

N E W S
New York State
Lawyers' Fund for Client Protection

Additional Information:
Timothy O'Sullivan
(518) 434-1935

Lawyers' Fund Issues 2008 Annual Report

A unique law client reimbursement program financed by New York's legal profession, the New York Lawyers' Fund, has issued its Annual Report for 2008.

This 2008 Annual Report is dedicated to former **Chief Judge Judith S. Kaye** and **Bernard F. Ashe** of Albany County, a Trustee with the Fund for 26 years whose term of office ended in 2008. Judge Kaye and Mr. Ashe were charter members of the Fund's Board of Trustees who dedicated their legal careers to public service.

The Lawyers' Fund for Client Protection is a State agency, financed by the lawyers of New York State, which reimburses law clients for losses caused by their attorney's dishonest conduct in the practice of law. The principal source of revenue for the Lawyers' Fund is a \$60 share of each \$350 biennial attorney registration fee paid by New York State attorneys. The Fund does not receive any money from taxpayers or from the State's Interest on Lawyer Account (IOLA) program.

The legal profession is the only profession to provide such a protection program for its clients. No other profession assumes responsibility for financial losses caused by the dishonest conduct of its members.

In 2008, the Lawyers' Fund granted 130 awards totaling \$6.8 million in reimbursement for eligible law clients. These awards reimbursed losses caused by 48 now suspended, disbarred or deceased lawyers. Of these 48 former lawyers, 23 appear for the first time in the Fund's awards. There are now 244,000 registered lawyers in New York State.

Typical law client losses covered by the Lawyers' Fund include the theft of real estate escrow funds, estate or trust assets, litigation settlement proceeds, money embezzled from law clients in investment transactions and unearned legal fees accepted by a lawyer who falsely promised to render legal services. The Fund does not have jurisdiction over claims alleging neglect or malpractice or in disputes over legal fees.

In the Fund's 26-year history, the most common loss reimbursed has been the theft of real property escrow funds. Since 1982, nearly 30% of all the Fund's awards and 39% of all

money restored by the Fund have involved realty escrow losses. In 2008, 63 (48%) of the 130 total awards and \$5.1 million (76%) of the \$6.8 million total paid out resulted from real property escrow thefts. Statewide, 26 former lawyers were responsible for the dishonest conduct in these realty escrow thefts in 2008.

The Lawyers' Fund is a special trust created by the State Legislature. The Fund is administered by a seven-member Board of Trustees appointed by the State Court of Appeals, New York's high court. The Board consists of five lawyers and two business and civic leaders. The Trustees serve as a public service without compensation.

The Lawyers' Fund is chaired by **Eleanor Breitel Alter**, a Manhattan lawyer with Kasowitz, Benson, Torres & Friedman. The Fund's Vice-Chairman is **Eric A. Seiff**, a partner in the Manhattan law firm of Seiff, Kretz & Abercrombie.

In addition to Mrs. Alter and Mr. Seiff, the Trustees are **Nancy Burner**, an elder law attorney from Setauket, Suffolk County; **Patricia L. Gatling** of Manhattan, the Commissioner and Chair of the New York City Commission on Human Rights; **Charlotte G. Holstein** of Syracuse, Executive Director of F.O.C.U.S. Greater Syracuse; **Charles Joseph Hynes**, District Attorney of Kings County; and **Theresa B. Mazzullo**, a Rochester businesswoman.

The Fund's 26th Annual Report sets forth recommendations for changes in policy and court rules in order to protect legal consumers. The recommendations include:

- New court rules protecting client escrow funds which are under the control of lawyers disciplined in New York for serious professional misconduct.

- New court rules requiring the payment of registration fees by lawyers engaged in the multi-jurisdictional practice of law or admitted to the New York bar on a *pro hac vice* basis.

- Mandatory disclosure by attorneys on biennial registration statements as to whether they maintain professional liability coverage and the limits of their policy.

Also discussed in the Fund's Report are successful loss prevention measures adopted at the urging of the Fund's Trustees. These measures include an insurance payee notification regulation and the Dishonored Check Reporting Rule which detects bounced checks on attorney escrow accounts. Since 1993, the Dishonored Check rule has resulted in the identification and discipline of approximately 153 lawyers who were misusing client funds.

The New York Lawyers' Fund is located at 119 Washington Avenue, Albany, New York 12210. Telephone: (518) 434-1935 / 800-442-3863. Website: www.nylawfund.org

