

ANNUAL REPORT

OF THE BOARD OF TRUSTEES

2001



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

2001

ANNUAL REPORT OF THE BOARD OF TRUSTEES

BOARD OF TRUSTEES

Eleanor Breitel Alter, Chairman

Bernard F. Ashe

Theodore D. Hoffmann

Charlotte G. Holstein

Charles J. Hynes

Ray W. Manuszewski

Eric A. Seiff

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.



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

119 Washington Avenue • Albany, New York 12210

Contents

Foreword	3	Claims Received and Processed	19
Dedication	3	Claims Filed and Alleged Losses, 1982 to 2001	19
History of Law Client Protection in New York State	4	Filings by Category of Loss, 1982 to 2001	19
The Purpose of the Lawyers' Fund	4	Lawyers Involved in Awards, 1982 to 2001	19
The Board of Trustees	5	Claims Filed in 2001	20
The Staff of the Lawyers' Fund	6	Awards of Reimbursement in 2001 ..	20
Liaison with the Appellate Divisions ..	6	Ineligible Claims, 1982 to 2001 ..	20
The Fund's Statutory Authority and Trustees' Regulations	6	Claims Pending, December 31, 2001	20
Revenue of the Lawyers' Fund	7	Recommendations	20
Registration of Lawyers	7	Alcohol and Substance Abuse in the Legal Profession	20
Sanction Revenues	7	Arbitration of Fee Disputes	21
Payouts and Disbursements	8	Bar Examinations	21
Restitution Revenues	8	Disbarment for Misusing Client and Escrow Money	21
Representation by the Department of Law	8	Thefts by Lawyer-Fiduciaries	21
Judicial Precedents	9	Bank Notices to Fiduciaries	21
Restitution as a Disciplinary Sanction ..	10	Confidentiality in Lawyer Discipline Proceedings	22
Public Information and Consumer Education	11	Thefts by Suspended, Disbarred and Bogus Lawyers	22
Attorney Trust Accounts: The Video	11	Escrow Thefts in Real Property Transactions	22
<i>What's A Power of Attorney?</i> <i>Answers for New Yorkers</i>	12	Interest on Down-Payments Held in Escrow	22
<i>Avoiding Grief with a Lawyer</i> — <i>A Practical Guide</i>	12	Escrow Accounts of Suspended and Disbarred Lawyers	22
www.nylawfund.org	12	Afterword	23
Appendix of CLE Materials	13	Special Recognition	23
Evaluation of Applications for Reimbursement	13	Appendix	24
Judicial Review of Rejected Claims	14	Statistical Tables	24
Representation by Counsel	14	NY State Finance Law, Section 97-t	25
Unearned Legal Fees	15	NY Judiciary Law, Section 468-b	25
Theft of Personal Injury Settlements ..	15	Trustees' Regulations	25
Losses in Investment Transactions	16	Lawyers Involved in Awards Since 1982	29
Thefts in Real Property Transactions ..	16	Application for Reimbursement	35
The Dishonored Check Notice Rule	17		
Dead Lawyers and Missing Clients	18		

Foreword

DEDICATION RAY W. MANUSZEWSKI

It is a privilege to dedicate this annual report to our good friend and colleague Ray W. Manuszewski of Buffalo. Ray has served for twenty years as a Trustee for the Lawyers' Fund for Client Protection with distinction and honor.



The accomplishments of the Lawyers' Fund, and the institutional strength and respect the Fund now enjoys, are due in large part to the wisdom and guidance Ray has provided since 1981 as a charter member of the Fund's Board of Trustees and the Fund's only Treasurer. A business leader and one of the non-lawyer members of the Fund's Board, Ray has been a strong advocate for the interests of legal consumers. He has helped ensure the Fund's financial health and worked tirelessly to fully inform the public of the existence and activities of the Lawyers' Fund.

Ray proudly served his country in the United States Navy and Marine Corps. He went on to enjoy a distinguished 40-year career in the banking industry culminating in his service as Chairman of the Board of Manufacturers Hanover, N.A. and Regional President of Manufacturers Hanover Trust Company. While devoting the last twenty years to the Lawyers' Fund, Ray has also served on numerous other civic, professional and charitable boards and organizations.

Ray is a man of deep faith and conviction. He is a devoted husband to Lorraine, his wife of fifty-one years, and a loving father to his two daughters, Judith and Claudia. We all know that he is a proud grandfather as well.

The Lawyers' Fund, its Trustees and staff will always be deeply indebted to Ray W. Manuszewski.

This is the 19th Annual Report of the Board of Trustees of the Lawyers' Fund for Client Protection.

This report's principal focus is on the activities of the Lawyers' Fund during the calendar year 2001. The following presentation also includes a review of the Fund's administration, policies and procedures, overall statistics, public information and educational efforts and recommendations for improving the administration of justice in our Empire State.

The Lawyers' Fund was established in order to maintain the integrity and protect the good name of the legal profession by reimbursing law client losses caused by the dishonest conduct of attorneys in New York State. It is abundantly clear, based upon our Trustees' experience since 1982, that the overwhelming majority of lawyers in New York are honest, conscientious and deserving of their clients' trust.

New York's legal profession can be proud of the Lawyers' Fund and its contributions to the field of client protection.

For the first time in the Fund's history, in 2001 all eligible law clients received

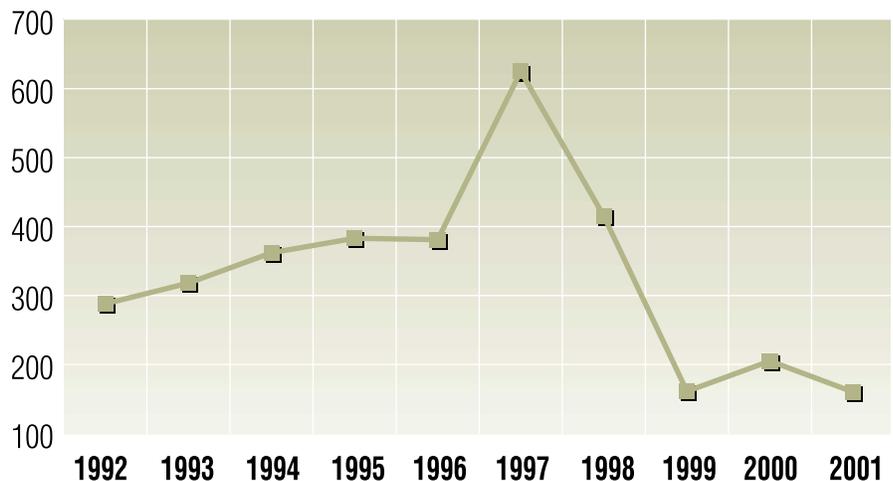
100 percent reimbursement for their loss. While this is unprecedented, it does not diminish the important fact that since 1986, the New York Lawyers' Fund has fully reimbursed an average of 97 percent of all eligible clients. Few, if any, of the nation's funds provide this level of protection.

The Fund's maximum award of \$300,000 per individual loss is the highest award limit among the 50 client protection funds in the United States.

Since 1982, the Fund has restored over \$91 million to 5,241 eligible claimants. In 2001, the Trustees approved 160 awards totaling \$5.3 million.

While losses resulting from attorney dishonest conduct persist, there is also good cause for optimism. The 5,241 awards from the Fund involve misconduct by only 683 former members of the bar. This represents less than one-half of one percent of the 189,000 registered lawyers in New York. Overall, the number of filed claims has substantially decreased. The Fund also ended 2001 with only 198 pending claims, nearly the same number at the end of 2000 when the pending claims were the lowest since 1984.

Awards of Reimbursement Since 1992



The History of Law Client Protection in New York State

New Zealand is the home of the concept of law client protection. The movement began there in 1929. The entire United States now has special funds financed by the legal profession dedicated to protecting law clients from dishonest conduct by a member of that state's bar. The newest member to our nation's funds is the Client Protection Fund in Colorado which was established in 1999.

In New York, bar associations in the 1960's instituted programs of reimbursement for law clients. The New York State Bar and bar associations in the Counties of New York and Suffolk were among the earlier pioneers in this field in our State. When these efforts were unable to finance adequate client reimbursement, the associations appealed to the Court of Appeals and then to the State Legislature for assistance. The New York court system then embraced the responsibility for operating a statewide client reimbursement program.

The Lawyers' Fund in New York was established by statute. It is an independent public trust administered by a Board of Trustees appointed by the state Court of Appeals. The principal source of revenue for the Fund is a biennial assessment on every practicing attorney.

Originally named The Clients' Security Fund of the State of New York, the Fund was organized on December 1, 1981 with the appointment of a seven-member Board of Trustees by the Court of Appeals. The Trustees then retained staff and office facilities and established regulations and claim procedures. On April 1, 1982, the Fund commenced operations.

" The Lawyers' Fund in New York was established by statute. It is an independent public trust administered by a Board of Trustees appointed by the state Court of Appeals."

The Purpose of the Lawyers' Fund

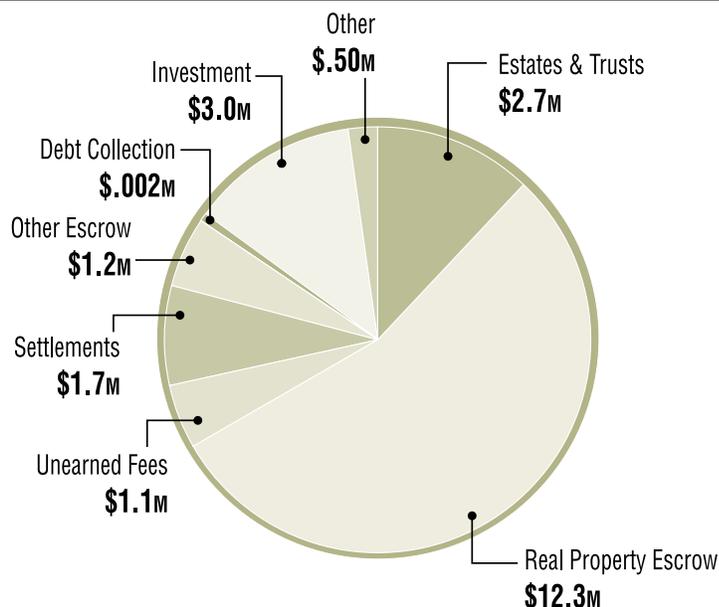
Section 468-b of the State Judiciary Law and the Regulations adopted by the Fund's Trustees clearly state the purpose of the Lawyers' Fund. The Fund's mission is to maintain the integrity and protect the good name of the legal profession, protect law clients from dishonest conduct in the practice of law, and promote public confidence in the administration of justice in New York State.

The Trustees' primary focus in fulfilling the Fund's statutory purpose is the reimbursement of losses caused by the dishonest conduct of attorneys who were admitted to the practice of law in New York State. Equally important, though, are other activities pursued by the Fund which include programs to help lawyers comply with their fiduciary and escrow obligations; the publication of consumer education materials to help clients avoid situations that can result in losses; and the recommendation of court rules to eliminate opportunities for dishonest lawyers to exploit the trust of clients.

Typical losses reimbursed by the Fund include the theft of estate and trust assets, escrow deposits in real property transactions, settlements in personal injury litigation, debt collection receipts, money embezzled in investment transactions within an attorney-client relationship and the practice of law, and unearned fees paid in advance to lawyers who falsely promise their legal services.

" The Fund's mission is to maintain the integrity and protect the good name of the legal profession, protect law clients from dishonest conduct in the practice of law, and promote public confidence in the administration of justice in New York State."

Reported Losses in 2001 (In millions)



The Board of Trustees

Section 468-b of the Judiciary Law provides that the Fund is administered by a Board of Trustees who are appointed by the Court of Appeals.

The Trustees serve renewable three-year terms. They receive no compensation for their services. The Fund's first Trustees consisted of five members of the bar and two business and community leaders. They took their oath of office on December 1, 1981. Over the years, the Court of Appeals has maintained this composition of the Board.

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

Eleanor Breitel Alter of Manhattan has served as Chairman of the Board of Trustees since 1985. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman. Mrs. Alter is a graduate of the University of Michigan and the Columbia University Law School (1964). She was first appointed to the Board of Trustees in 1983. The Chairman's current term expires on November 30, 2004.

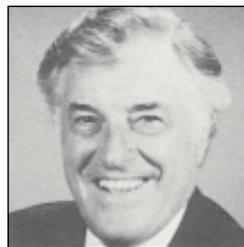
Theodore D. Hoffmann of Hicksville, Nassau County, is Vice-Chairman of the Board. Mr. Hoffmann is Of Counsel to the Garden City law firm of Albanese, Albanese & Fiore. He is a graduate of St. John's University and its School of Law (1948). Mr. Hoffmann's current term expires on November 19, 2002.

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

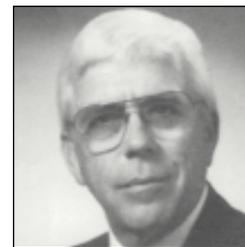
Bernard F. Ashe of Delmar, Albany County, is the former General Counsel to New York State United Teachers. He is a graduate of Howard University and the



Eleanor Breitel Alter



Theodore D. Hoffmann



Ray W. Manuszewski



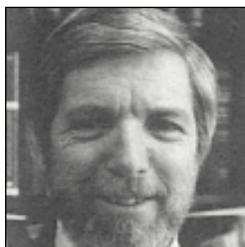
Bernard F. Ashe



Charlotte G. Holstein



Charles Joseph Hynes



Eric A. Seiff

Howard University School of Law (1961). Mr. Ashe has served as a Trustee since 1981. His current term expires on November 19, 2002.

Charlotte G. Holstein of Syracuse is a civic leader, founder and Executive Director of F.O.C.U.S. Greater Syracuse, a community interest group. She is a graduate of Brockport State University (1946) and the 1998 recipient of an honorary degree, Doctor of Humane Letters, from LeMoyne College in Syracuse. Mrs. Holstein was appointed to the Board on December 1, 2001. Her present term expires on November 30, 2004.

Charles Joseph Hynes of Brooklyn is the District Attorney of Kings County. He is a graduate of St. John's University and its School of Law (1961). Mr. Hynes was first appointed to the Board of Trustees in

1982. His present term expires on November 30, 2003.

Eric A. Seiff of the Bronx is a partner in the Manhattan law firm of Seiff, Kretz & Maffeo. Mr. Seiff is a graduate of Yale University and the Columbia University Law School (1958). Mr. Seiff has served on the Board since 1981. His present term expires on November 30, 2003.

Completing her term as Trustee in 2001 was **Shirley B. Waters** of Rome, Oneida County. Mrs. Waters is Vice President of the Rome Sentinel Company, the publisher of the **Daily Sentinel** newspaper. She is a graduate of Syracuse University (1943). Mrs. Waters served on the Board from 1992 to November 30, 2001.

Other former members of the Board of Trustees include the Hon. Judith S. Kaye, Chief Judge of the State of New York (1981-1983); Joseph Kelner, Esq. of Manhattan (1981-1982); Anthony R. Palermo, Esq. of Rochester (1981-1990), the Fund's first Chairman who served in that capacity from 1981 to 1985; and John F. X. Mannion of Syracuse (1981-1992).

The Staff of the Lawyers' Fund



Timothy J. O'Sullivan



Michael J. Knight



Ray Wood

The Fund's staff is appointed by the Board of Trustees. In 2001, the staff consisted of Timothy J.

O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; and Ray Wood, Investigator.

Serving as the Fund's secretarial and support staff are Sue Gartley, Administrative Secretary, and Jahnel Hall-Worthen, Secretary. This past year, the Fund's long-time Administrative Clerk, Polly Sims, retired from service.

As in years past, the Fund received assistance in 2001 from law students



Sue Gartley



Jahnel Hall-Worthen

from Albany Law School in the investigation of claims and legal research projects. Interns from the Class of 2001 were Wendy Parra and Lori Graybow.

The Fund owes a debt of gratitude to its original Executive Director and Counsel, Frederick Miller, who served from the Fund's inception in 1981 until his retirement in July 2000.

Liaison with the Appellate Divisions

Each of the Appellate Divisions of the Supreme Court has designated an Associate Justice to serve as its liaison with the Fund. In 2001, the Liaison Justices were Justices Milton L. Williams of the First Department; David S. Ritter of the Second Department; Anthony J. Carpinello of the Third Department; and Henry J. Scudder of the Fourth Department.

Final determinations in claims are not rendered until the completion of appropriate disciplinary proceedings by the Appellate Divisions. The Fund's staff therefore coordinates its investigations with the investigative efforts of the Attorney Grievance Committees in the four judicial departments. This collaboration minimizes expenses and prevents duplication of investigative effort.

Section 7200.15 of the Trustees' Regulations provides that all shared information involving complaints against lawyers is to be sealed and maintained as a confidential record in accordance with section 90 of the Judiciary Law.

" Please accept my sincere thanks, on behalf of the estate of my father, for your agency's existence, number one, and for your expeditious handling of our claim."

— message from claimant 2001

The Fund's Statutory Authority and Trustees' Regulations

The Lawyers' Fund was created by Chapter 714 of the Laws of 1981, effective June 1, 1981. This legislation added section 97-t to the State Finance Law which provides for the establishment of the Fund and for its assets to be managed as a special revenue fund by the State Comptroller.

Section 468-b of the Judiciary Law provides for the administration of the Fund. This statute requires that the Board of Trustees establish regulations for the Fund's administration and procedures for the presentation, consideration and payment of claims.

The Appendix includes section 97-t of the State Finance Law, section 468-b of the Judiciary Law, and the Trustees' Regulations. These Regulations are also published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200, *et seq.*).

Revenue of the Lawyers' Fund

The principal source of revenue for the Lawyers' Fund is the attorney biennial registration fee required of active members of the New York bar by section 468-a of the Judiciary Law. Contrary to the belief of many lawyers, the Lawyers' Fund receives no financing from the Interest on Lawyer Account (IOLA) program.

Section 468-a of the Judiciary Law allots 20 percent (\$60) of each \$300 registration fee to the Lawyers' Fund. Each year since 1993, along with this \$60 portion, the legislature has provided additional revenue from the biennial registration fee. The combined revenues are equivalent to a \$100 share of each biennial registration fee.

The Fund's assets are deposited in a special revenue account in the State Treasury which was created by section 97-t of the State Finance Law, the sole purpose of which is to finance the Fund and its operations. All awards of reimbursement and administrative costs of the Fund are made from this special revenue account. No costs of the Fund are paid from tax dollars.

In addition to revenue from attorney registration fees, the Fund receives financing from interest on investments in the State Comptroller's Short-Term Investment Pool (STIP), gifts, sanctions, and restitution recovered from dishonest lawyers and other liable parties.

The attorney registration program is administered by the Office of Court Administration. From 1982 to December 31, 2001, the Fund received \$88.9 million from attorney registration fees.

Since 1982, the Fund has received \$4.1 million in income from interest. A total of \$1.8 million in revenue has also been received from judicial sanctions imposed against attorneys. Restitution from dishonest attorneys and other collateral sources has added an additional \$6.4 million to the Fund's assets. Contributions from lawyers and the public total \$226,000.

Registration of Lawyers

Section 468 of the Judiciary Law was enacted in 1981 establishing an official register of attorneys for all lawyers licensed to practice law in the State of New York. Judiciary Law Section 468-a was also added requiring that every licensed lawyer in the State register biennially with the Chief Administrator of the Courts through the Office of Court Administration, and pay a biennial registration fee. This statute provides that a portion of each registration fee be deposited in the special fund established by section 97-t of the State Finance Law for financing of the Lawyers' Fund.

Judiciary Law section 468-a (5) states that non-compliance by an attorney with the registration law "shall constitute conduct prejudicial to the administration of justice," and subjects a lawyer to disciplinary action under section 90 of the Judiciary Law.

New York State had 189,000 lawyers registered with the Office of Court Administration at the end of 2001. Included in this number are 17,000 retired lawyers and full-time judges who are exempt from the registration fee.

"The principal source of revenue for the Lawyers' Fund is the attorney biennial registration fee ... Contrary to the belief of many lawyers, the Lawyers' Fund receives no financing from the Interest on Lawyer Account (IOLA) program."

Sanction Revenues

Financial sanctions against attorneys during the course of litigation are a source of revenue to the Fund. A monthly average of \$10,000 in revenue is received by the Fund from this source of income.

Sanctions can be imposed by Supreme Court trial justices in the management of court and trial calendars. The authority for the imposition of such Judicial sanction orders can be found in sections 2004, 3126 and 5015 of the Civil Practice Law and Rules.

The Rules of the Chief Judge and the Chief Administrator of the Courts also allow for the Fund to be the depository for sanctions imposed against lawyers for frivolous conduct in civil actions and proceedings, and counsels' unjustified failure to attend a scheduled court appearance in a criminal or family court proceeding.

The rules are published in 22 NYCRR Parts 37, 130-1 and 130-2. They were first applied by the Court of Appeals against a party in *Matter of the Minister v. 198 Broadway, Inc.*, 76 N.Y.2d 411 (1990); upon a lawyer in *Maroulis v. 64th Street-Third Avenue Assoc., et al.*, 77 N.Y.2d 831 (1991); and upon both party and lawyer in *Intercontinental Credit Corp. v. Roth*, 78 N.Y.2d 306 (1991).

A total of \$1.8 million in sanction payments has been received by the Fund by the close of 2001. The range of these payments has been from \$5 to \$100,000. One law firm is the subject of approximately 542 unpaid sanction orders which have directed the payment of \$2.1 million to the Fund. These sanctions remain the subject of litigation.

Payouts and Disbursements

The total revenue received by the Fund since 1982 is \$101 million. As of December 31, 2001, a total of \$91 million in awards has been granted by the Fund. The Fund's administration costs as a state agency during 2001 totaled \$677,000. Since the Fund began operations in 1982, 92 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement. The Fund ended 2001 with \$4.1 million in revenue in the state treasury.

Each year, the Fund's revenues are appropriated to the Board of Trustees by the State Legislature as one component of the Judiciary Budget. For the 2002-2003 fiscal year, which commences April 1, 2002, the Trustees have requested appropriations of \$9 million for awards of reimbursement, and \$868,949 for the Fund's administrative costs.

" Since the Fund began operations in 1982, 92 cents out of every \$1 in revenue received has been directly applied towards the payment of awards of reimbursement."

Restitution Revenues

A total of \$6.4 million in restitution has been recovered by the Fund since 1982. This revenue was collected from dishonest lawyers, their estates, and from the pursuit of claims against collateral sources which were financially liable for the underlying losses that the Fund reimbursed. The Fund's Trustees have a fiduciary responsibility to pursue the recovery of restitution in order to preserve the Fund's finances.

The Fund's experience over 19 years has been that lawyers who steal from their clients are generally unable to reimburse their victims, or the Lawyers' Fund for its awards. Despite this fact, the Lawyers' Fund attempts to recover restitution when possible. In these efforts, the Fund's staff pursues obtaining judicial orders entered pursuant to the restitution provisions of the Penal, Criminal Procedure and Judiciary Laws. The Fund also secures confessions of judgment and pursues direct action against dishonest lawyers and other collateral sources.

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

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

Representation by the Department of Law

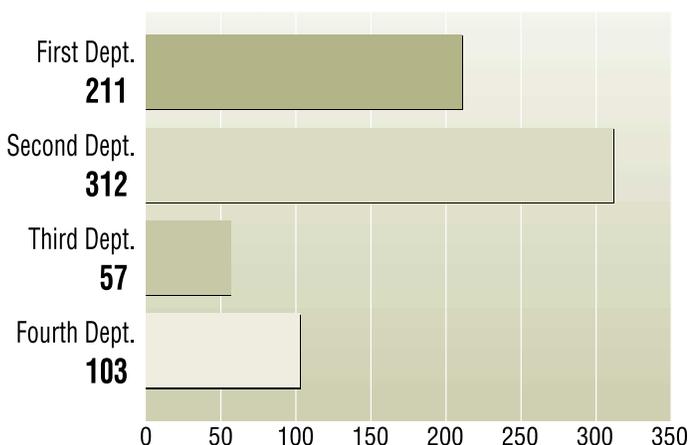
The pursuit of restitution often involves litigation which can be complicated and lengthy. The Fund asserts causes of action arising under the Uniform Commercial Code, common law and as subrogee of purchasers of title insurance. Those actions are venued in the Supreme Court statewide. The Fund also seeks enforcement of its creditor rights in federal bankruptcy proceedings and in Surrogate's Courts. In addition, claimants who are denied awards of reimbursement by the Board of Trustees can challenge those determinations in Article 78 Proceedings in the Supreme Court.

In this litigation, the Lawyers' Fund is represented by the New York State Attorney General's Office in collaboration with the Fund's legal staff. The growth in the enforcement of the Fund's creditor rights now requires the full-time attention of an Assistant Attorney General. Previously, the Department of Law charged the Fund a 22 percent collection fee on each recovery pursuant to section 18 of the State Finance Law. In 1999, the Lawyers' Fund began an arrangement with the Attorney General's Office whereby the Fund finances the payroll expense of an Assistant Attorney General, who is assigned full-time to the Fund's restitution litigation. This arrangement has proved to be economical and beneficial to the Lawyers' Fund and its staff.

Assistant Attorney General Richard L. Rodgers succeeded Kathryn J. Blake in 2001 as the litigation counsel assigned full-time to the Lawyers' Fund. The Fund is fortunate to have the capable services of Assistant Attorney General Rodgers in its restitution efforts.

This past year, the following other members of the Department of Law represented the Fund in its litigation: Assistant Attorney Generals David Cochran, Richard W. Cross, Kathleen Korycinski, Nancy H. Lord, Stephen M. Nagle, John J. Nowak, Carolyn Cairns Olson, Sean D. Quinn, and Krista A. Zinser along with Assistant Solicitor Generals David Lawrence, III, Robert M. Goldfarb, Marcus J. Mastracco, and Evelyn Tenenbaum. The Fund is appreciative of their professionalism, dedication and advocacy skills.

Lawyers Involved in All Awards since 1982



Judicial Precedents

The Fund's restitution litigation has established important judicial precedents in the areas of consumer protection, the enforcement of the Trustees' creditor rights, and the Uniform Commercial Code.

The legal standing of the Lawyers' Fund to pursue restitution claims – and the scope of the Fund's right – was recognized by the Court of Appeals in *Clients' Security Fund v. Grandeau, et al.*, 72 N.Y.2d 62 (1988).

Grandeau sustained the Fund's right, as subrogee of reimbursed law clients, to pursue the law partner of a dishonest lawyer for negligence in supervising the management of the law partnership.

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

The Court of Appeals in *Lawyers' Fund v. Bank Leumi Trust Company, et al.*, 94 N.Y.2d 398 (2000) clarified the right of the Lawyers' Fund to recover more than it paid on a claim, and the amount of the drawee's liability on a check which is negotiated bearing a forged payee endorsement. The Court of Appeals determined that the Lawyers' Fund, under an assignment from the client-payee, can recover the face amount of a check which was paid over the client's forged endorsement, plus interest from the date of the forgery. The Fund had reimbursed the client two-thirds of the face amount, but brought an action to recover the full face amount of the check. The Fund's policy is to restore any net excess recovery to the client. The Court of Appeals reversed the Appellate Division's holding that limited the Fund's recovery to the amount of its award of reimbursement, with interest from the date of the award.

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

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

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

Lawyers' Fund for Client Protection v. Gateway State Bank, 239 A.D.2d 826 (3d Dep't 1997), extended the Fund's creditor rights in a forged endorsement case. The Appellate Division, Third Department, applied a six-year statute of limitations, in contract, to the Fund's subrogation claim against a disbarred lawyer's depository bank (Gateway). The court also approved Albany County as a proper county of venue in restitution actions by the Lawyers' Fund. The Appellate Division and the Court of Appeals subsequently denied Gateway leave to appeal to the Court of Appeals.

Upon remand, the trial court dismissed all of the defenses raised by Gateway and granted judgment to the Lawyers' Fund for the face amount of the law client's check, notwithstanding its claim that it acted in a reasonably commercial manner in servicing this attorney escrow account. *Lawyers' Fund for Client Protection v. Gateway State Bank*, 181 Misc. 2d 660 (Sup. Ct. Albany Co. 1999). Gateway appealed this decision to the Appellate Division, Third Department. That Court upheld the denial of the bank's motion for summary judgment, but reversed the summary judgment granted the Fund on the basis that there was insufficient evidence to hold as a

matter of law that the defendant bank had failed to act in accordance with reasonable commercial standards. *Lawyers' Fund for Client Protection v. Gateway State Bank*, 273 A.D.2d 565 (3d Dep't 2000).

Fergang v. Flanagan, 174 Misc.2d 790 (Sup. Ct., Nassau Co., 1997), *aff'd* 259 A.D.2d 598 (2d Dep't 1999) clarified the liabilities of payee and depository banks in forged endorsement litigation. This action was prosecuted by the Lawyers' Fund, as subrogee, following a \$100,000 award of reimbursement to the claimant Fergang. The decision of Mr. Justice Phelan holds the claimant's bank (the drawee bank) is liable for the face amount of the check which bears the forged endorsement. The drawee bank, in turn, recovers from the dishonest lawyer's depository bank for breach of warranty, plus attorney fees. *Affirmed*, 259 A.D.2d 597 (2d Dep't 1999).

Lawyers' Fund v. Chemical Bank, 246 A.D.2d 403 (1st Dep't 1998). The First Department's decision holds that a law client who loaned a portion of her personal injury settlement to her law firm ratified the forgery of her endorsement on the settlement check. The ratification occurred despite the claimant's ignorance of the forgery and her status as a co-payee.

Lawyers' Fund v. Bank Leumi Trust Co., et al., 286 A.D.2d 836 (3d Dep't 1998). Special Term denied summary judgment to the Lawyers' Fund on its subrogation claim against an insurance company that paid a personal injury settlement over the forged endorsement of the client-payee. The settlement check was "payable through" the insurer's bank. The Third Department reversed, and gave judgment to the Fund for the amount of its award.

Lawyers' Fund for Client Protection v. Dime Savings Bank, No. 24711/99 (Sup. Ct., Nassau Co. 2001) involved litigation against a dishonest lawyer's depository bank for its failure to provide the Fund with notices of dishonored checks drawn upon the lawyer's escrow account. Mr. Justice Franco denied the bank's motion to dismiss and found that the Fund could proceed with its causes of action in negligence and breach of contract.

Restitution as a Disciplinary Sanction

In 1989, the Trustees succeeded in having the State Legislature amend section 90 of the Judiciary Law to authorize the Appellate Divisions of the Supreme Court to order a lawyer to pay restitution for the theft of client property.

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

This statutory authority was first utilized by the Appellate Division, Third Department, in *Matter of Cooper*, 168 A.D.2d 695 (3d Dep't 1990). In *Cooper*, the Court ordered a disbarred lawyer to make restitution of \$1.03 million in thefts from three estates and a conservatorship. The Court also ordered that restitution be paid to Cooper's victims, or the Lawyers' Fund to the extent it reimburses those losses.

Since *Cooper*, all of the Appellate Divisions have exercised their statutory restitution authority. Representative cases include *Matter of Israel*, 230 A.D.2d 293 (1st Dep't 1997); *Matter of Pollack*, 229 A.D.2d 73 (2d Dep't 1997); *Matter of Chestara*, 244 A.D.2d 699 (3d Dep't 1997); and *Matter of Wedlock*, 230 A.D.2d 422 (4th Dep't 1997).

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

In *Matter of Natale*, 211 A.D.2d 36 (2d Dep't 1995), the Appellate Division, Second Department, implemented a unique restitution arrangement to be administered by the Lawyers' Fund. The Court authorized a reimbursement pool to be financed by legal fees owed to the disbarred lawyer. Those fees were assigned to the Lawyers' Fund. The principal beneficiary of the restitution pool was a young lady named Christine. Her attorney stole

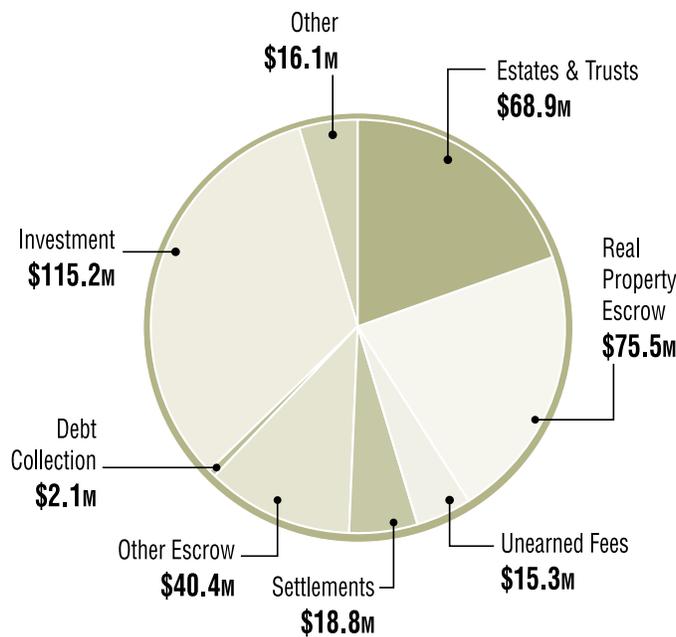
\$388,000 from the settlement of a medical malpractice action.

With a \$100,000 award of reimbursement from the Lawyers' Fund, and an additional \$288,000 from the reimbursement pool approved by the Appellate Division, Christine received full reimbursement of her catastrophic loss. A similar restitution arrangement was established in 1997 to benefit the clients of another lawyer who misappropriated settlement proceeds in personal injury litigation.

Matter of Dussault, 215 A.D.2d 843 (3d Dep't 1995) involves a different innovative use of the restitution statute. In that disbarment proceeding, the Appellate Division, Third Department, provided judgments of restitution to 100 escrow beneficiaries who were creditors of the dishonest lawyer's clients. Those judgments were converted into awards of reimbursement totaling \$168,690.

In 1997, a disbarred attorney won \$1 million in the New York State Lottery. A judgment held by the Fund as the result of a disciplinary order of restitution allowed the Fund to intercept the lottery winnings. The Fund had awarded \$100,000 to one of the disbarred lawyer's client victims. Armed with the section 90 restitution judgment, the Lawyers' Fund was able to freeze payment of his lottery prize, and recoup the \$100,000 award, plus interest and attorney fees.

Reported Losses Since 1982 (In millions)



Public Information and Consumer Education

The Board of Trustees encourages public information about the Lawyers' Fund and its efforts to protect legal consumers from dishonest conduct in the practice of law. The Trustees firmly believe that responsible affirmative efforts in public information promote public confidence in the integrity of the legal profession and in the administration of justice in New York State.

Since 1989, the Trustees have been fortunate to have expert assistance in the area of public relations from the Paige Marketing Communications Group, Inc., of Utica. It's been a rewarding collaborative experience, with Paige Marketing providing the Fund with creative counsel in all its outreach efforts.

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

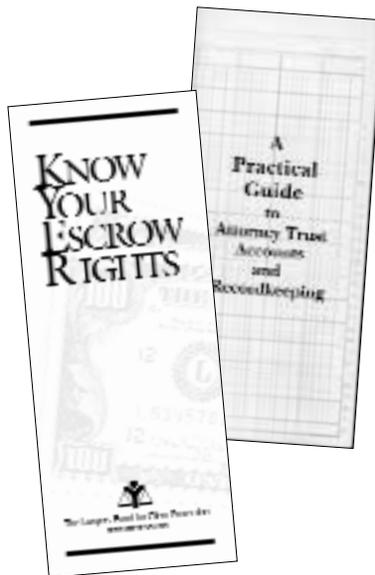
In 2001, this informational brochure on the Fund was published in bilingual format in English and Spanish. The Trustees widely distributed this bilingual brochure across New York State with particular emphasis on communities with a sizeable Hispanic population.



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

To assist the legal community in the understanding of the Appellate Divisions' banking and recordkeeping rules, the Fund has produced *A Practical Guide to Attorney Trust Accounts and Recordkeeping*, now in its third edition.

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



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

These practical guides have been supplemented with the publication of a series of eye-catching public service announce-

ments about the Lawyers' Fund for legal and law school publications.

Trustees and staff address professional and civic service organizations, and participate in state and national disciplinary conferences. The Fund's staff are also active members of the American Bar Association and the National Client Protection Organization, Inc.

Bar associations are provided articles about the Fund's activities for publication in their journals and newsletters. Statewide press releases to the media also announce awards of reimbursement from the Fund.

ATTORNEY TRUST ACCOUNTS: THE VIDEO



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

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

Public Information and Consumer Education

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

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

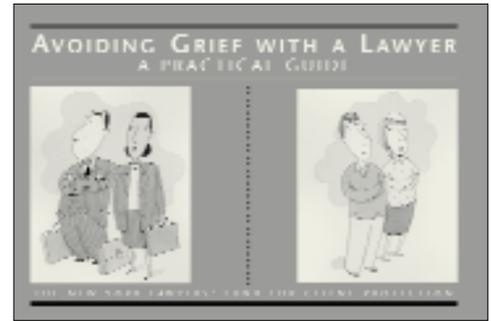
In 1996, a joint effort by the Government Law Center of the Albany Law School of Union University and the Lawyers' Fund resulted in the publication of a consumer pamphlet guide on the subject of powers of attorney.



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

AVOIDING GRIEF WITH A LAWYER — A PRACTICAL GUIDE

In 1998, the Trustees published *Avoiding Grief With A Lawyer* in furtherance of the Fund's continuing efforts to educate legal consumers. The Trustees recognize that the overwhelming majority of law clients will have problem-free dealings with their lawyers. This consumer



brochure though points out the possible sources of contention in an attorney-client relationship, warning signs of troubles and problems, and ways to avoid and deal with them. The pamphlet has been distributed to bar associations, consumer protection agencies, legislative offices, and public libraries throughout New York State. A special version of this consumer brochure was prepared for the Attorney General's Office and the New York State Unified Court System.

www.nylawfund.org

The Lawyers' Fund's web site was established in February 1997. This informational tool has proven to be an invaluable resource for public information and the bar. The site was financed by a bequest from the Last Will and Testament of John E. Kingston, a Justice of the Supreme Court in the Tenth Judicial District. It was designed and constructed by Global 2000, an Albany-area Internet Server and is maintained in-house at the Fund.

The Fund's web site contains information about the Lawyers' Fund, including frequently asked questions about the Fund and its 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 web site's "Links to Internet Resources" button provides visitors with links to court rules and related practice materials; the web sites of law libraries and other legal research resources in the United States; bar associations; and state and federal government web sites.

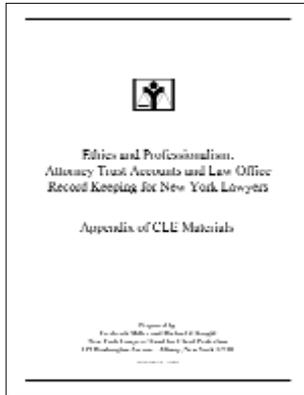
Since February 1997, there have been over 400,000 visitors to the Fund's web site from around the world. The site currently averages 1,900 weekly visits.



Evaluation of Applications for Reimbursement

APPENDIX OF CLE MATERIALS

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



Prospective applicants to the Fund are supplied with an application package consisting of a two-page application form, instructions on how to file a claim, the Fund's informational brochure describing the Fund's operations, and a copy of the Trustees' procedural regulations.

Once a claim is filed, it is assigned an identifying number, acknowledged and reviewed and investigated by a staff member. Claims are screened to establish *prima facie* eligibility. The Executive Director will dismiss a claim with a written explanation to the claimant if an alleged loss does not appear to be eligible for reimbursement.

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

When a claim is not clearly ineligible, the Fund's staff will provide the lawyer

accused of misconduct with a copy of the claim and supporting papers. The lawyer then has the opportunity to respond to the claimant's allegations.

The Trustees hold quarterly meetings to render determinations in claims and address administrative issues. The Trustees await the completion of disciplinary proceedings involving the accused lawyer before reviewing a claim for reimbursement. In appropriate cases, the Trustees also await the conclusion of criminal proceedings against the accused attorney before making determinations in claims.

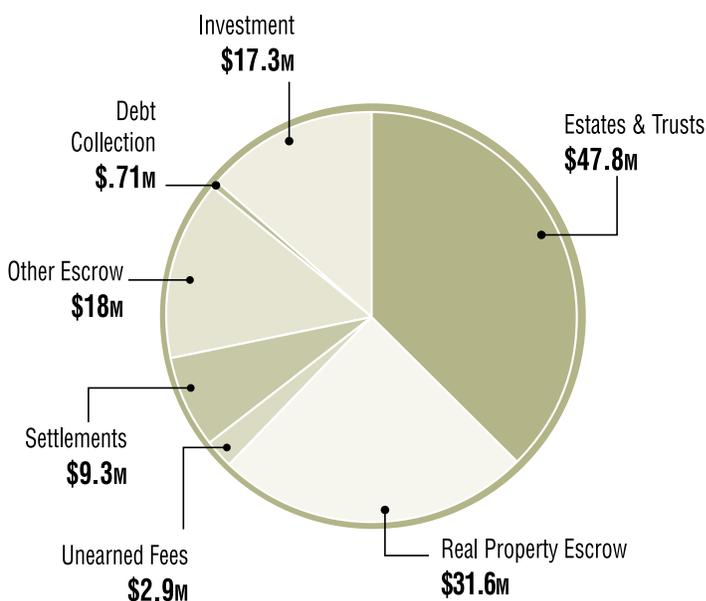
Section 468-b of the Judiciary Law provides the Trustees with sole discretion to determine the merits of claims. This statute also authorizes the Trustees to fix the amount of an award of reimbursement and the terms and conditions for awards.

The Trustees' quarterly meetings are rotated among the four Judicial Departments of the State, and have been held in all twelve judicial districts in New York State. The Trustees' meetings in 2001 were held in Albany, Geneva and Manhattan.

Claims are routinely processed based upon supporting documents and evidence supplied by the claimants and gathered by the Fund's staff. Generally, an attorney involved in dishonest conduct will not contest an award. Hearings with the Board, or a panel of Trustees, may be held if the Trustees deem it to be necessary.

The State Comptroller holds the Fund's assets, and pays awards in claims after submission of vouchers from the staff, certified jointly by the Chairman, Treasurer and the Executive Director. Awards are usually paid in lump sums.

Actual Losses in All Awards Since 1982 (In millions \$)



Judicial Review of Rejected Claims

In 19 years, the Fund has rendered determinations in 10,697 applications for reimbursement. There have been 5,241 claims approved for awards of reimbursement. The 5,456 remaining claims were determined to be ineligible after the claimants failed to provide satisfactory evidence of eligible losses.

Since 1992, only six out of 5,456 claimants who were denied reimbursement have brought legal action against the Fund pursuant to Article 78 of the Civil Practice Law and Rules.

In the **Claim of Tabak**, the Trustees found the claim to be ineligible for an award when the alleged loss involved a default on a personal loan with the claimant's attorney, not dishonest conduct constituting a theft of law client money in the practice of law.

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

In the **Claim of Bluth**, the Trustees determined that the claimant did not provide satisfactory evidence of an eligible loss in a real estate transaction with a lawyer who was disbarred for unrelated professional misconduct. The claimant's Article 78 proceeding in the Supreme Court, Kings County (Clemente, J.) was dismissed on the merits by motion of the Lawyers' Fund. The Appellate Division, Second Department, affirmed the dismissal on March 8, 1999, writing that: "The Lawyers' Fund . . . properly exercised its discretion in this proceeding." (*Matter of Bluth v. Lawyers' Fund*, No. 044062/97 (Sup. Ct., Kings Co. 1998), *aff'd* 259 A.D.2d 543 (2d Dep't 1999).

In the **Claim of Haskins**, reimbursement was denied when the Board determined that the claimant did not provide satisfactory evidence establishing that his loss resulted

from a theft of escrow money, as opposed to the repayment of a loan to his attorney. Suffolk County Supreme Court Justice Alan D. Oshrin annulled the determination of the Board. The Appellate Division, Second Department, reversed the Supreme Court on August 20, 2001. The Court held that "the determination by the board of trustees was not arbitrary or capricious." *Matter of Haskins v. Lawyers' Fund*, No. 25544/1999 (Sup. Ct., Suffolk Co. 1999), *rev'd*, 286 A.D.2d 440 (2d Dep't 2000).

In the **Claim of Beutz**, the Trustees denied reimbursement to a claimant who delivered monies to his lawyer in order to bribe public officials, and the monies were later unaccounted for. In declining an award, the Board considered the conduct of the claimant that contributed to his loss. Mr. Justice Seibert upheld the Trustees' rejection of the claim in *Matter of Beutz v. Lawyers' Fund*, 187 Misc 2d 359 (Sup. Ct., Albany Co. 2000). The Court reviewed the Fund's thorough investigation of the claim and the ample opportunities provided to the claimant to establish eligibility of his loss. The Court determined that the Trustees properly complied with its procedures and had a reasonable and rational basis for concluding that the claimant's own criminal conduct substantially contributed to his loss.

In the **Claim of Plater**, the Fund administratively dismissed as an ineligible fee dispute the claim seeking reimbursement of legal fees paid for criminal defense. Mr. Justice Keegan sustained the Fund's determination in *Plater v. Lawyers' Fund*, No. 7340-00 (Sup. Ct., Albany Co. 2000). The court held on April 26, 2001 that the Fund's determination "had a rational basis, and was not arbitrary, capricious or made in violation of lawful procedure." An appeal is pending.

In the **Claim of Saferstein**, the Trustees determined that the claimant's loss did not qualify for reimbursement since it appeared to result from a failed business loan, not dishonest conduct constituting a misappropriation of law client funds. Mr. Justice Connor dismissed the claimant's Article 78 proceeding as untimely in *Matter of Saferstein*, No. 933/01 (Sup. Ct., Albany Co. 2001). An appeal is pending.

Representation by Counsel

Claimants with the Fund generally do not require the assistance of a lawyer. The Fund's procedures and claim process are straightforward and uncomplicated. The Fund's staff is available to assist claimants whenever possible in documenting their alleged losses.

Nevertheless, the Trustees encourage claimants to seek guidance from lawyers. In many claims, the losses involved raise practical and legal problems which require counsel from a member of the bar.

Lawyers in New York State continue to display a generous sense of public service by assisting claimants with the Fund. Nearly half of all claimants have attorneys assist them with their applications, free of any charge.

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

The Trustees' Regulations mirror this statewide policy. Section 7200.14 (b) of the Trustees' Regulations provides that no fee applications by lawyers, including public officers and court-appointed fiduciaries, will be approved by the Trustees "absent a showing of extraordinary circumstances." Since 1982, only four law firms have requested the Trustees' approval of fee applications. Each fee application has been denied.

Schettino v. Alter, 140 A.D.2d 600 (2d Dep't 1988) is an encouragement for the bar to participate in work of the Lawyers' Fund. In *Schettino*, the Appellate Division, Second Department, held that the Fund is a quasi-judicial agency, and that all participants in its proceedings are absolutely immune from defamation liability. This immunity extends to claimants and to lawyers who assist them in the processing of their claims.

Attorneys who assist claimants in recovering an award from the Fund are supplied with a certificate of appreciation as a token of the Trustees' gratitude for their generous act of public service. Included on page 23 is a listing of all of the attorneys who in 2001 donated their time and talents by assisting claimants in the recovery of awards from the Fund. The Trustees are deeply grateful for the contributions these lawyers have made to law clients and to the administration of justice in our State.

Unearned Legal Fees

Lawyers have a professional obligation to refund unearned legal fees to a law client at the conclusion of a legal representation.

Disciplinary Rule 2-110 of the Lawyer's Code of Professional Responsibility imposes this requirement.

Of the 10,835 claims to the Fund since 1982, 3,887, or nearly thirty-six percent, have alleged losses from unearned legal fees. In many cases, the claimants were law clients at the time of their lawyers' disbarment or suspension from practice. Often, the claimants paid legal fees in advance, unaware of a pending disbarment or suspension.

The typical "unearned retainer" loss which qualifies for an award is about \$3,800. This is small in amount in comparison to other alleged losses. Nevertheless, these claims are difficult to evaluate since the process requires a search for "dishonest conduct" in a lawyer's refusal or inability to refund the claimant's legal fee.

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

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

Theft of Personal Injury Settlements

A claim often seen by Funds nationwide involves a dishonest lawyer's theft by forging a client's endorsement on settlement checks in personal injury actions. The unauthorized settlement of the client's litigation with an insurance company and forgery of the client's signature on a general release may accompany this type of claim. The theft is facilitated by a long-standing, and well-intentioned, industry practice to make the settlement draft jointly payable to the law client and attorney. The practice did not include notice of payment to the law client.

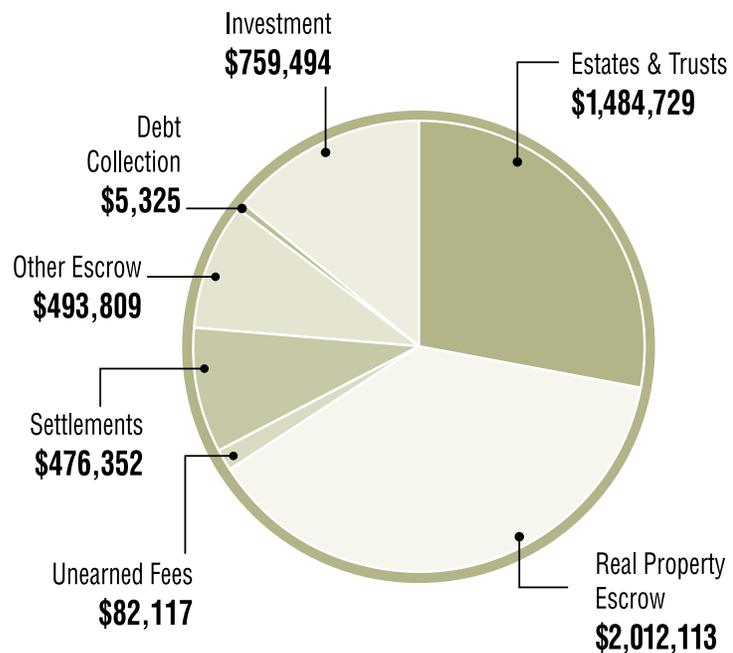
In 1988, the Trustees proposed to the State Insurance Department a regulatory device that has proven to be highly effective in deterring and detecting losses in this area of legal practice. It's called the "Regulation 64 Notice". This regulation, in effect since September 1988, requires liability insurers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

ten notice of payment whenever a third-party liability claim is settled for \$5,000 or more. (11 NYCRR 216.9). Over the years, the Regulation 64 Notice has helped reduce losses and claims to the Fund involving the forgery and theft of personal injury settlements.

The Regulation 64 Notice also works to shift liability for forgery losses to banks which improperly honor forged endorsements on negotiable instruments. Before the Regulation 64 Notice, forgeries often went undetected and thus civil actions to recover losses were frequently barred by the statute of limitations.

Based on the New York experience, the American Bar Association has approved the Regulation 64 Notice as a Model Rule for attorney disciplinary systems nationwide. Variations of Regulation 64 have been adopted in California, Connecticut, Delaware, Georgia, Maryland, New Jersey, Pennsylvania and Rhode Island. Six states have the regulation under study.

Actual Losses in 2001 Awards



Losses in Investment Transactions

In establishing the Fund, the Legislature made clear that reimbursement was intended for losses that are connected to the practice of law and which occur within an attorney-client relationship. The Trustees thus carefully scrutinize claims involving investment transactions with lawyers. The majority of these claims filed with the Fund have not qualified for reimbursement.

Section 468-b of the Judiciary Law sets forth the statutory authority of the Fund. It 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 that do not occur within an attorney-client relationship and the practice of law are not eligible for reimbursement.

Claims involving investment and loan transactions with lawyers have proven to be among the most difficult claims to evaluate. The Trustees have adopted the following policy guidelines in order to fully explain to claimants the eligibility of claims involving these type 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.”

There have been 1,151 claims alleging \$115 million in losses arising from investment transactions with lawyers filed with the Fund since 1982. Of these claims, the Trustees have approved awards in only 306 claims. These awards reimbursed a total of \$12.7 million.

In evaluating investment claims, the Trustees apply a “but for” test which many of the nation’s protection funds use. Under this test, a loss is eligible if the Board finds that the loss would not have occurred “but for” dishonest conduct in an attorney-client relationship.

Thefts in Real Property Transactions

Approximately one-third of all awards from the Lawyers’ Fund since 1982 have involved the theft of escrow funds in real property transactions. The Trustees have granted 1,377 awards reimbursing a total of \$28 million in these claims.

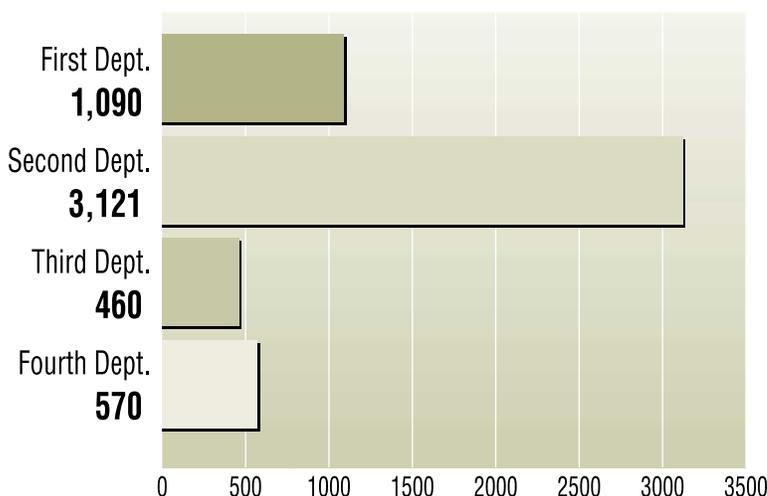
A common loss that is reimbursed by the Fund involves the theft of a down payment in the purchase and sale of real property. In downstate New York, the purchaser is generally required to entrust to the seller’s lawyer a down payment of 10 percent of the purchase price which the seller’s lawyer is to hold in escrow until the closing.

The theft of a down payment raises many legal and practical problems for the parties, especially when the loss is discovered on the eve of a closing.

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

The Trustees have also produced and printed a consumer guide called *Know Your Escrow Rights*, with an annotated version for lawyers called *Know Your Escrow Rights: The Lawyer’s Edition*.

Distribution of Awards Since 1982



The Dishonored Check Notice Rule

A dishonored check drawn upon a lawyer's trust or escrow account clearly indicates the possible misuse of client funds. Too often, a client accepts a plausible excuse offered by a dishonest attorney. This forbearance enables a dishonest lawyer to manipulate and conceal the misuse of other clients' funds, sometimes for years.

To deter and detect client losses, the American Bar Association proposed a Model Overdraft Rule. This Rule provides for the reporting of dishonored checks on lawyer trust and escrow accounts to attorney disciplinary agencies.

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

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

Banks in New York State are nearly unanimous in their participation in this program. The Lawyers' Fund serves as a clearinghouse in this client protection program. Bounced check notices are mailed to the Fund's offices in Albany. They are held for 10 business days to allow banks to withdraw notices that were filed in error. If not withdrawn, each notice is forwarded to the appropriate attorney grievance committee for investigation. A lawyer/law firm named in a bounced check report is required to provide the committee with a written explanation for the transaction, and bank statements on the attorney trust account for the prior six months.

The Dishonored Check Notice Rule has produced some remarkable results in the eight years the rule has been in operation in New York. The Lawyers' Fund has processed approximately 4,000 bounced check reports with a total face amount in excess of \$90 million. Not surprisingly, the majority of bounced check notices result from innocent deficiencies in law office banking practices, not dishonest conduct. In these cases, the rule has proven to serve an educational role for the bar by alerting practitioners to the

Dishonored Check Reports Filed with Grievance Committee

	1993	1994	1995	1996	1997	1998	1999	2000	2001	Totals
First Department										
First Judicial District	79	79	115	178	203	220	213	179	174	1440
Twelfth Judicial District	22	16	10	16	17	31	18	11	17	158
Totals:	101	95	125	194	220	251	231	190	191	1598
Second Department										
Second Judicial District	48	163	41	49	41	34	58	59	42	535
Ninth Judicial District	42	19	14	36	71	76	68	36	58	420
Tenth Judicial District	51	44	47	89	79	62	98	63	64	597
Eleventh Judicial District	24	13	15	25	35	39	39	50	49	289
Totals:	165	239	117	199	226	211	263	208	213	1841
Third Department										
Third Judicial District	8	6	3	9	14	18	6	9	23	96
Fourth Judicial District	2	2	1	3	1	3	1	6	1	20
Sixth Judicial District	0	0	1	3	0	1	3	1	2	11
Totals:	10	8	5	15	15	22	10	16	26	127
Fourth Department										
Fifth Judicial District	4	2	4	9	6	17	13	6	7	68
Seventh Judicial District	9	17	9	25	11	10	16	45	25	167
Eighth Judicial District	10	20	49	15	16	17	22	22	13	184
Totals:	23	39	62	49	33	44	51	73	45	419

accounting, banking and recordkeeping requirements of the Lawyer's Code of Professional Responsibility.

Attorney grievance committees have also identified real estate practice as the area which generates the highest percentage of bounced check reports. These reports are largely the result of lawyers issuing checks against uncollected funds in commercial and residential realty closings.

The Dishonored Check Notice Rule is a proven loss prevention and detection device. Since 1993, approximately 86 lawyers have been identified and apprehended for client thefts because of bounced check reports. Many of those lawyers have been accused of dishonest conduct in reimbursement claims to the Fund by their victims. There have been 280 awards of reimbursement involving 47 dishonest attorneys whose misconduct was detected by the Dishonored Check Rule. These awards total

\$5.4 million. Without this client protection tool, the losses caused by these lawyers could certainly have been much greater.

The importance of the Dishonored Check Rule has been fortified by *Home Savings of America F.S.B. v. Amoros, et al.*, 233 A.D.2d 35, (1st Dep't 1997). In that action, the Appellate Division, First Department, held that a bank's failure to comply with the reporting provisions of the Dishonored Check Rule is *prima facie* evidence of its negligence.

Lawyers' Fund for Client Protection v. Dime Savings Bank, No. 24711/99 (Sup. Ct., Nassau Co. 2001) is a more recent example of possible bank liability for a bank's failure to comply with the Dishonored Check Rule's reporting requirements. In this pending litigation, Mr. Justice Franco denied the bank's motion to dismiss the Fund's complaint and found that the Fund could proceed with its causes of action in negligence and breach of contract.

Dead Lawyers and Missing Clients

*“ Just a short note to say
thank you for the efforts on
our behalf ... We are
grateful to the Lawyers’
Fund and all who staff it.”*

— Message from claimant (2001)

Disciplinary Rule 9-102 (e) of the Lawyer’s Code of Professional Responsibility 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. The purpose of this limitation is to protect law clients from the misuse of their money. Practical problems arise though when a sole practitioner passes away.

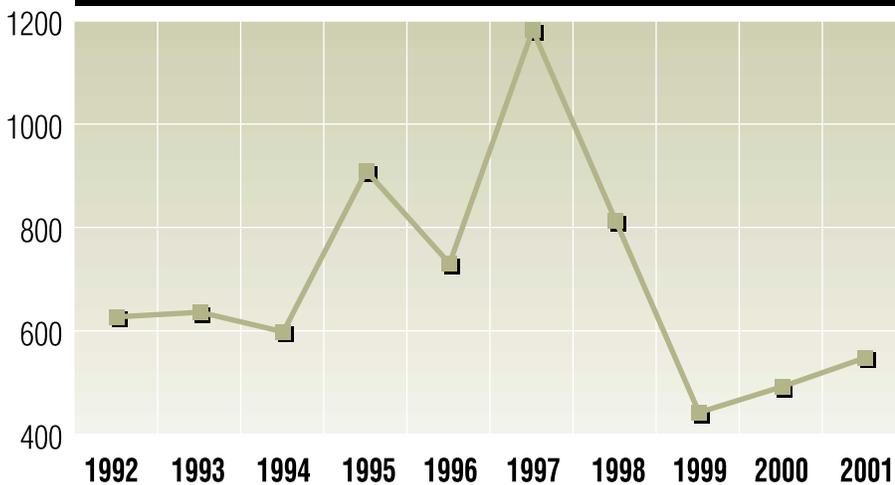
By amendment to Disciplinary Rule 9-102 (g), effective December 13, 1994, the Appellate Divisions resolved this problem. The amendment was suggested by the Fund’s Board of Trustees. This new court rule permits a Justice of the Supreme Court to designate a successor signatory for the deceased attorney’s trust, escrow or special account. The successor signatory must be a member of the bar in good standing and admitted to the practice of law in New York State. The rule specifies the parties authorized to file the application. Also, that the Court may direct the funds from the deceased attorney’s trust, escrow or special account be safeguarded as an escrow fund; disbursed to persons who are entitled thereto; or deposited with the Lawyers’ Fund for safeguarding and disbursement to persons due the money.

This court rule enabled the Lawyers’ Fund to recover \$147,000 from the trust accounts of two deceased lawyers (*Matter of Marine Midland Account No. 008-81544-5*, #022732-95 (Sup. Ct., Queens Co.) and *Lawyers’ Fund v. Chase Manhattan Bank*, #9275-96 (Sup. Ct., Queens Co.)). In both cases, the Fund had reimbursed clients of the dead lawyers for losses caused by their dishonest conduct in the practice of law.

An additional problem existed with law client escrow funds which were unclaimed or owed to clients who were missing. To prevent the escheat of these funds to the State as abandoned property, the Appellate Divisions amended Disciplinary Rule 9-102 (f), as proposed by the Board of Trustees. This new rule provides that if escrow funds are unclaimed or owed to a client who is missing, an application can be made for a court order directing that the money be deposited with the Lawyers’ Fund for safeguarding and disbursement to persons who are entitled thereto.

When unclaimed or missing client monies are deposited with the Lawyers’ Fund, the Fund’s staff attempts to locate the owner of the monies in order to return the funds to the rightful owner. At the end of 2001, 491 deposits of escrow funds unclaimed or owed to missing law clients were made with the Fund. These deposits total nearly \$1 million. The Fund’s staff successfully located 43 clients and restored a total of \$170,000 to them. The monies are maintained in a special escrow account in the state treasury.

Claim Filings Since 1992



Claims Received and Processed

CLAIMS FILED AND ALLEGED LOSSES, 1982 TO 2001

Since 1982, 10,835 claims have been filed with the Lawyers' Fund. These claims have alleged \$349 million in total losses.

The annual claim filings have ranged from a low of 230 in 1984, to a record high of 1128 claims in 1997.

FILINGS BY CATEGORY OF CLIENT LOSS, 1982 TO 2001

The Lawyers' Fund classifies filed claims for reimbursement 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) a lawyer's refusal to refund unearned legal fees; (7) embezzlements in investment transactions with law clients; and (8) a miscellaneous category of "other" for other claims.

By category, the largest number of claims seek reimbursement of unearned legal fees. Since 1982, the Fund has received 3,887 claims involving legal fees, nearly 36 percent of all claims filed. The second largest category of filed claims alleges losses in real property transactions. The Fund has received 2,177 claims in this category, approximately 20 percent of all filed claims.

Claims alleging losses from investment transactions with lawyers have the largest alleged dollar losses. Investment claims have alleged \$115 million in losses, approximately 33 percent of all losses reported to the Fund. Alleged losses involving thefts in real property transactions have totaled \$72 million in losses, or 21 percent of all reported losses. Next are the total alleged losses in thefts from estates and trusts. These claims have alleged \$69 million in losses, or approximately 20 percent of all losses.

LAWYERS INVOLVED IN AWARDS, 1982 TO 2001

The 5,241 awards granted by the Fund from 1982 to 2001 involve dishonest conduct by 683 former members of the bar. This is an increase of 28 dishonest lawyers from 2000. The lawyers involved in awards are identified in the Appendix, along with the judicial districts where they maintained their practices, and the total of the awards of reimbursement granted to their victims.

The majority of thefts involve sole practitioners who are nearly all male and middle-aged. Few claims involve female lawyers.

The apparent causes of misconduct by these lawyers is often traced to abuse of alcohol or drugs. Other causes are marital, professional and medical problems. Gambling and economic problems from the lawyer's practice or outside commercial activities also often contribute to misconduct.

The Trustees' awards have involved misconduct by only 683 former lawyers. These lawyers were distributed among the state's judicial districts and departments as follows:

Lawyers Involved in Awards Since 1982			
	<i>Respondent Lawyers</i>	<i>Number of Awards</i>	<i>Lawyer Population</i>
<i>First Department</i>			
First Judicial District	195	1038	65,596
Twelfth Judicial District	16	52	1,993
Totals	211	1,090	67,589
<i>Second Department</i>			
Second Judicial District	66	370	6,488
Ninth Judicial District	73	821	9,893
Tenth Judicial District	124	1,464	15,476
Eleventh Judicial District	49	466	4,068
Totals	312	3,121	35,925
<i>Third Department</i>			
Third Judicial District	25	302	4,846
Fourth Judicial District	20	86	1,577
Sixth Judicial District	12	72	1,478
Totals	57	460	7,901
<i>Fourth Department</i>			
Fifth Judicial District	16	54	2,978
Seventh Judicial District	35	250	3,448
Eighth Judicial District	52	266	4,896
Totals	103	570	11,322
Grand Totals:	683	5,241	122,737

Claims Filed in 2001

In 2001, there were 548 claims filed with the Fund. This is an increase of 56 claims over the 492 claims filed in 2000. The 548 claims in 2001 alleged total losses of \$22.6 million.

Once again, the largest single category of filed claims sought reimbursement of legal fees. There were 197 legal fee claims filed, approximately 36 percent of all 2001 claims. These fee claims alleged total losses of \$1.1 million.

The largest alleged losses in 2001 claims involve real property transactions with lawyers. These claims alleged losses of \$12.3 million. Alleged losses in investment transactions was the second largest category, far behind at a total of \$3 million in alleged losses.

AWARDS OF REIMBURSEMENT IN 2001

The Fund's Trustees approved 160 awards in 2001. This number is down from the 205 awards in 2000. The awards provided total reimbursement of \$5.3 million. All claimants receiving awards received full reimbursement for their eligible loss. In the 19-year history of the Fund, this is the first time 100% of all client losses in awards have been reimbursed.

The awards ranged between \$200 and \$300,000. The median client loss, and award, was \$5,921, down from \$15,500 in 2000.

The 2001 awards reimbursed losses caused by the dishonest conduct of only 65 former members of the New York bar. Of that number, 37 were respondents in awards that were approved in prior years. The names of 28 dishonest lawyers appear for the first time in 2001 awards.

INELIGIBLE CLAIMS, 1982 TO 2001

In 19 years, the Fund has rendered final determinations in 10,697 claims. Of these 10,697 claims, 5,456 (51%) were rejected as ineligible. Alleged losses in rejected claims since 1982 exceed \$218 million.

CLAIMS PENDING, DECEMBER 31, 2001

The Fund ended 2001 with 198 pending claims, an increase of only five over the 193 claims which were pending on December 31, 2000.

The alleged losses in the 198 pending claims totals \$11.1 million. The Fund's exposure on these claims, adjusted for its \$300,000 maximum limit on awards, is \$9.2 million.

Recommendations

The Lawyers' Fund has a statutory responsibility to maintain the integrity and protect the good name of the legal profession as well as promote public confidence in the administration of justice in New York State. The Trustees therefore annually set forth recommendations for changes in policy and legal practice which will protect consumers from dishonest conduct in the practice of law.

The Trustees' experience since 1982 has clearly demonstrated that the overwhelming majority of lawyers of New York are honest and caring and deserving of the trust of their clients. Nevertheless, there is always room for improvement for the interests of legal consumers and the legal profession.

ALCOHOL AND SUBSTANCE ABUSE IN THE LEGAL PROFESSION

The Trustees know well the economic and emotional harm endured by law clients of lawyers with alcohol and substance abuse problems. A large percentage of the Fund's awards since 1982 are traced to misconduct tied in with these addictions.

Chief Judge Kaye created the Commission on Alcohol and Drug Abuse in the Legal Profession in September 1999, to establish a comprehensive statewide effort to address the problems of lawyer alcohol and substance abuse. The Commission, chaired by former Senior Associate Judge Joseph L. Bellacosa, released its action plan in January 2001.

The Commission's recommendation led to the establishment in July 2001, of the "Lawyer Assistance Trust", a permanent public trust administered by a Board of Trustees appointed by the Court of Appeals. The goal of the Lawyer Assistance Trust is to prevent and provide early treatment of alcohol and substance abuse among lawyers, judges and law students. The Trust will fund local lawyer assistance programs and establish guidelines and standards for educational programs for these dependencies. The legal profession has provided \$1 million in financing for this program from a portion of the current biennial attorney registration fee.

The Trustees continue to fully support the Commission's recommendations and the noble work of the Lawyer Assistance Trust.



Recommendations

ARBITRATION OF FEE DISPUTES

Fee disputes constitute a major portion of the work of lawyer discipline systems and client protection funds nationwide. Since 1982, 36 percent of all claims filed with the New York Fund have sought the refund of alleged unearned fees.

The Fund does not have the authority to resolve or compensate fee disputes. Nevertheless, these disputes are important due to their concern to legal consumers and since they involve the most visible of all lawyer-client disagreements. It is vital then that these disputes be resolved in an atmosphere of fairness and efficiency.

Chief Judge Kaye has created the New York State Fee Dispute Resolution Program which went into effect on January 1, 2002. This new program provides for the resolution by arbitration and mediation of fee disputes in civil representation commencing on or after January 1, 2002. It provides for mandatory arbitration if requested by the client for amounts in dispute between \$1,000 and \$50,000, or for any amount if the parties consent. The program will be jointly developed and administered by the court system and bar associations.

Fee disputes in matrimonial matters in which the legal representation began prior to December 31, 2001 will continue to be governed by the 1993 court rules for fee arbitration in matrimonial actions prosecuted in the Supreme or Family Courts.

The Fee Dispute Program, together with the new court rule, effective March 4, 2002, requiring a written letter of engagement will help greatly in avoiding and resolving misunderstandings between legal consumers and lawyers which cause discord in attorney-client relationships.

The Trustees applaud this extension of fee arbitration beyond just the matrimonial field and commend Chief Judge Kaye, the New York State and local bar associations for their important efforts in this area which will promote public confidence in the administration of justice in New York State.

BAR EXAMINATIONS

The Trustees have annually recommended that the State Board of Law Examiners test candidates for the New York bar examina-

tion for knowledge and competence with respect to a lawyer's fiduciary obligations to safeguard and account for law clients' money and property as required by Disciplinary Rule 9-102 of the Lawyers' Code of Professional Responsibility. The Trustees firmly believe that our system of legal education should prepare students for this vital aspect of lawyering.

The general law school curriculum does not provide law students with the necessary knowledge or skills to properly administer client trust funds as fiduciaries or escrow agents. These skills can and should be taught and enhanced through the bar examination and New York's Continuing Legal Education program.

The Trustees encourage the expansion of performance testing on practical and ethical issues. A lawyer's fiduciary obligations are a complex mix of ethics, procedural and substantive law, accounting principles, and statutory construction. A lawyer's failure to avoid subtle pitfalls can lead not only to terminal discipline, but to civil liability through the application of tort, agency and partnership laws.

The bar examination, coupled with New York's Continuing Legal Education Program which went into effect on December 31, 1998, should together address any deficiencies in training lawyers about their ethical and fiduciary requirements. The "bridge-the-gap" transitional education program for newly admitted attorneys along with the continuing educational program for experienced attorneys are available avenues to emphasize a lawyer's professional obligations with respect to client property.

DISBARMENT FOR MISUSING CLIENT AND ESCROW MONEY

A consistent firm statewide disciplinary policy imposing disbarment when a lawyer injures a client by theft, fraud or embezzlement has been another consistent recommendation of the Fund's Trustees. 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.

The Trustees remain concerned about the lack of a statewide policy requiring an attorney disciplinary committee to report evidence of a lawyer's theft to a District Attorney or other criminal justice agency. A lawyer who steals is a threat to the public, and no public agency should conceal evidence of that lawyer's criminal activity.

THEFTS BY LAWYER-FIDUCIARIES

Since 1982, approximately thirty-seven percent of all losses reimbursed by the Lawyers' Fund have involved money misappropriated from trusts and estates. The Fund has reimbursed over \$27 million for these types of losses. This category of losses have accounted for over eleven percent of all awards from the Fund. These thefts can often be catastrophic, and beyond the ability of the Lawyers' Fund to provide full compensation.

In prior years, the Trustees have pointed out several remedies to deal with a fiduciary's misconduct. Among the remedies are insurance, mandatory training for fiduciaries, the effective monitoring of fiduciary appointments by the courts, and the tight supervision of their financial accounts. The Trustees continue to support and advance these protection measures as well as the recommendations of Judge Kaye's Commission on Fiduciary Appointments.

BANK NOTICES TO FIDUCIARIES

The Trustees' experience in claims involving the theft of estate or trust assets has revealed that these types of losses can be concealed when someone other than the fiduciary controls the bank account. If that person is also the signatory on the bank account, it's unlikely that the actual fiduciary receives the monthly bank statements.

The laws of New York should require that the named fiduciary for an estate or trust be provided with a copy of the estate's monthly bank statement. This protection device would be similar to the requirement adopted by the New York State

Recommendations

Insurance Department which provides that insurance carriers provide notice to clients when litigation settlements are mailed to their lawyers.

Existing law requires every bank to have written proof of a fiduciary's appointment before it can open an estate or similar trust account. It would not be a burden on banks to require the mailing of a copy of the monthly bank statement to the fiduciary's residence. This simple step would discourage and detect thefts.

Absent legislative action, the Trustees propose that a court rule be adopted which would prohibit lawyers from depositing fiduciary monies in banking institutions that do not commit to sending copies of these monthly bank statements to the legal fiduciaries of these estates and trusts. Such a rule could be patterned after the Dishonored Check Reporting Rule which has proven to be a successful theft detection device.

CONFIDENTIALITY IN LAWYER DISCIPLINE PROCEEDINGS

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

In prior years, the Trustees have recommended that confidentiality should not apply in situations involving the theft of client money and property. The Trustees continue to believe that confidentiality should be lifted when a court has probable cause that a lawyer has stolen law client and escrow funds.

The Fund's experience has demonstrated that dishonest lawyers can and do exploit the laws of confidentiality to conceal dishonest and criminal activity. In our view, it is time to lift the veil of secrecy in disciplinary proceedings involving the theft of client money and property.

THEFTS BY SUSPENDED, DISBARRED AND BOGUS LAWYERS

The unauthorized practice of law is a misdemeanor under New York's penal laws. This crime though is seldom prosecuted in the state's urban and suburban counties. In addition, the attorney grievance committees do not have the resources to monitor lawyers who have been suspended or disbarred, and forbidden to engage in the practice of law. These shortcomings in law enforcement encourage the illegal practice of law, and the exploitation of the public, lawyers, judges and court personnel.

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

In order to prevent fraud in our courts and in the practice of law, the Trustees propose a rule of court that every lawyer be required to endorse his or her Attorney Registration Number on each pleading or brief that the lawyer files with a court or a court agency. That simple endorsement will provide a cost-free and reliable opportunity to verify the credentials of persons who claim to be licensed to practice law in the Empire State.

ESCROW THEFTS IN REAL PROPERTY TRANSACTIONS

Approximately 26 percent of all awards from the Lawyers' Fund since 1982 have involved documented thefts in the sale and purchase of real property. The Trustees have restored \$28 million in established thefts totaling \$31.6 million.

These losses typically occur in residential transactions, and often involve the theft of the buyer's down payment by the seller's attorney. These losses can be sizeable, especially downstate where the standard down payment is 10 percent of the purchase price.

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

Law protects escrow accounts in condominium and cooperative conversions.

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

INTEREST ON DOWN PAYMENTS HELD IN ESCROW

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

The statute permits the escrow agents to use a non-interest bearing bank account. We suggest that the statute be amended to require interest-bearing accounts. Also, that the interest be paid or credited to the buyer, unless the contract provides otherwise.

Given the state of modern banking and electronic technology, there's no sound reason for using non-interest bearing bank accounts. We also believe that legal consumers, and their lawyers, would be more vigilant in these escrow transactions if the law provided them with an economic interest in the form of bank interest.

ESCROW ACCOUNTS OF SUSPENDED AND DISBARRED LAWYERS

Present court rules in New York make no specific provision for the transfer or protection of law client escrow funds and property in possession of members of the bar who are suspended or disbarred for professional misconduct.

The Trustees are concerned that law client assets are not adequately safeguarded when it is clear that they may be in danger if left under the control of an attorney who has lost his license to practice law for serious misconduct.

Consideration should be given to the enactment of clear and precise rules directing a disciplined attorney to properly transfer client funds and property, prohibiting further use of attorney escrow accounts, and restraining escrow account funds in jeopardy in order to protect the interests of legal consumers.

Afterword

It is an honor to serve as a Trustee of the Lawyers' Fund, and a rewarding experience, personally as well as professionally. The overwhelming support which the Fund has received from the legal profession and the governmental representatives of New York State continues to be a source of encouragement for the Board of Trustees, and the Fund's staff.

The Trustees continuing experience is that the vast majority of New York's legal profession are honest and caring and observe the highest standards of integrity when entrusted with law client money and property. While incidents of dishonest conduct in the practice of law persist, the lawyers responsible for this misconduct are a tiny percentage of the bar's total membership.

As one of the smallest of government agencies, the Lawyers' Fund relies greatly upon the kindness and support of colleagues in public service. As in prior years, we readily acknowledge our special appreciation to:

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

The staffs of Attorney Grievance Committees statewide for their unfailing help and cooperation in investigating claims, securing restitution orders in disciplinary proceedings, and the compassion and support they provide to victims of dishonest lawyers;

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

The Office of Court Administration for the efficient collection of our revenue, technical assistance in budgeting and administration;

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

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

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 2001:

DUTCHESS COUNTY

Paul R. Haynes, Esq.

KINGS COUNTY

Israel Goldberg, Esq.
Michael S. Goodman, Esq.
Segal Goodman & Goodman
William J. Reinhardt, Esq.

MONROE COUNTY

William Fletcher, Esq.
Barrett Greisberger Dollinger
Scott A. Forsyth, Esq.

NASSAU COUNTY

Paul Beeber, Esq.
Margaret Dato, Esq.
Steven S. Gozinsky, Esq.
Ralph Rubel, Esq.
Thomas J. Stock, Esq.
Raymond S. Voulo, Esq.

NEW YORK COUNTY

Andrew Bluestone, Esq.
Michael B. Goldsmith, Esq.
Delia M. Guazzo, Esq.,
Guazzo & Guazzo
James C. Kennedy, Esq.
Hall Dickler Kent Goldstein & Wood
Samuel E. Kramer, Esq.
Douglas M. Lehman, Esq.
Pavia & Harcourt
Steven C. Mero, Esq.
Steven S. Rand, Esq.
Zeichner Ellman & Krause
Joshua Rosenberg, Esq.
Howard Schwartz, Esq.
Howard Solomon, Esq.
Mark, Field & Solomon
Anna Stern, Esq.
Jeffrey Weinstein, Esq.
Thomas B. Wilinsky, Esq.
Biancone & Wilinsky

ONONDAGA COUNTY

Michael E. O'Connor, Esq.
DeLaney & O'Connor, LLP

QUEENS COUNTY

Denrick W. Cooper, Esq.
Michael J. Hetzer, Esq.
Gary A. Horn, Esq.
Gerard J. Sweeney, Esq.

ST. LAWRENCE COUNTY

Jerry C. Leek, Esq.

SUFFOLK COUNTY

Richard R. Bartel, Esq.
Darrin Berger, Esq.
Milly D'Orazio, Esq.
Thomas J. DeMayo, Esq.
Linda M. Dieterich, Esq.
Angela Gerardi, Esq.
Jennifer B. Gould, Esq.
Barbara Liese, Esq.
Nassau/Suffolk Law Services
Louis J. Petrizzo, Esq.
Harold K. Platt, Esq.
Barry Tuminello, Esq.

WARREN COUNTY

William A. Bacas, Esq.

WESTCHESTER COUNTY

Stephen D. Frank, Esq.
Sweeney, Cohn, Stahl & Vaccaro
William M. Joyce, Esq.
Avery Steinberg, Esq.



Appendix

All Losses Reported Since 1982

Category of Client Loss	Number of Claims	Percent of all Claims	Amount of Loss Alleged	Percent of all Losses
Estates & Trusts	848	7.8%	\$68,926,430	19.7%
Real Property Escrow	2177	20.1%	\$72,502,160	20.8%
Unearned Fees	3887	35.9%	\$15,278,614	4.4%
Settlements	762	7.0%	\$18,780,411	5.4%
Other Escrow	934	8.6%	\$40,420,876	11.6%
Debt Collection	605	5.6%	\$2,061,293	0.6%
Investment	1151	10.6%	\$115,191,824	33.0%
Other	471	4.3%	\$16,143,203	4.6%
Totals:	10,835	100%	\$349,304,811	100%

Losses Reported in 2001 Claims

Category of Client Loss	Number of Claims	Percent of all Claims	Amount of Loss Alleged	Percent of all Losses
Estates & Trusts	33	6.0%	\$2,678,464	11.9%
Real Property Escrow	153	27.9%	\$12,335,056	54.6%
Unearned Fees	197	35.9%	\$1,057,180	4.7%
Settlements	41	7.5%	\$1,713,096	7.6%
Other Escrow	47	8.6%	\$1,246,080	5.5%
Debt Collection	3	0.5%	\$19,500	0.1%
Investment	22	4.0%	\$3,027,328	13.4%
Other	52	9.5%	\$500,427	2.2%
Totals:	548	100%	\$22,577,131	100%

Client Losses in 2001 Awards

Category of Client Loss	Number of Awards	Percent of All Awards	Amount of All Awards	Client Losses Involved	Percent of All Losses	Percent of All Losses Reimbursed
Estates and Trusts	17	10.6%	\$1,484,729	\$1,484,729	27.9%	100.0%
Real Property Escrow	54	33.8%	\$2,012,113	\$2,012,113	37.9%	100.0%
Unearned Fees	45	28.1%	\$82,117	\$82,117	1.5%	100.0%
Settlements	14	8.8%	\$476,352	\$476,352	9.0%	100.0%
Other Escrow	25	15.6%	\$493,809	\$493,809	9.3%	100.0%
Debt Collection	1	0.6%	\$5,325	\$5,325	0.1%	100.0%
Investment	4	2.5%	\$759,494	\$759,494	14.3%	100.0%
Totals	160	100%	\$5,313,939	\$5,313,939	100%	

Client Losses in All Awards Since 1982

Category of Client Loss	Number of Awards	Percent of All Awards	Amount of All Awards	Client Losses Involved	Percent of All Losses	Percent of All Losses Reimbursed
Estates and Trusts	592	11.3%	\$27,083,559	\$47,767,738	37.4%	56.7%
Real Property Escrow	1377	26.3%	\$28,066,012	\$31,588,912	24.7%	88.8%
Unearned Fees	1507	28.8%	\$2,918,557	\$2,943,657	2.3%	99.1%
Settlements	431	8.2%	\$8,787,708	\$9,334,405	7.3%	94.1%
Other Escrow	580	11.1%	\$11,268,917	\$18,025,164	14.1%	62.5%
Debt Collection	448	8.5%	\$661,184	\$716,184	0.6%	92.3%
Investment	306	5.8%	\$12,726,418	\$17,371,780	13.6%	73.3%
Totals	5241	100%	\$91,512,355	\$127,747,840	100%	

Claims Activity Since 1982

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	Totals
Claims Filed	534	375	230	332	341	311	351	486	438	515	627	636	598	909	730	1128	812	442	492	548	10,835
Losses Alleged (Millions \$)	\$3.2	\$5.4	\$6.1	\$5.3	\$5.1	\$5.7	\$10.8	\$14.1	\$15.8	\$28.3	\$25.2	\$25.4	\$25.5	\$36.8	\$29.9	\$40.8	\$24.3	\$15.9	\$20.5	\$22.6	\$349.3
Claims Approved	1	494	130	183	178	159	202	177	219	200	288	318	362	383	381	625	415	161	205	160	5,241
Actual Losses (Millions \$)	\$0.1	\$1.5	\$1.9	\$2.5	\$1.3	\$2.0	\$3.8	\$6.3	\$4.8	\$5.8	\$13.5	\$12.4	\$10.4	\$8.9	\$13.7	\$9.1	\$6.8	\$3.7	\$14.2	\$5.3	\$128.0
Awards (Millions \$)	\$0.03	\$0.69	\$0.87	\$1.3	\$1.1	\$1.9	\$2.8	\$3.8	\$4.6	\$4.1	\$7.3	\$7.5	\$7.6	\$5.7	\$9.9	\$6.9	\$5.9	\$3.4	\$10.5	\$5.3	\$91.2
Lawyers Involved	1	13	26	43	26	24	36	26	38	44	38	52	45	60	38	39	29	28	49	28	683
% Losses Reimbursed	50%	46%	46%	52%	85%	95%	74%	60%	96%	71%	54%	60%	73%	64%	72%	76%	87%	92%	74%	100%	
% Clients Fully Reimbursed	0.0%	73.5%	65.4%	38.8%	91.0%	98.7%	99.5%	97.7%	96.3%	93.5%	95.0%	94.3%	94.2%	97.6%	93.7%	97.6%	98.9%	99.4%	96.6%	100%	
Claims Disallowed	33	201	105	73	164	120	119	169	186	360	253	384	247	366	439	620	522	383	329	383	5,456
Total Dispositions	34	695	235	256	342	279	321	346	405	560	540	702	610	749	820	1245	937	544	534	543	10,697
Claims Pending Dec. 31	500	180	175	251	250	282	312	452	485	440	526	460	449	609	579	462	337	235	193	198	
Losses Alleged In Pending Claims (Millions \$)	\$2.9	\$4.6	\$7.4	\$8.5	\$9.5	\$10.2	\$15.3	\$18.0	\$23.9	\$32.0	\$30.1	\$24.2	\$27.3	\$43.5	\$46.9	\$46.6	\$18.0	\$16.1	\$10.2	\$11.1	
Exposure on Pending Claims (Millions \$)	\$1.7	\$1.6	\$2.3	\$2.7	\$3.5	\$5.2	\$6.3	\$9.8	\$15.1	\$14.9	\$16.0	\$13.9	\$15.2	\$24.4	\$25.1	\$17.4	\$11.3	\$11.6	\$8.3	\$9.2	
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	\$4.1	

Appendix

NY STATE FINANCE LAW, SECTION 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.

NY JUDICIARY LAW, SECTION 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.

* So in original. Probably should be "Lawyers' Fund for Client Protection of the State of New York".

Trustees' Regulations

(22 NYCRR 7200, ET SEQ.)

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

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

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

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

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

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

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

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

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

(a) receive, hold, manage and distribute 50 per centum of the monies collected pursuant to the provisions of section 468-a of the Judiciary Law and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions together with any interest accrued thereon. All deposits of such revenues not oth-

Trustees' Regulations

erwise required for the payment of claims shall be secured and invested as required by the provisions of section 97-t of the State Finance Law;

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

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

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

(e) examine witnesses and, in accordance with the Provisions of the Civil Practice Law and Rules and the regulations of the trustees, administer oaths or affirmations and issue subpoenas;

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

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

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

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

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

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

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

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

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

(c) The treasurer shall maintain the financial records of the fund and, jointly with the chairman, certify vouchers of the

fund that authorize the State Comptroller to make payments to claimants.

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

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

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

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

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

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

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

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

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

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

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

(c) For the purposes of this section, "dishonest conduct" shall include the misappropriation or wilful misapplication of money, securities or property in

the practice of law, and unlawful acts in the nature of theft, larceny, embezzlement, fraud or conversion.

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

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

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

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

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

7200.9 Filing claims. (a) Claims for reimbursement from the fund shall be written and verified. The fund shall provide an official claim form which shall require the following information: the name and address of the claimant; the name and last-known address of the attorney who is alleged to have committed a dishonest act; the terms of the attorney's professional engagement for the claimant; the amount of the loss incurred; the date of the loss or the period of time when the loss occurred; the place and manner in which the loss occurred; the date and manner in which the claimant discov-

Trustees' Regulations

ered the loss; a description of what steps the claimant has taken to recover the loss from the attorney or any other source; and whether there are other sources, such as insurance, fidelity bonds or surety agreements, to reimburse the claimant's loss. The trustees may require a claimant to submit additional information that may be necessary to determine a claim.

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

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

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

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

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

(e) In the discretion of the trustees, a claim shall be deemed filed when any writing specifying the claim is received by the fund, a bar association, an attorney grievance committee, or a police or other government agency.

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

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

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

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

(e) Upon receipt of the investigation report, the trustees shall determine

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

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

tion of the trustees is confirmed, the trustees' determination shall be final.

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

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

(b) Awards shall not include interest.

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

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

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

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

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

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

Trustees' Regulations

(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.

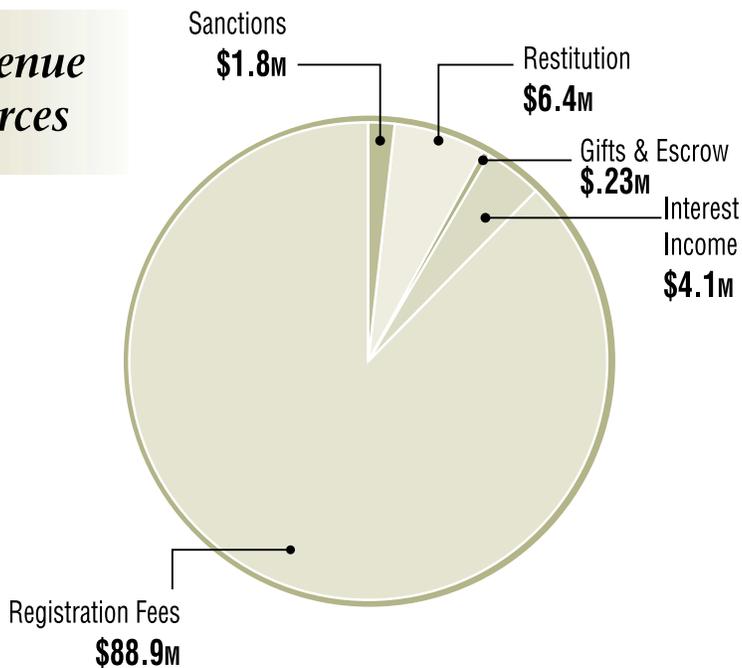
(e) This section shall not be construed to deny access to information by the Court of Appeals, and Appellate Division of the Supreme Court, or to any court of competent jurisdiction in a judicial review proceeding.

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.

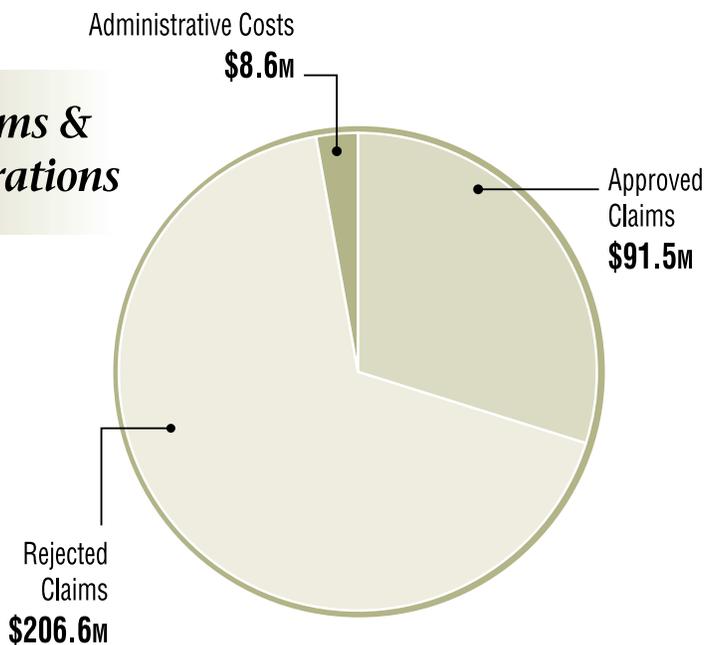
7200.17 Construction of regulations. These regulations shall be liberally construed to accomplish the objectives of the fund and the policies of the trustees.

The Fund's Finances Since 1982 (In millions)

Revenue Sources



Claims & Operations



Lawyers Involved in Awards Since 1982

Name	JD	Awards	Amount	Name	JD	Awards	Amount
Edward P. Abbott	1	1	\$10,624	Richard Brill	9	1	\$15,680
James E. Adel	8	3	\$18,656	Trevor L. Brooks	1	1	\$21,021
Mark I. Adelman	1	1	\$2,150	Harold Brotman	10	1	\$6,667
Howard B. Adler	1	5	\$603,948	Bradford J. Brown	1	1	\$36,000
Cornelius M. Ahearn, Jr.	1	1	\$65,712	Kenneth E. Bruce	9	1	\$800
George E. Albright	7	1	\$2,150	Stephen Bruschi	1	1	\$1,500
Alexis Alcide	11	1	\$7,200	Alan I. Brutton	11	1	\$500
David B. Alford	3	4	\$8,150	Joseph T. Burchill	6	1	\$25,000
Donald A. Alleva, Jr.	9	3	\$4,938	John R. Burgess	8	6	\$30,868
Nicholas P. Altomerianos	1	1	\$13,425	Timothy K. Burgess	7	2	\$9,118
David W. Alvey	2	10	\$490,852	W. Michael Burke	3	2	\$700
Joseph Amaru	11	2	\$208,529	William M. Burke	3	2	\$101,035
Robert B. Anderson	1	1	\$100,000	Jeffrey S. Burns	10	3	\$12,370
Thomas A. Andrews	1	1	\$300,000	Gail D. Butler	1	2	\$55,650
Alvin Ashley	1	1	\$71,445	Nicholas Capobianco	7	4	\$6,530
Lewis G.P. Ashton	11	2	\$9,000	Russell J. Carbone	11	2	\$19,000
Harley D. Axelrod	7	5	\$107,128	William J. Carrigan, Jr.	5	2	\$84,952
David A. Baker	5	10	\$61,627	John M. Cassel	3	1	\$65,000
William F. Baker	5	2	\$28,556	Stuart B. Cassell	11	35	\$486,387
Richard L. Baltimore, Jr.	1	5	\$42,096	Frank V. Cassese	2	21	\$279,830
Norwood K. Banks	7	1	\$573	Richard H. Cataldi	8	3	\$71,810
John M. Barth	1	1	\$3,000	Vincent J. Catalfo	1	1	\$45,000
Paul L. Beck	1	7	\$105,700	Katherine R. Catanzarite	4	19	\$60,843
Irving Becker	1	10	\$16,330	Harvey Chaly	10	4	\$42,944
Herbert H. Bell	1	1	\$40	John R. Chaney, Jr.	1	3	\$2,276
William F. Benca	8	2	\$57,950	John P. Charles	11	1	\$2,500
Michael D. Benjamin	2	1	\$900	Michael M. Chasen	12	6	\$38,708
Bradley C. Bennett	7	2	\$7,554	John D. Chestara	3	17	\$146,832
Robert J. Bennison	5	1	\$15,815	John M. Cholakis	3	1	\$52,383
Richard H. Berg	9	2	\$2,000	James Ciccone	2	1	\$1,500
Adam H. Bernstein	7	3	\$40,339	Robert A. Cicola	10	6	\$199,013
Harry J. Bernstein	11	16	\$216,742	Frank A. Cissi	5	2	\$4,996
Peter N. Bertucci	1	1	\$25,000	John D. Clark	8	1	\$750
Burton H. Besen	1	9	\$146,616	Robert J. Clark	2	5	\$121,990
Jeffrey L. Besse	3	32	\$1,430,278	A. Roger Clarke	7	5	\$193,183
Lassale Best, Jr.	2	1	\$1,000	James F. Clarke	10	19	\$1,145,491
Jose M. Betancourt	12	2	\$21,961	W. Andrew Clawson	7	19	\$305,715
James Bing	1	3	\$4,085	Casey A. Clines	4	1	\$350
Charles Birnbaum	2	1	\$594	Joseph A. Cofino	12	2	\$3,500
Warren J. Black	1	1	\$20,576	Daniel I. Cohen	1	4	\$81,720
Walter H. Blaich, Jr.	9	7	\$385,835	James Harrison Cohen	1	5	\$57,055
Blaich & Dries	9	7	\$236,162	Kenneth H. Cohn	6	9	\$4,010
Lawrence Bluth	11	1	\$11,500	Kenneth W. Cohn	10	1	\$16,077
Allen J. Bodner	1	1	\$100,000	Theresa N. Coletti	11	25	\$53,317
Howard J. Bodner	10	20	\$968,658	Joseph L. Colp	1	3	\$12,300
Murray Bogatin	1	2	\$9,400	Frank Coniglio	10	12	\$240,110
Philip L. Boneta	2	3	\$19,533	Kevin A. Conine	6	2	\$40,861
Anthony J. Bonfiglio	1	3	\$114,000	Joseph A. Contino	8	2	\$200,000
Martin Borakove	1	2	\$16,101	Stephen E. Cooper	4	2	\$268,455
Lee H. Bostic	11	4	\$31,583	Edward M. Cooperman	10	3	\$12,700
Darrell L. Bowen	4	1	\$300	Kevin P. Corcoran	9	2	\$16,965
Martin J. E. Bowers	10	1	\$12,750	William J. Corcoran	1	1	\$10,000
Jonathan N. Boxer	10	12	\$61,364	Gerald M. Cotter	10	28	\$990,471
Raymond D. Bradford	9	2	\$20,779	James P. Cotter	8	1	\$46,036
Karen E. Bragg	10	1	\$250	Catherine N. Coughlin	8	3	\$7,002
E. Lawrence Brass	10	14	\$339,657	Coxeter & Coxeter	3	1	\$50,000
Leo Bresler	10	2	\$100,000	Ronald P. Crean	1	2	\$22,750
John D. Bridge	8	1	\$1,000	Gene Crescenzi	1	2	\$6,880

Lawyers Involved in Awards Since 1982

Name	JD	Awards	Amount
Domenick Crispino	1	13	\$692,388
John T. Crone	7	13	\$450,427
Dennis D. Crowley	9	6	\$271,804
Marshall Oakes Crowley, Jr.	10	1	\$14,229
Martin J. Crowley	10	12	\$98,424
Thomas P. Cullen, Jr.	11	4	\$93,513
David A. Curtin	8	2	\$8,408
John L. Curtis	8	4	\$252,344
R. Scott Daly	2	2	\$11,600
Benjamin F.L. Darden	6	2	\$67,088
Thomas P. Daubner	11	1	\$500
Kenneth P. Daumen, Sr.	8	1	\$3,211
Mehran W. Davidian	10	1	\$5,000
James J. Davitt	2	1	\$100,000
Mark D. Deinhart	8	5	\$592,734
Lawrence DeMayo	2	20	\$217,422
John L. Desmond	3	1	\$56,000
Bertram S. Devorsetz	9	2	\$1,100
James G. deWindt	10	2	\$1,000
Steven H. Dickman	10	7	\$59,339
Edward W. Dietrich	5	1	\$36,598
Salvatore DiMisa	10	2	\$55,533
Vincent R. DiPasquale	8	6	\$262,277
Robert E. Dizak	1	19	\$170,293
Birol John Dogan	1	6	\$43,673
Jerrold A. Domingo	1	3	\$19,000
Myron Domskey	10	3	\$3,500
Paul B. Donohue	9	1	\$750
Michael J. Donovan	1	1	\$27,531
Walter M. Donovan	8	23	\$75,050
H. Paul Doucette, Jr.	7	9	\$16,200
George E. Dougherty, Jr.	3	6	\$140,388
William J. Dougherty	10	5	\$124,795
Frank J. Doupona	9	10	\$602,595
Charles H. Downing	1	2	\$6,362
James L. Dowsey, III	10	1	\$8,500
Paul Drager	9	1	\$500
Arthur S. Drotzer	9	2	\$5,255
Robert G. Dubrow	10	1	\$28,428
Melvin G. Duke	2	1	\$1,500
Peter J. Dunne	10	13	\$68,950
Thomas A. Dussault	3	184	\$329,956
Saul L. Eagle	12	4	\$290,404
Paul W. Eckelman	9	3	\$8,895
Eugene P. Edwinn	1	3	\$107,770
Louis A. Egnasko	2	66	\$1,921,450
Ehman & Marino	10	61	\$3,061,535
Howard Eisenberg	1	1	\$5,000
Robert A. Eisenberg	2	1	\$7,058
Mitchell Eisenstat	1	2	\$3,675
Dennis P. Elkin	11	1	\$250
Robert S. Elkins	10	3	\$101,450
W. Joseph Embser	8	1	\$100,000
Charles E. Ennis	7	3	\$52,427
Michael L. Entes	2	2	\$10,000
Michael F. Erdheim	1	20	\$993,099
Steven M. Erdheim	9	23	\$12,840
Jonathan Erickson	7	6	\$111,173

Name	JD	Awards	Amount
Jerome J. Erlin	1	4	\$42,595
John R. Esposito	12	1	\$5,700
Gene Ira Esser	2	12	\$23,877
F. Birt Evans, Jr.	4	9	\$24,703
James C. Farrington	3	1	\$15,560
Arnold H. Fassler	11	12	\$111,658
James H. Fay	2	1	\$400
Charles L. Feely	1	3	\$256,906
Milton Feinman	1	9	\$520,987
Harvey Felton	9	1	\$40,426
John F. Felton	1	2	\$7,000
Willie R. Felton	7	29	\$134,491
Perry V. Ferrara	10	58	\$1,645,861
Steven B. Fidelman	11	9	\$78,532
Carl M. Field	10	24	\$173,904
Timothy A. Fischer	8	1	\$155
Fischer & Quaintance	8	2	\$110,897
Michael G. Flanagan	1	13	\$884,137
Florien Carl Flierl	8	8	\$65,695
Dan Foley	9	1	\$203
Joseph M. Fonte	2	2	\$12,500
Seymour Forman	1	1	\$500
Henry A. Foster	1	3	\$40,092
Robert L. Fraser	7	4	\$16,846
Paul I. Freedman	1	49	\$117,305
Andrew J. French	10	1	\$9,619
Mark G. Fresco	1	5	\$61,961
Sydney Friedler	10	26	\$308,340
Arthur S. Friedman	2	1	\$12,916
Martin Fries	11	17	\$81,713
Alfred L. Fritz, III	8	21	\$86,766
Daniel R. Fruitbine	1	1	\$8,750
Jerome H. Funk	9	22	\$12,049
Henry G. Fury	9	9	\$150,341
Dumas Gabbriellini	1	1	\$4,950
Wayne K. Gabel	9	1	\$11,437
Ross M. Gadye	1	1	\$2,360
Yoram Gafni	1	5	\$7,550
Arthur J. Gallancy	1	1	\$21,500
John E. Galligan, Jr.	2	3	\$4,827
William M. Gallow, Jr.	3	1	\$49,397
Hiram S. Gans	9	2	\$85,000
Francis P. Garofalo	2	3	\$64,000
Edward M. Gasperi	4	5	\$8,231
Michael S. Gawel	8	1	\$1,200
Jack O. Gaylord	8	1	\$12,332
Aaron Gelbwaks	1	1	\$229,553
James G. Gembarosky	8	7	\$15,426
Frank P. Giaramita	2	2	\$7,500
Anne O. Gilde	2	1	\$1,045
Thomas Eric Gill	10	6	\$87,500
James Gilmartin	1	2	\$3,613
Joseph A. Giorgi	7	1	\$4,685
Jarrett F. Glantz	1	25	\$1,789,786
Harold L. Goerlich	10	4	\$65,178
Roger J. Gofton	9	2	\$182,800
Fred Gold	11	3	\$113,250
Henry S. Goldman	9	9	\$224,823

Lawyers Involved in Awards Since 1982

Name	JD	Awards	Amount
Barry E. Goldrod	1	1	\$51,357
Charles H. Goldstein	10	1	\$43,000
Alan R. Golkin	8	5	\$269,624
Oscar Gonzales-Suarez	1	1	\$5,000
Michael W. Goodman	11	4	\$220,055
Robert M. Gordon	1	6	\$29,870
John P. Gorman	9	2	\$36,000
Jack Gottlieb	2	8	\$74,576
Lora C. Graham	9	2	\$1,655
Barry J. Grandeau	9	377	\$564,211
S. Simpson Gray	9	9	\$8,928
Christopher J. Green	1	1	\$30,000
Milan K. Gregory	10	2	\$10,200
John N. Griggs, Jr.	1	2	\$350
Robert S. Groban, Sr.	1	2	\$8,500
Joshua Gross	4	1	\$400
Murray S. Gross	2	1	\$8,000
Marc E. Grossman	9	16	\$192,501
Harold W. Grubart	1	3	\$184,335
James R. Gunderman	8	8	\$269,978
Sidney J. Guran	2	1	\$12,159
John A. Gussow	2	30	\$522,568
John A. Guzzetta	1	1	\$6,395
Richard A. Gwynn, Jr.	5	8	\$8,239
Richard J. Haas	3	3	\$16,800
Paul E. Haberman	1	1	\$300,000
David S. Haberman	10	1	\$27,798
Robert E. Haley	1	7	\$100,800
Clifton E. Hall	11	3	\$16,465
Fred J. Halsey, Jr.	1	3	\$69,803
Herbert I. Handman	1	1	\$16,500
H. Roger Hantman	10	1	\$3,000
John L. Hargrave, Sr.	8	3	\$44,051
Alan David Harris	10	5	\$342,033
Alan Jay Harris	1	1	\$14,081
H. Hawthorne Harris	9	1	\$5,093
Herbert Harris, Jr.	1	2	\$48,833
Leon Sol Harris	1	3	\$30,060
Peter Andrew Harris	7	8	\$224,475
Morton H. Hartmann	1	3	\$54,576
Robert T. Hartmann	9	3	\$42,149
John J. Hayden	9	5	\$25,800
Richard T. Heelan	10	3	\$6,075
Alan A. Herman	1	1	\$65,000
Eric E. Heron, Jr.	11	3	\$28,485
Alfred L. Hetzelt, Jr.	8	1	\$100,000
John Higginbotham	1	2	\$5,000
Leo N. Hirsh	1	2	\$27,083
Michael Hirsch	10	2	\$53,127
Ralph Hochstein	1	1	\$1,000
Robert I. Hodes	1	2	\$20,605
Walter Hofer	1	8	\$85,880
Frank Hoeffy	1	1	\$4,500
William J. Holden	9	12	\$436,677
A. Robert Holman, III	10	458	\$203,958
Antoinette Holmes	12	19	\$664,171
Harold Holtman	10	24	\$313,162
Robert Kent Holtsberry	5	1	\$2,178

Name	JD	Awards	Amount
Charles S. Horgan	1	1	\$2,500
Valentine N. Horoshko	1	2	\$15,000
Donald G. Houghton	7	3	\$75,000
Richard A. Howard	9	3	\$2,575
Ralph F. Howe	8	1	\$7,313
Edward L. Howlette	10	1	\$3,700
Raymond K. Hsu	1	6	\$24,850
John A. Huber	10	4	\$30,500
Thomas P. Hughes	4	2	\$10,914
Elissa L. Insler	12	1	\$21,551
William C. Israel	1	4	\$54,863
Hesper A. Jackson, Jr.	2	6	\$167,995
Saul Jakobowitz	1	6	\$24,718
Robert E. Johnson	2	1	\$38,000
Robert P. Johnson	8	1	\$4,200
Wayne A. Johnson	6	4	\$28,566
D. Sanford Jorgensen	1	4	\$55,283
Leonard Kabat	10	1	\$5,000
Gerald A. Kagan	1	2	\$1,600
William H. Kain	10	15	\$145,722
Gerald Kaiser	1	34	\$36,365
James D. Kakoullis	1	1	\$1,000
John C. Kanaley	5	3	\$55,000
Julian Kaplan	10	1	\$46,167
Stanton Karnbad	9	3	\$38,500
Morris M. Karp	1	2	\$5,618
Kastein & Kastein	10	4	\$379,430
Thomas Katsaros	2	3	\$84,500
Harold W. Katz	4	3	\$57,000
Howard C. Katz	9	61	\$304,445
Peter L. Katz	9	7	\$7,520
Reuben A. Katz	1	1	\$93,072
Steven C. Kavanaugh	10	3	\$6,041
William S. Kaye	1	1	\$5,000
Paul E. Keith	2	3	\$23,843
Donald E. Kelly	1	2	\$85,656
Lawrence V. Kelly	1	1	\$65,975
Robert E. Kelly	7	20	\$12,070
Bernard Kenny	1	8	\$138,269
John P. Kilminster	10	6	\$17,950
John J. Kim	1	1	\$19,500
Wayne W. Kim	1	5	\$31,705
Matthew A. King	4	3	\$3,000
Harold L. King	1	1	\$600
Paul H. Kirwin	10	1	\$58,000
Rudolph M. Klenosky	2	1	\$45,000
A. O'Neill Kline	8	3	\$72,100
William J. Kluender	11	18	\$232,257
Kenneth Knigin	9	1	\$117,069
David C. Kobrin	9	1	\$20,148
Roger W. Kohn	9	1	\$255
Richard Kops	10	9	\$478,807
Timothy Kozyra	8	2	\$8,231
Howard Krantz	1	1	\$23,500
Harvey H. Krat	1	3	\$68,525
M. Thomas Kuriakose	9	1	\$500
Irving Kurtz	1	5	\$154,842
Larry J. Kushner	1	2	\$21,678

Lawyers Involved in Awards

Name	JD	Awards	Amount	Name	JD	Awards	Amount
A. James LaBue	7	6	\$298,928	James F. McCoole	9	15	\$865,522
Michael S. LaBush	9	2	\$3,250	Sharyn L. McDonald	7	3	\$73,992
Jefferson T. Lalik	7	8	\$3,805	James J. McEnroe	1	6	\$3,000
LaLoggia & Gorankoff	7	20	\$738,744	Lloyd A. McFarlane	11	1	\$5,000
Bernard H. LaLone, Jr.	3	1	\$22,210	Thomas J. McGinn	3	1	\$180,000
Robert A. Lamar	10	20	\$597,507	Dennis J. McLaughlin	1	5	\$46,804
Donald F. Lamutis	7	3	\$8,325	Richard M. McMahan	9	2	\$8,973
Erick F. Larsen	10	1	\$23,517	John J. McManus, Jr.	2	2	\$200,000
George E. Lasch	10	1	\$1,500	Joseph T. McMaster	2	4	\$168,093
Eric N. Lazarus	10	28	\$583,407	Dominic M. Mello	2	2	\$8,167
John Q. LeCain	4	1	\$25,000	Richard M. Messina	1	3	\$169,049
Thomas P. Leckinger	7	7	\$87,180	William A. Metz	9	3	\$115,497
Gerald J. Leibowitz	10	8	\$229,992	Stanley M. Meyer	10	1	\$1,830
Lawrence B. Lennon	4	4	\$87,665	James J. Michalek	8	21	\$181,361
Richard L. Levine	5	1	\$10,000	Charles O. Milham	3	4	\$17,541
Murray F. Lewis	6	1	\$3,589	Alan M. Miller	10	1	\$2,319
Jay Robert Lichtman	2	2	\$3,200	Bruce J. Miller	10	2	\$41,858
Lawrence Lieberman	2	4	\$35,536	Nicholas A. Mina	1	1	\$19,500
Kenneth Linn	1	1	\$25,850	Carl N. Mione	2	3	\$830,750
Michael S. Linn	9	14	\$418,858	Stephen A. Mishkin	9	55	\$1,318,823
Clifford N. Lipscomb	11	8	\$11,480	John E. Modjeska	3	7	\$34,356
William F. Lisnerski	8	1	\$600	Richard T. Monahan	10	2	\$4,500
David W. Little	4	8	\$343,892	Colin A. Moore	1	4	\$6,500
Vincent J. LoCurto	10	1	\$9,797	Davison F. Moore	9	6	\$491,971
Werner Lomker	7	2	\$38,564	Paul A. Moore	9	2	\$2,146
John C. Lopes	10	2	\$2,550	Richard M. Moran	3	21	\$349,371
John G. LoPresto	11	1	\$299,894	Thomas D. Morath	12	2	\$14,755
Samuel Lorenzo	1	92	\$43,125	Lawrence D. Moringiello	2	5	\$171,249
Ronald B. Losner	2	16	\$41,694	Alan D. Morris	10	15	\$221,560
Harold E. Lovette	1	1	\$27,500	Charles E. Morrison	1	1	\$4,000
David B. Lubash	11	39	\$471,203	Saul D. Moshenberg	7	5	\$20,749
Jonathan W. Lubell	1	2	\$9,450	Lawrence J. Mullan	10	1	\$395
Thomas J. Lukas	11	1	\$28,000	James R. Murdock, Jr.	4	19	\$638,152
Joseph F. Lynch	6	1	\$3,736	Eugene J. Murphy	8	21	\$583,870
Thomas N. Lyons	10	1	\$800	Morrow D. Mushkin	2	2	\$10,200
Robert A. Mackasek	1	20	\$370,043	Joseph F. Muto	5	1	\$1,100
Robert D. MacLachlan, Jr.	10	8	\$11,250	Willard H. Myers, III	7	2	\$1,700
Fortune S. Macri	9	1	\$25,000	Eugene V. Natale	10	9	\$245,845
John R. Maguire	10	1	\$1,000	Nath & Weiss	10	1	\$100,000
Jenny M. Maiolo	11	27	\$555,808	Richard F. Nelson	10	10	\$70,361
Michael M. Maloney	1	1	\$42,040	Pat Frank Nesci	10	11	\$359,974
Frank M. Manfredi	10	5	\$27,076	Kenneth A. Newman	10	6	\$29,054
Lloyd J. Manning	11	1	\$500	Marvin A. Newman	9	1	\$26,924
Robert Y. Manske	7	1	\$12,066	John G. Nicholas	11	2	\$57,500
Marion S. Marable	11	2	\$7,400	Peter B. Nickles	9	2	\$122,623
Richard P. Maracina	1	8	\$20,205	Thomas C. Nicotera	3	1	\$275
Marvin Margolis	1	1	\$40,000	Michael B. Nitsberg	10	3	\$34,450
Irving Markowitz	1	7	\$261,328	William J. Noland	1	1	\$3,600
George T. Martin	6	1	\$500	Thomas P. O'Callaghan	9	1	\$3,200
Nancy A. Maruk	7	3	\$3,370	Charles O'Donnell, Jr.	9	1	\$2,000
C. Vernon Mason	1	5	\$32,600	Mark S. Ogden	7	1	\$8,869
William J. Mastine, Jr.	5	2	\$17,220	Frank Oliva	11	5	\$36,652
Charles M. Mattingly, Jr.	10	3	\$132,500	James M. O'Neill	10	3	\$10,500
Martin J. Mayblum	11	3	\$13,750	Lynn D. O'Neill	2	3	\$20,770
Philip A. McBride	8	1	\$5,958	Joseph E. Orsini	8	3	\$31,887
Teague W. McCarthy	10	11	\$398,537	Osserman & Horwitz	1	6	\$774,503
Shannon D. McClam	11	3	\$14,000	Sheldon Ostro	1	9	\$359,000
Denis J. McClure	9	2	\$5,155	Roderick E. Owens	1	2	\$21,533

Lawyers Involved in Awards

Name	JD	Awards	Amount	Name	JD	Awards	Amount
Victor N. Pacor	9	9	\$164,357	Luis E. Reyes	2	1	\$1,000
Rafael M. Pantoja, Jr.	1	18	\$168,335	John Rivera	12	1	\$1,707
John F. Papsidero	8	1	\$17,339	Jose A. Rivera	2	7	\$89,166
Mary Murphy Pardoe	10	15	\$85,436	Robert Rivers	10	7	\$197,000
Richard J. Pariser	8	3	\$7,053	Stephen R. Roach	9	3	\$23,400
Alfred J. Parisi	11	15	\$438,591	Edward John Roder	7	15	\$168,505
E. Paige Parsons	4	1	\$200	George Rodriguez	12	4	\$1,865
Nicholas J. Pastushan	5	1	\$138,500	Richard Rodwin	1	3	\$552,750
George Patsis	10	2	\$115,798	Louis Rohrberg	1	1	\$5,325
Edward S. Patterson	9	2	\$15,286	Sy L. Rolnick	2	1	\$25,500
George F. Pavarini	9	15	\$543,165	Steven J. Romer	1	14	\$1,076,657
Robert J. Pellicane	10	7	\$174,769	Bibiano Rosa	1	3	\$95,265
Kenneth S. Pelsinger	1	2	\$14,349	Michael G. Rose	10	38	\$1,274,028
Michael M. Perlman	10	7	\$265,331	Peter Rose	11	11	\$143,309
David Ian Pesner	9	11	\$136,291	Rose & Karnbad	11	1	\$17,000
Jacob & David Ian Pesner	9	1	\$25,000	Ruth F. Rosenberg	5	3	\$7,100
Richard T. Petty	1	3	\$90,664	Steven Rosenbluth	2	26	\$394,102
Stephen A. Phillips	4	1	\$60,000	Richard J. Rosenthal	1	1	\$4,374
John Piastra	11	2	\$200,000	Selig A. Rosenzweig	10	3	\$64,569
Louis N. Picciano	6	2	\$5,296	Phillip M. Rossbach	10	1	\$659
Richard Pikna	1	9	\$101,278	Abraham Rostoker	2	1	\$17,500
George A. Pins	1	4	\$15,779	Arthur J. Rouse	9	1	\$11,435
John L. Pitula	1	1	\$90,000	Leonard H. Rubin	1	1	\$83,000
John B. Poersch	4	2	\$114,161	James M. Russell	3	4	\$765,407
J. Stanton Pohl	10	4	\$89,779	Glenn L. Rutledge	11	1	\$5,000
Jonathan Pollack	10	2	\$13,762	David Sabghir	2	1	\$14,000
Sam Polur	12	1	\$500	Carol A. Safier	1	5	\$117,950
Edward J. Porcelli	12	4	\$21,580	Steven L. Salpeter	11	7	\$12,019
Ira Postel	1	3	\$38,515	Ronald M. Salzer	1	4	\$53,750
Postel and Rosenberg	1	11	\$619,722	Roger G. Sam	12	1	\$2,500
John V. Potter, Jr.	10	1	\$98,000	George Sandberg	10	10	\$227,146
Charles M. Powell, Jr.	1	6	\$44,700	Ira Jay Sands	1	6	\$7,917
Mary Powers	1	1	\$89,857	Richard J. Sanna	10	10	\$248,285
William J. Powers, III	5	7	\$14,662	Richard D. Savitsky	1	2	\$47,558
Paul D. Powsner	1	3	\$210,000	Michael D. Scavella	4	1	\$2,000
Stanley Pressment	1	1	\$6,960	Stanley D. Scharf	10	16	\$89,719
Cynthia Lynn Price	2	1	\$81,623	Nelson K. Scherer	10	1	\$2,348
Wayne J. Price	2	17	\$359,726	John C. Schettino	10	1	\$4,000
Michael Prieto	1	1	\$15,215	David Schick	1	7	\$549,116
Mark S. Probert	10	6	\$2,900	Robert L. Schlesinger	3	3	\$3,068
Anthony P. Quinn	11	1	\$2,912	Peter G. Schmidt	1	3	\$400,000
Donna M. Quinn	3	1	\$10,000	Richard C. Schulz	10	1	\$24,035
John J. Raia	11	99	\$3,258,398	Robert Schutrum	8	1	\$1,500
William C. Raines	1	3	\$17,512	Melvyn Schwartz	1	2	\$459,972
Steven P. Rapoport	2	2	\$23,836	Steven M. Schwartz	9	2	\$3,500
Stephen P. Rathjen	10	2	\$32,930	Schwartz & Gutstein	1	6	\$250,501
Leo Raychuk	2	1	\$2,000	Joel E. Schweitzer	8	6	\$46,294
Edward W. Reckdenwald	10	4	\$88,193	Joseph F. Scirto, Jr.	8	10	\$106,962
John D. Reddan	1	1	\$2,500	Harry W. Scott, Jr.	2	1	\$200
Alban J. Reichert	7	1	\$3,425	Bernard M. Seeman	10	1	\$50,000
Steven Paul Reifman	1	1	\$10,000	Jeffrey P. Segal	10	2	\$188,750
Paul G. Reilly, Jr.	1	2	\$39,500	Arthur J. Selkin	9	11	\$107,300
Gary M. Reing	12	2	\$23,446	Bernard L. Seltzer	10	11	\$94,609
Herschel L. Reingold	8	1	\$4,344	Ralph Serpico	11	3	\$176,191
Agostinho Dias Reis	1	1	\$3,712	Barry R. Shapiro	1	16	\$3,065
Erich H. Reisch	2	1	\$27,692	Michael Shapiro	1	1	\$58,231
Willem J. Rimmelink	1	3	\$127,875	Phillip E. Shapiro	1	1	\$700
James R. Rerisi	10	4	\$57,146	Brian A. Sheridan	1	1	\$785

Lawyers Involved in Awards

Name	JD	Awards	Amount	Name	JD	Awards	Amount
John M. Sheridan	7	6	\$371,500	Ron Telford	6	1	\$1,100
Richard M. Sherman	10	25	\$97,623	Milton A. Teplin	1	3	\$26,000
Robert J. Sherman	10	7	\$15,159	Michael B. Thomas	9	1	\$600
Alan J. Shimel	10	2	\$26,666	Alan S. Tifford	10	14	\$291,016
Robert G. Short	9	1	\$800	Robert S. Tobin	1	2	\$16,320
Anis A. Siddiqi	2	4	\$75,614	Thomas P. Tobin	10	4	\$184,450
Matthew A. Siegel	9	2	\$14,147	Joseph A. Tracy	9	4	\$131,676
Stephen D. Siegfried	10	13	\$747,922	Joseph R. Turner	1	4	\$41,572
Oswald B. Silvera	2	7	\$16,125	Robert E. Twiste	2	13	\$213,179
Mark A. Silverman	10	2	\$2,169	James W. Ulaszewski	8	2	\$1,048
William Sims	8	2	\$8,037	Girard M. Ursitti	8	5	\$76,957
Barry H. Singer	9	9	\$235,034	Norman Ushkow	2	1	\$1,575
Baljit Singh	1	1	\$150	William C. Vaughan	8	1	\$100,000
Indar Singh	11	16	\$156,237	Tom M. Vetrano	2	4	\$30,056
Ronald A. Sipos	8	1	\$87,774	Lillian R. Villanova	9	3	\$109,636
Myron W. Siskin	10	1	\$13,436	Louis V. Viscomi	1	3	\$31,500
Allan Sloan	1	6	\$108,601	Frank Vitulli	2	1	\$12,000
Joseph D. Sloboda	10	2	\$5,458	Arnold P. Wagner	10	4	\$72,900
Peter W. Sluys	9	6	\$113,856	H. Robert Wall	6	46	\$912,929
Kendrick C. Smith	1	1	\$3,675	Wallman & Wechsler	1	35	\$1,755,338
Benjamin Sneed	1	4	\$24,833	Mortimer Warfman	1	34	\$16,236
Jack B. Solerwitz	10	99	\$3,008,734	Paul J. Warkow	10	1	\$1,000
Joseph F. Soviero, Jr.	10	1	\$5,000	Patrick T. Wedlock	5	8	\$4,910
Michael T. Spallino	1	2	\$8,800	Richard B. Weil	1	1	\$48,737
Jacob Spatz	3	3	\$3,245	Martin J. Weinstein	2	1	\$25,000
Jerome L. Spiegelman	1	48	\$889,719	Myles N. Weintraub	10	7	\$123,623
Jerome Spies	10	2	\$126,754	Michael S. Weiss	9	3	\$2,325
Lionel Spring	1	1	\$83,311	Peter R. Weiss	2	1	\$15,000
Howard R. Staller	1	1	\$8,000	C. Theodore Wellington	11	6	\$193,815
Ferne Mayer Steckler	10	3	\$10,500	Leslie M. Westreich	1	1	\$100,000
Alexander B. Stein	1	2	\$31,450	Benjamin P. Whitaker	7	15	\$603,251
Elliot J. Stein	1	74	\$762,109	D. William White	2	15	\$171,308
Joel B. Steinberg	1	1	\$1,400	Aaron G. Windheim	9	1	\$11,547
Duane M. Stenstrom, Jr.	8	6	\$6,674	Steven Winston	1	1	\$9,500
Jeffrey S. Stern	2	10	\$244,077	Samuel Ulrich Wiseman	1	2	\$38,280
Stanley R. Stern	1	5	\$325,676	Steven D. Wisniewski	8	16	\$7,805
Joseph Sternschein	11	4	\$75,715	Walter S. Wojcik	3	1	\$250
Frederick D. Stevens	8	1	\$4,185	Michael T. Wolin	1	1	\$25,035
Wallace Sturm	2	1	\$1,500	Marvin Wolinetz	2	1	\$350
John J. Sullivan	1	1	\$29,990	George Wolynetz	1	3	\$244,703
Joseph E. Supples	8	3	\$9,150	William S. Wood	7	4	\$49,065
Leonard A. Sussman	1	3	\$44,438	John M. Wourgola	10	11	\$97,534
Monroe Sussman	10	1	\$46,667	Adam Morgan Wright	1	1	\$500
Carrie Sutherland	10	2	\$7,670	Kathryn B. Wunderlich	3	1	\$600
Morton S. Swirsky	1	6	\$62,610	Henry E. Wyman	8	33	\$496,811
Israel I. Sylvan	1	3	\$22,253	Louis B. Youmans	1	1	\$5,000
Regina M. Tate	10	2	\$6,750	Floyd A. Young	8	1	\$10,000
Sergio M. Taub	11	49	\$326,401	Nancy J. Young	1	9	\$124,809
Louis Taubenblatt	2	9	\$718,854	Frederick J. Ziems	10	2	\$105,368
Sharon Lynch Taureck	2	5	\$40,966	Jacob S. Zimmerman	10	27	\$355,991
Peter P. Tavalacci	9	1	\$2,400	Victor P. Zodda	10	2	\$282,225
Timothy Taylor	1	1	\$19,000	H. Michael Zukowski	1	1	\$8,000
Theodore E. Teah	12	1	\$13,373	Bertram Zweibon	1	14	\$564,282
Norman Eric Teitler	11	2	\$14,414				



Claim # _____

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

APPLICATION FOR REIMBURSEMENT

Instructions:

Answer every question in this application. If space is inadequate, attach additional pages.

You must provide us with copies of all evidence that proves your loss, such as cancelled checks, receipts, letters, closing statements, etc.

Mail the completed application to: The Lawyers Fund for Client Protection, 119 Washington Avenue, Albany, New York 12210.

1. Your Name and Address: Mr. Mrs. Miss Ms. Age(s) _____

Name:

Address:

Home Telephone:

Social Security or Federal Tax ID #:

Business Telephone:

Occupation and Employer:

2. Name, address and telephone number of the attorney who has dishonestly taken your money or property:

3. What legal services did you ask this attorney to perform for you?

4. How much did you pay this attorney?

5. Was your agreement with the attorney in writing? Yes_____ No_____.

If Yes, attach a copy of the agreement.

6. Did your loss involve: money other property? Specify:

7. What was the amount of your loss?

8. State the date when your loss occurred:

9. When and how did you discover your loss?



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

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

www.nylawfund.org