12.3 million was awarded.

In 2017, all but three eligible claimants received 100 percent reimbursement for their eligible losses. The median client loss and award in 2017 was \$12,500, down from \$12,822 in 2016.

Awards of Reimbursement, 1982 to 2017

Since 1982, the Trustees have approved 8,676 awards of reimbursement totaling \$208.9 million. On average, since 1982, 94 percent of all eligible claimants have received full reimbursement for their eligible losses. Since 2004, 99 percent of eligible claimants were fully reimbursed by the Lawyers' Fund.

"I appreciate the professionalism and courtesy I have received from the Lawyers' Fund during this process of financial restitution after having suffered such an ordeal..."
Message from a claimant, 2017

Awards by Category of Loss in 2017

In 2017, the largest category of awards, by the number of awards, reimbursed unearned retainer fees. Of the 215 awards in 2017, 89 (41.4%) reimbursed unearned retainer fees. The second largest category of awards in 2017, by the number of awards, was personal injury settlements with 56 awards, or 26 percent of the 215 total awards.

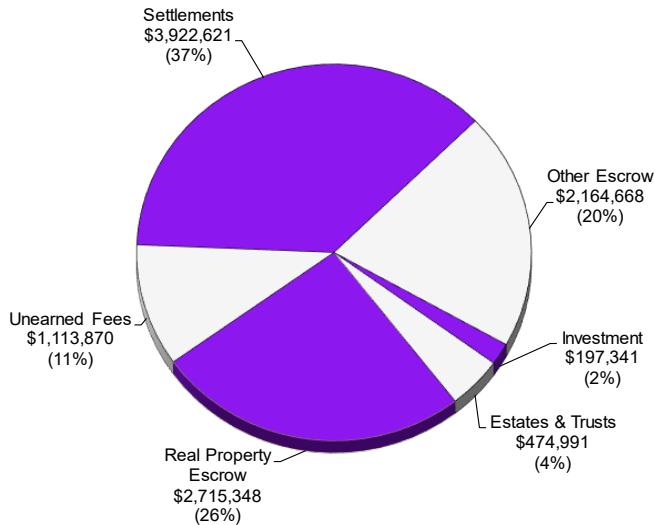
By dollar amount, the largest category of awards in 2017 reimbursed misappropriated personal injury settlements. Of the \$10.6 million paid out by the Trustees in 2017, \$3.9 million (37%) reimbursed misappropriated personal injury settlements. The second largest category of awards in 2017, by dollar amount, involved theft of real property escrow. These awards totaled \$2.7 million, which is 25.7 percent of the \$10.6 million reimbursed in 2017.

Awards by Category of Loss, 1982 to 2017

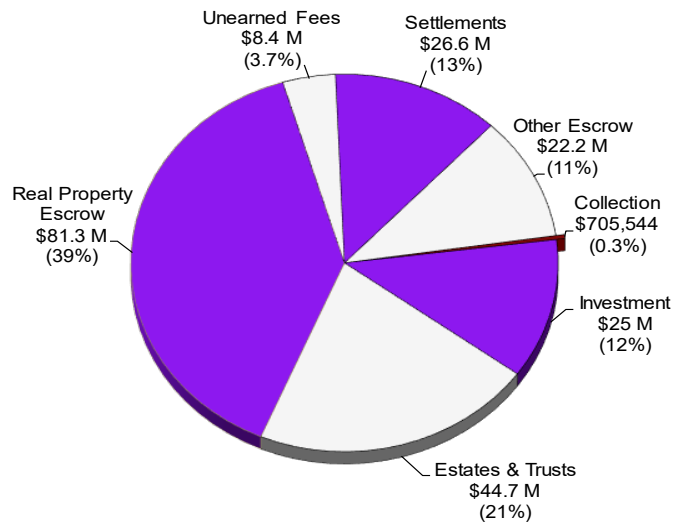
By category since 1982, the largest number of awards approved are for unearned legal fees. Unearned legal fee awards total 2,911 or 33.6 percent of all awards. The second largest category of awards reimbursed real property losses. Since 1982, there have been 2,430 real property awards comprising 28 percent of all awards.

Since 1982, by dollar amount, awards reimbursing real property losses represent the largest payout by the Fund. Real property awards total \$81 million, or 38.9 percent of all money reimbursed. The second largest dollar amount of awards involve thefts from estates and trusts. These awards total \$44.7 million or 21.4 percent of all awards.

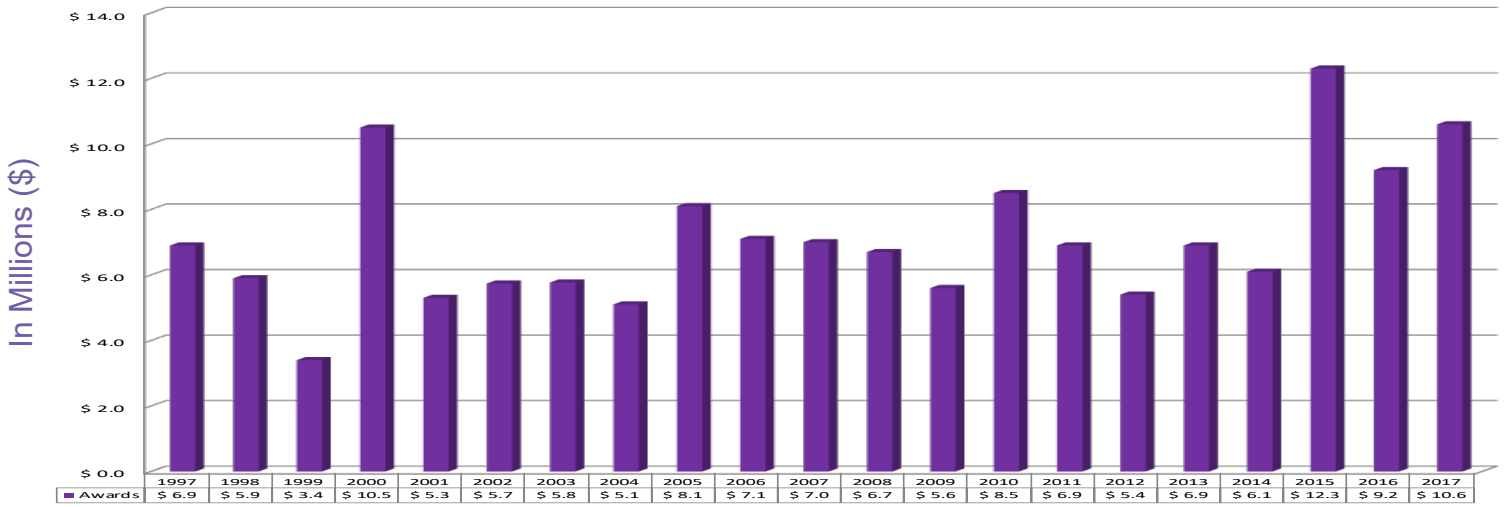
**Amount of 2017 Awards
By Type of Theft: \$10.6 Million**



**Amount of Awards Since 1982
By Type of Theft: \$208.9 Million**



**Amount of Awards Approved From 1997-2017 (In Millions \$)
(Total Awards Approved Since 1982: \$208.9 Million)**



Ineligible Claims Since 1982

In 35 years, the Fund has rendered 19,357 determinations in claims. Of these 19,357 claims, 10,681 or 55 percent, were found to be ineligible for reimbursement.

Claims Pending as of December 31, 2017

There were 279 pending claims at the close of 2017. This is a decrease of 168 claims, or 38 percent, from the 447 claims pending at the end of the prior year.

These 279 pending claims allege total losses of \$50.7 million. The Fund's exposure on these pending claims, adjusted for the \$400,000 maximum limit on awards, is \$25 million. This represents an 20 percent decrease from the Fund's \$32 million exposure on pending claims at the end of 2016. Ten lawyers alone account for \$10.4 million (41%) of the Fund's \$25 million exposure.

Lawyers Involved in Awards 1982 to 2017

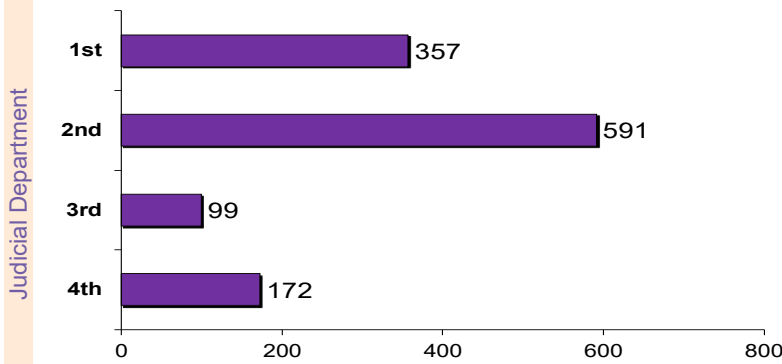
The Trustees' 35-year experience has firmly established that the overwhelming majority of lawyers in New York State are honest and caring and deserving of their law clients' trust.

A tiny percentage of New York's legal profession is each year responsible for the dishonest conduct resulting in awards from the Lawyers' Fund. There are now over 318,000 registered lawyers in New York State. In 35 years, from a much larger pool of admitted lawyers over that time, only 1,219 former lawyers have caused the 8,676 awards granted by the Fund. In 2017, the Trustees' 215 awards were attributable to dishonest conduct by 86 now suspended, disbarred or deceased lawyers. Of these 86 former lawyers, 39 were respondents in awards from prior years. The names of 47 dishonest lawyers appear for the first time in 2017 awards.

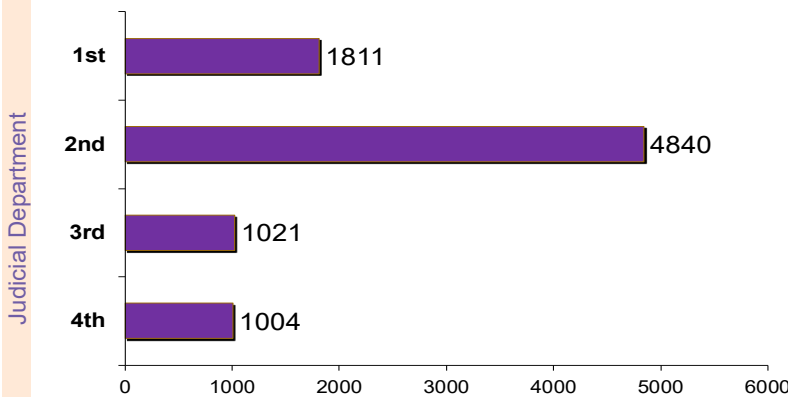
A list of lawyers involved in awards in 2017 is provided in the Appendix. The complete list of lawyers involved in all awards since 1982 is provided on the Lawyers' Fund website: www.nylawfund.org.

The Trustees' consistent experience has been that 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 1,219 former lawyers, and the Fund's 8,676 awards, among the state's judicial departments is represented in the following bar graphs:

Lawyers Involved in All Awards Since 1982 (1,219)



Distribution of Awards Since 1982 (8,676)



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:



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 statutory responsibility, the Trustees annually recommend changes in legal practice and policy. The Trustees propose the following measures to the judicial, legislative and bar leaders of New York State.

Expand the Dishonored Check Notice Reporting Rule to include Overdraft Notification

The Trustees propose that New York's Dishonored Check Notice Reporting Rule be expanded to also require that banks provide written notice to the Lawyers' Fund of any overdraft on an attorney trust, special or escrow account.

A clear indicator of the possible misuse of client funds is a dishonored attorney escrow check, or an overdraft on an attorney's escrow account. Both these warning signs should warrant review by an attorney grievance committee in order to protect the public.

The Dishonored Check Notice Reporting Rule has proven to be an effective loss prevention and detection device. This Rule, implemented in 1993 at the Trustees' recommendation, requires that banks provide the Lawyers' Fund with notice of an attorney trust, special or escrow account check that is dishonored for insufficient funds. Approximately 294 lawyers have been disciplined for misusing client funds as the result of this bounced check Rule. This Rule can be strengthened, and greater protection provided to the public, if it is expanded to require that banks also provide the Lawyers' Fund with notice of any overdraft on these fiduciary accounts maintained by attorneys.

Prohibit Overdraft Protection on Attorney Trust, Special or Escrow Accounts

The Trustees recommend an amendment to Rule 1.15 (b) of the Rules of Professional Conduct which will prohibit all attorneys from having overdraft protection on their attorney trust, special or escrow accounts.

There should never be an overdraft on an attorney trust, special or escrow account. An overdraft on these fiduciary bank accounts is a sign of an attorney's mismanagement of these accounts, or worse, the misuse of funds belonging to clients or other persons. Present court rules do not clearly prohibit overdraft protection on an attorney trust, special or escrow account. There is no legitimate reason why these fiduciary accounts should have overdraft protection.

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.

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.

Lawyers who harm their clients by intentionally stealing escrow funds should be disbarred. No questions or excuses. 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.

Recommendations (Cont'd)

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.

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.

Since 1982, real property escrow thefts account for the largest dollar amount of reimbursement by the Lawyers' Fund. The Fund's Trustees have reimbursed over \$81 million for these thefts. This represents nearly 40% of all reimbursement from the Fund in 35 years.

In 2017, real property escrow thefts were responsible for the second largest dollar amount of reimbursement by the Lawyers' Fund. Of the \$10.6 million awarded in 2017, \$2.7 million (25.6%) reimbursed realty losses.

The few disgraced lawyers responsible for these losses cause substantial harm to law clients and to the reputation of the over 318,000 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.

Confidentiality in Attorney Disciplinary Proceedings

The Trustees recommend a uniform disciplinary policy that a Grievance 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 Grievance 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.

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.

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.

Attorney Grievance Committees lack the resources to monitor suspended or disbarred lawyers. The unauthorized and illegal practice of law is a threat to 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 encourage criminal prosecution of those engaged in the unauthorized practice of law. This enforcement of the penal laws will deter the illegal practice of law and protect legal consumers.

The Trustees are grateful that the recently amended Rules for Attorney Disciplinary Matters now include our prior recommendation that an attorney resigning from the bar for professional misconduct be required to agree in their resignation affidavit not to accept any advance legal fees after their resignation is submitted.

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-seven 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.

“On behalf of my husband and I, I would sincerely like to thank you, your staff and your Board of Trustees for awarding us money that was taken from us by our attorney. Until we received this letter, we honestly believed that we had been repeatedly defrauded and lied to and that we would never see this money again. I was surprised and completely grateful that your Board had reached this decision.”

Message from a claimant, 2017

Conclusion

The Trustees remain grateful to the Judges of the Court of Appeals, Chief Judge Janet DiFiore, the Clerk of the Court, all those in State government, our judiciary, District Attorney's offices and the attorney disciplinary system for their invaluable assistance to the Lawyers' Fund. The Trustees also remain 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.

The Trustees' 35 years of experience 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. A tiny percentage of New York's legal profession remains responsible for dishonest conduct in the practice of law. These few who disgrace the legal profession cause significant harm to law clients. The Lawyers' Fund for Client Protection therefore continues to have a vital role in our justice system.

Trustees Regulations (22 NYCRR 7200)

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. For purposes of this subdivision, monies "transferred from any other fund or source" shall include monies paid to the Lawyers' Fund for Client Protection pursuant to Rules 1.15 (f) and 1.15 (g) of the Rules of Professional Conduct (22 NYCRR Part 1200), including earned interest, except that such monies shall not be available for use by the Lawyers' Fund unless the Fund is unable to ascertain the identify of the person or persons entitled to such monies or, during the five years following payment of such monies to the Fund, the Fund has been unable to locate that person or persons, and no valid claim has otherwise been made upon such monies. The Lawyers' Fund's use of such monies shall not extinguish a future valid claim to such monies by persons entitled thereto;

(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.

Trustees Regulations (22 NYCRR 7200)

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

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

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

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

(3) 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

Trustees Regulations (22 NYCRR 7200)

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 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 authorize, the claimant's rights against the attorney whose dishonest conduct caused the claimant's loss and any other person or entity who may be liable for the claimant's loss.

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

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

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

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

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

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

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

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

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

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

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

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

Lawyers Involved In 2017 Awards

The following is a list of the 87 now suspended, disbarred or deceased lawyers responsible for the misconduct and resulting client losses reimbursed by the Fund in 2017. 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.**

Name	JD	#	Amount	Name	JD	#	Amount
Frank Adipietro	10	6	\$ 99,851	Stephen R. Krawitz	01	1	\$ 7,790
Christopher J. Andrews	01	2	\$ 405,239	Jeffrey L. Lessoff	01	4	\$ 35,333
Ronald D. Anton	08	1	\$ 28,794	Michael M. Lippman	09	1	\$ 400,000
James F. Armstrong	08	1	\$ 3,800	Lester W. Mackey	10	2	\$ 40,545
Patricia R. Ballner	01	3	\$ 12,100	Lindy M. Madill	05	2	\$ 1,040
Dominic A. Barbara	10	33	\$ 892,029	Barbara L. Maleno	10	1	\$ 165,613
Richard C. Becker	09	1	\$ 77,031	Jonathan G. Mason-Kinsey	02	1	\$ 5,000
Frederick Bittner, Jr.	09	1	\$ 30,000	Sean F. McCaffrey	11	1	\$ 250
Israel A. Burns	02	3	\$ 12,000	Michael S. McGrady	03	1	\$ 6,800
Lawrence Buscemi	10	1	\$ 2,500	Marjorie Modestil	01	2	\$ 27,000
Jason M. Butler	02	2	\$ 4,000	Bruce K. Mogavero	09	2	\$ 97,500
John E. Campbell	09	1	\$ 15,000	Peter J. Mollo	02	1	\$ 58,500
Manuel Campos-Galvan	01	2	\$ 137,777	Steven A. Morelli	10	17	\$ 604,633
William V. Canale	04	1	\$ 4,873	Joseph A. Morrone	10	2	\$ 88,560
Andrew F. Capoccia	03	1	\$ 1,157	Alexander B. Perry	03	1	\$ 3,000
James G. Carroll	10	1	\$ 61,895	Justin M. Pinck	02	3	\$ 2,600
Richard A. Caserta	02	5	\$ 336,500	Frank A. Racano	10	4	\$ 123,072
Violet A. Chandler	02	1	\$ 6,300	Joseph A. Rizzo	03	3	\$ 5,500
Edward A. Christensen	10	1	\$ 12,500	Luigi Rosabianca	01	3	\$ 140,453
Kevin J. Connolly	01	1	\$ 2,500	Stephan L. Rosenbaum	01	1	\$ 100,000
Marijan Cvjeticanin	10	2	\$ 5,495	Donald B. Rosenberg	01	3	\$ 113,045
Timothy F. Daly	10	1	\$ 25,000	Alan Ross	02	7	\$ 108,001
Yvonne DeBenedetto	10	1	\$ 1,500	Emmanuel Roy	02	1	\$ 2,500
Steven H. Dickman	10	1	\$ 9,690	Stuart A. Schlesinger	01	15	\$2,806,880
William A. DiConza	10	1	\$ 165,150	Eric Schneider	03	1	\$ 1,800
Marcia J. Doyle	03	1	\$ 26,400	Ira F. Seplow	11	2	\$ 3,750
Marc S. Dreier	01	6	\$1,273,063	Maqsood H. Siddiqui	10	1	\$ 2,500
James P. Duffy	10	1	\$ 137,853	Howard M. Sklar	10	3	\$ 22,000
Michal Durove	01	1	\$ 35,000	Barbara B. Sobal	01	1	\$ 10,000
Samuel A. Ehrenfeld	01	1	\$ 400,000	Daniel F. Spitalnic	10	3	\$ 206,602
Ian M. Fields	09	1	\$ 2,500	Jeffrey P. Squitieri	01	1	\$ 4,800
Robert C. Fontanelli	01	3	\$ 68,000	Fitzpatrick N. St. Hill Dodson	02	1	\$ 60,101
David S. Frankel	10	1	\$ 100,000	Jonathan Ogden Tate	05	1	\$ 3,000
Joel L. Getreu	01	2	\$ 25,636	Kevin R. Taylor	07	1	\$ 1,800
Guy G. Giuliano	02	1	\$ 118,000	Philip H. Teplen	01	5	\$ 107,799
Timothy G. Griffin	09	1	\$ 27,500	Edward R. Thiel	08	4	\$ 63,684
Joel A. Grossbarth	09	1	\$ 4,000	Bill Tsoumpelis	10	2	\$ 7,000
Edward J. Grossman	10	1	\$ 9,046	Robert A. Wagner	10	3	\$ 416,020
Harry Hertzberg	12	1	\$ 900	Januarius Kim Welch	08	1	\$ 6,067
Mark A. Hidalgo	12	2	\$ 24,500	John M. Wilson	02	1	\$ 4,627
John M. Hogan, III	04	1	\$ 300	Samuel L. Wolf	02	2	\$ 65,520
Donald E. Keinz	05	1	\$ 41,570	Edward I. Yatkowsky	09	1	\$ 2,710
James E. Konstanty	06	1	\$ 4,800	Christopher J. Zito	08	1	\$ 3,695

- refers to Number of Awards in 2017.
JD - refers to Judicial District



Statistical Tables

Losses Alleged in 2017 Claims

Category of Client Loss	Number of Claims	Percent of All Claims (#)	Amount of Loss Alleged	Percent of Loss Alleged (\$)
Estates & Trusts	16	4.6%	\$1,272,964	4.4%
Real Property Escrow	82	23.4%	\$10,567,267	36.2%
Unearned Fees	157	44.7%	\$2,520,657	8.6%
Settlements	62	17.7%	\$6,539,373	22.4%
Other Escrow	15	4.3%	\$1,736,869	6.0%
Debt Collection	0	0%	\$0	0%
Investment	17	4.8%	\$6,537,787	22.4%
Other	2	0.5%	\$2,041	0%
Totals	351	100%	\$29,176,958	100%

Losses Alleged Since 1982

Category of Client Loss	Number of Claims	Percent of All Claims (#)	Amount of Loss Alleged	Percent of Loss Alleged (\$)
Estates & Trusts	1,308	6.7%	\$137,743,986	13.6%
Real Property Escrow	4,178	21.3%	\$246,496,664	24.4%
Unearned Fees	7,197	36.8%	\$73,180,980	7.2%
Settlements	1,752	8.9%	\$101,158,533	10.0%
Other Escrow	1,683	8.6%	\$79,941,353	7.9%
Debt Collection	665	3.4%	\$3,854,851	0.5%
Investment	1,836	9.4%	\$308,356,632	30.5%
Other	964	4.9%	\$59,887,834	5.9%
Totals	19,583	100%	\$1,010,620,833	100%

Client Losses in 2017 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	4	1.9%	\$474,991	4.5%	\$655,994	72.4%
Real Property Escrow	42	19.5%	\$2,715,348	25.7%	\$2,715,348	100%
Unearned Fees	89	41.4%	\$1,113,870	10.5%	\$1,161,870	95.9%
Settlements	56	26.0%	\$3,922,621	37.0%	\$3,922,621	100%
Other Escrow	20	9.3%	\$2,164,668	20.4%	\$2,260,801	95.7%
Debt Collection	0	0.0%	\$0	0.0%	\$0	0%
Investment	4	1.9%	\$197,341	1.9%	\$197,341	100%
Totals	215	100%	\$10,588,839	100%	\$10,913,975	

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	775	8.9%	\$44,710,745	21.4%	\$67,209,198	67%
Real Property Escrow	2,430	28.0%	\$81,334,660	38.9%	\$92,624,275	88%
Unearned Fees	2,911	33.6%	\$8,362,125	4.0%	\$8,436,225	99%
Settlements	888	10.2%	\$26,559,832	12.7%	\$27,256,529	97%
Other Escrow	819	9.5%	\$22,239,926	10.7%	\$31,247,477	71%
Debt Collection	453	5.2%	\$705,544	0.3%	\$760,544	93%
Investment	400	4.6%	\$25,029,960	12.0%	\$30,766,447	82%
Totals	8,676	100%	\$208,942,792	100%	\$258,300,695	

“The service your organization provides to individuals that have been victimized by unscrupulous attorneys is truly commendable and restores a level of trust in the profession you serve. If only consumers were provided these same protections for other professions. On behalf of all that will benefit from this award, I would like to extend my sincere gratitude to all in your organization.”
Message from a claimant, 2017

Statistical Tables

Claims Activity Since 1982	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Claims Filed	534	375	230	332	341	311	351	486	438	515	627	636	598	909	730	1128	812	442	492
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	\$ 15.9	\$ 20.5
Claims Approved	1	494	130	183	178	159	202	177	219	200	288	318	362	383	381	625	415	161	205
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	\$ 3.7	\$ 14.2
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	\$ 3.4	\$ 10.5
Lawyers Involved	1	13	26	43	26	24	36	26	38	44	38	52	45	60	38	39	29	28	49
% Losses Reimbursed	50%	46%	46%	52%	85%	95%	74%	60%	96%	71%	54%	60%	73%	64%	72%	76%	87%	92%	74%
% Clients Fully Reimbursed	0%	74%	65%	39%	91%	99%	100%	98%	96%	94%	95%	94%	94%	98%	94%	98%	99%	99%	97%
Claims Disallowed	33	201	105	73	164	120	119	169	186	360	253	384	247	366	439	620	522	383	329
Total Dispositions	34	695	235	256	342	279	321	346	405	560	540	702	610	749	820	1245	937	544	534
Claims Pending Dec. 31	500	180	175	251	250	282	312	452	485	440	526	460	449	609	579	462	337	235	193
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	\$ 16.1	\$ 10.2
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	\$ 11.6	\$ 8.3
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	\$ 6.3	\$ 3.4

Claims Activity Since 1982	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Totals
Claims Filed	548	499	506	627	729	520	454	480	489	820	601	469	542	621	520	538	351	19,601
Losses Alleged (In Millions \$)	\$ 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	\$ 45.5	\$ 42.8	\$ 29.2	\$ 1.1 B
Claims Approved	160	187	165	196	227	147	185	130	139	198	253	187	218	559	274	155	215	8,676
Actual Losses (In Millions \$)	\$ 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	\$ 14.7	\$ 11.6	\$ 10.9	\$ 258.2
Awards (In Millions \$)	\$ 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	\$ 12.3	\$ 9.2	\$ 10.6	\$ 208.9
Lawyers Involved	28	28	37	26	32	35	44	23	36	31	26	31	44	39	37	20	47	1,219
% Losses Reimbursed	100%	98%	99%	100%	94%	98%	98%	100%	97%	96%	69%	100%	96%	64%	84%	80%	97%	
% Clients Fully Reimbursed	100%	98%	98%	100%	98%	98%	97%	100%	99%	98%	98%	100%	98%	99.9%	99%	99%	99%	
Claims Disallowed	383	281	338	323	327	284	307	351	257	428	310	338	337	351	265	424	304	10,661
Total Dispositions	543	468	503	519	554	431	492	481	396	626	563	525	555	910	539	579	519	19,357
Claims Pending Dec. 31	198	229	232	340	515	604	566	565	658	852	883	827	814	525	488	447	279	
Losses Alleged In Pending Claims (In Millions \$)	\$ 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	\$ 62.4	\$ 59.9	\$ 50.7	
Exposure on Pending Claims (In Millions \$)	\$ 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	\$ 34	\$ 32.0	\$ 25.5	
Fund Balance (Millions \$)	\$ 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	\$ 5.0	\$ 4.2	\$ 6.0	

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.

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.

Helpful Telephone Numbers

Attorney Grievance 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)





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

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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 reembolsar 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 reembolsados 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 300,000 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 300,000 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 reembolsar 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 reembolso 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 reembolsar 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 reembolso 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.



APPLICATION FOR REIMBURSEMENT FRONT

APPLICATION FOR REIMBURSEMENT BACK