



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

## Highlights from the 2009 Annual Report of the Board of Trustees

This 27th Annual Report of the Lawyers' Fund for Client Protection focuses on the Fund's activities in calendar year 2009. The Board of Trustees is pleased to present this annual accounting of the operations of the Lawyers' Fund.

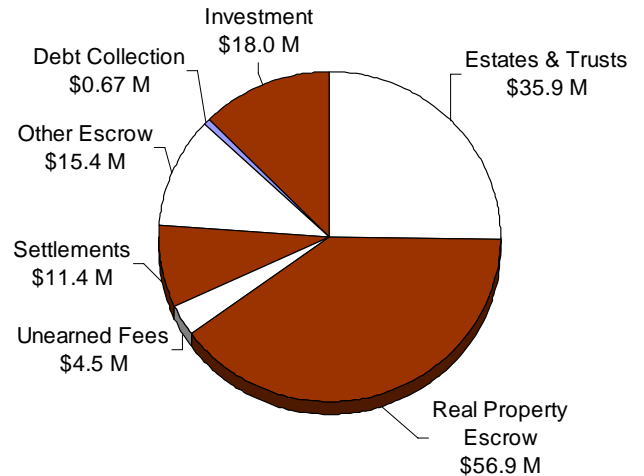
The Lawyers' Fund is an independent public trust, financed by lawyers in New York State, which reimburses law clients for financial losses caused by dishonest conduct in the practice of law. The legal profession is alone in providing such protection to its clients.

There are 253,000 registered lawyers in New York State. The Trustees' experience over 27 years has clearly established that the overwhelming majority of New York's lawyers are honest and caring and deserving of their clients' trust. In 2009, as in each year since 1982, only a small number of former lawyers are responsible for the dishonest conduct resulting in the Fund's awards. In 2009, 59 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 59 former lawyers, 36 appear for the first time in the Fund's awards.

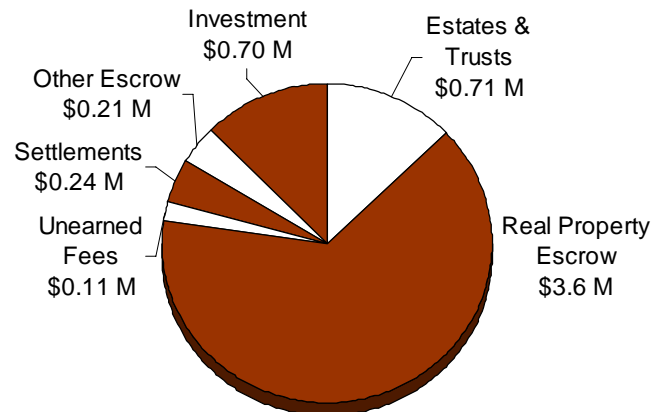
In 2009, the Trustees approved 139 awards reimbursing a total of \$5.6 million to eligible law clients for losses caused by dishonest conduct of attorneys in New York State. All but one eligible law client received 100 per cent reimbursement for their loss in 2009. Since 1982, the Trustees have now granted 6,617 awards totaling \$142.9 million.

Special recognition must also be given to the Court of Appeals and Chief Judge Jonathan Lippman, and all those in State government and our judiciary, for their wisdom and leadership in establishing the Lawyers' Fund and ensuring its strength and independence since 1982. Due to these collaborative efforts, New York State provides a meaningful and responsive client reimbursement program that is a model for our nation.

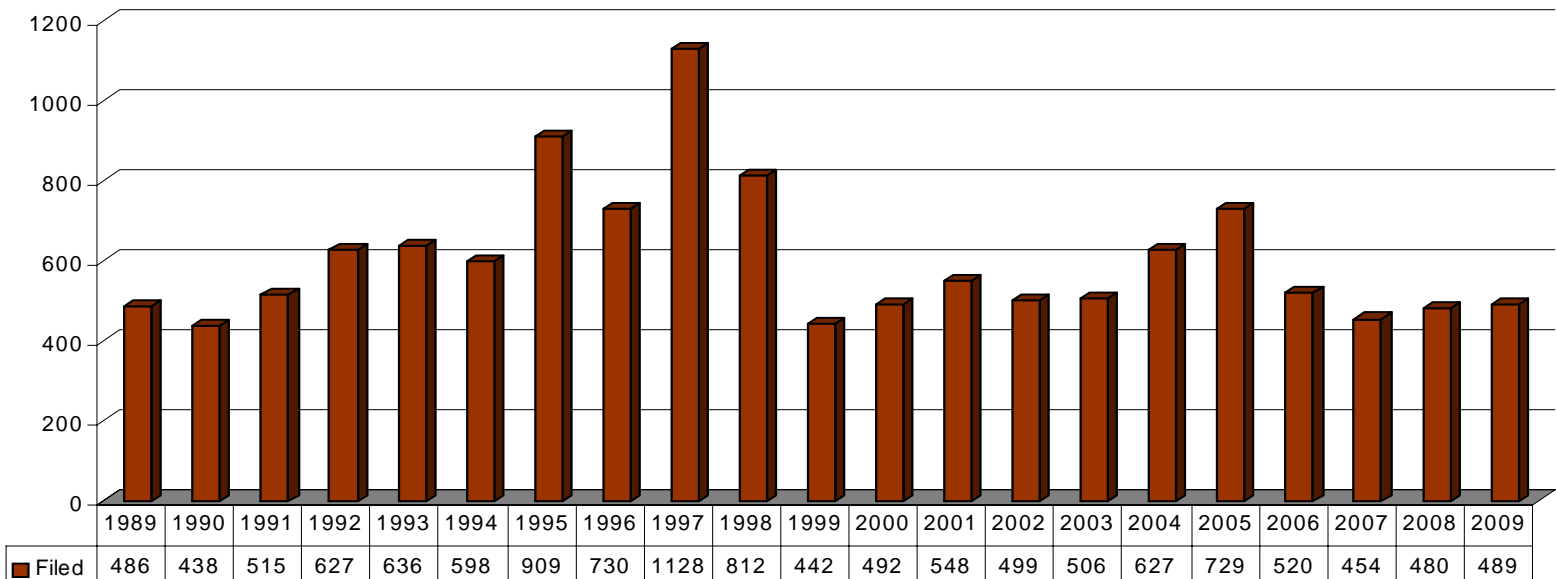
### Amount of Awards Since 1982 By Misconduct : \$142.9 Million



### Amount of 2009 Awards By Misconduct : \$5.6 Million



### Number of Reimbursement Claims Filed, 1989 - 2009 (Total Number of Reimbursement Claims Filed Since 1982: 15,139)



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

The Fund was established by Section 97-t of the State Finance Law. This statute also provides for the management of the Fund's assets as a special revenue fund by the State Comptroller.

Section 468-b of the Judiciary Law governs the administration of the Fund and provides the Trustees with full authority to administer the Fund, subject to the general supervisory authority of the Court of Appeals.

The Trustees' Regulations for administration and claims procedures are published in Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York (22 NYCRR Part 7200, et seq.).

The Trustees' primary focus is the reimbursement of losses caused by the dishonest conduct of attorneys who were admitted to the practice of law in New York State. 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.

## Claims Received and Processed

In 2009, 489 claims were filed with the Fund, an increase of 2 percent from 2008. The largest number (252) of claims sought reimbursement of legal fees followed by claims alleging losses in real estate transactions (132). The largest reported losses (\$13.1 million) involved alleged losses in real estate transactions. The second largest reported losses (\$10.9 million) involved investment transactions.

In 2009, 99 percent reimbursement was provided by the Fund to every eligible claimant.

The Trustees approved 139 awards in 2009, with documented losses of \$5.8 million. Awards totaled \$5.6 million, and ranged between \$150 and \$300,000. The median loss and award was \$10,000. All awards since 1982 involve actual client and escrow losses of \$180.3 million.

Of the 139 awards in 2009, losses in real estate transactions was the largest category of awards in both number (67) and dollar amount (\$3.6 million). In 2009, 48 percent of the awards approved, and 64 percent of the amount of reimbursement provided, involved thefts of real property escrows.

Since 1982, final determinations have been reached in 14,541 claims: 6,617 (46%) were found to qualify for reimbursement and 7,924 (54%) were determined to be ineligible.

**“We would like to thank you and your agency for handling our case in an expeditious manner and with great sensitivity. Because of your efforts, at least the financial aspect of this ordeal has been death with. We are grateful.”**  
**Message from a Claimant, 2009**

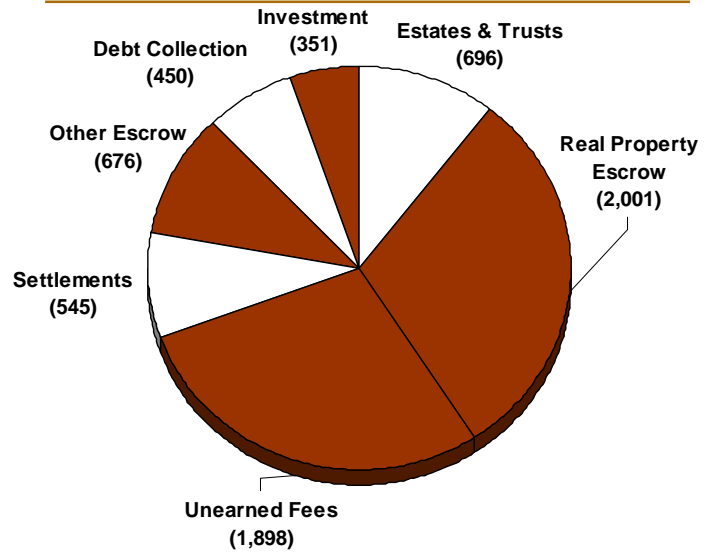
## Court Programs & Public Information

The Dishonored Check Notice Rule is a client protection device instituted at the request of the Fund's Trustees. Under the court rules for this program, the Lawyers' Fund acts as a statewide clearing house for reports of bounced checks on attorney trust, special and escrow accounts. The majority of bounced check notices result from innocent mistakes in law office banking practices. These reports though have identified upwards of 232 lawyers who had misused escrow funds.

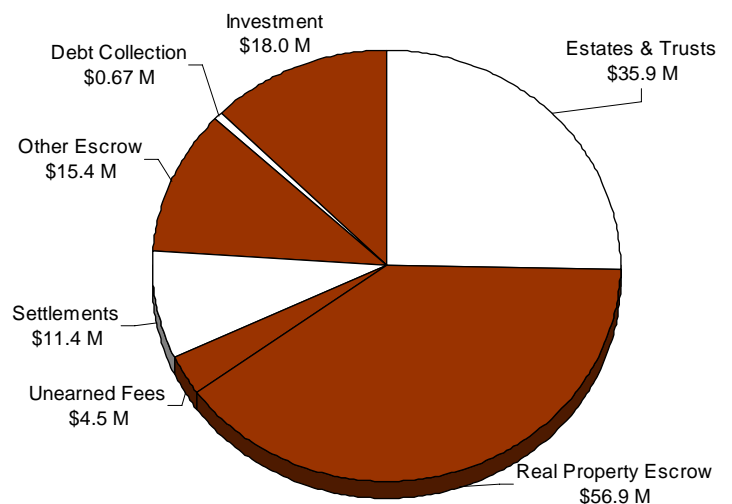
Court rules designate the Lawyers' Fund as a depository for money owed to missing law clients and escrow beneficiaries. 22 NYCRR Part 1200 (Rule 1.15 (f)). Deposits of \$1,000 or less will be accepted without court order in order to prevent the depletion of nominal deposits. The Fund's staff attempts to locate these clients to return these monies. As of December 31, 2009, a total of 1,575 deposits totaling \$3.3 million were received by the Fund. Staff successfully located 159 missing clients and restored \$407,026.

The Fund's internet site at [www.nylawfund.org](http://www.nylawfund.org) is a source of detailed information about the Fund and helpful advice for consumers and the legal community. The site contains frequently asked questions on the Fund and its procedures; the Trustees' Regulations; reimbursement claim forms; recent Annual Reports; consumer publications; and press releases.

### Number of Awards Approved Since 1982 by Category of Loss : 6,617 Awards



### Amount of Awards Since 1982 By Misconduct : \$142.9 Million



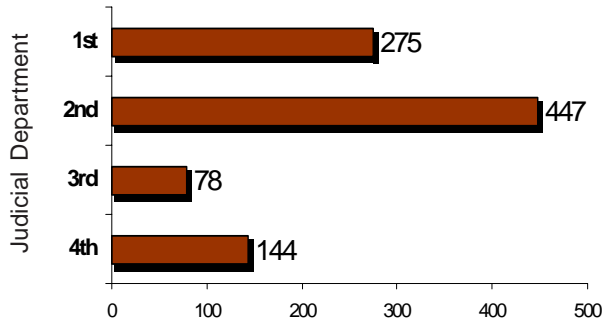
## Lawyers Involved in Awards, 1982 to 2009

In 27 years, only 944 former members of the bar have been responsible for the 6,617 awards granted by the Fund. A complete list of these former lawyers is available on the Fund's website [www.nylawfund.org](http://www.nylawfund.org). There are now 253,000 registered lawyers in New York State. The Trustees' awards in 2009 were attributable to dishonest conduct by 59 now suspended, disbarred or deceased lawyers. Of these 59 former lawyers, 23 were respondents in awards from prior years and the names of 36 dishonest lawyers appear for the first time in 2009 awards.

Most thefts involve sole practitioners, the majority of which are male and middle-aged. The apparent causes of misconduct by these lawyers are often traced to alcohol or drug abuse. Other causes are economic pressures, mental illness, marital, professional and medical problems, and gambling activity.

The geographic distribution of these 944 former lawyers, and the Fund's 6,617 awards, among the state's judicial departments is represented in the bar graphs to the right:

### Lawyers Involved in All Awards Since 1982



### First Judicial Department

New York and Bronx County

### Second Judicial Department

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

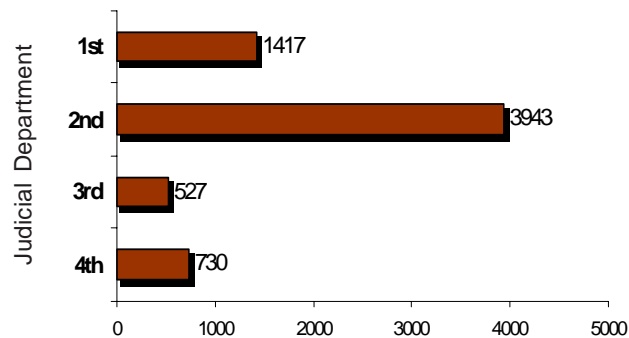
### Third Judicial Department

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

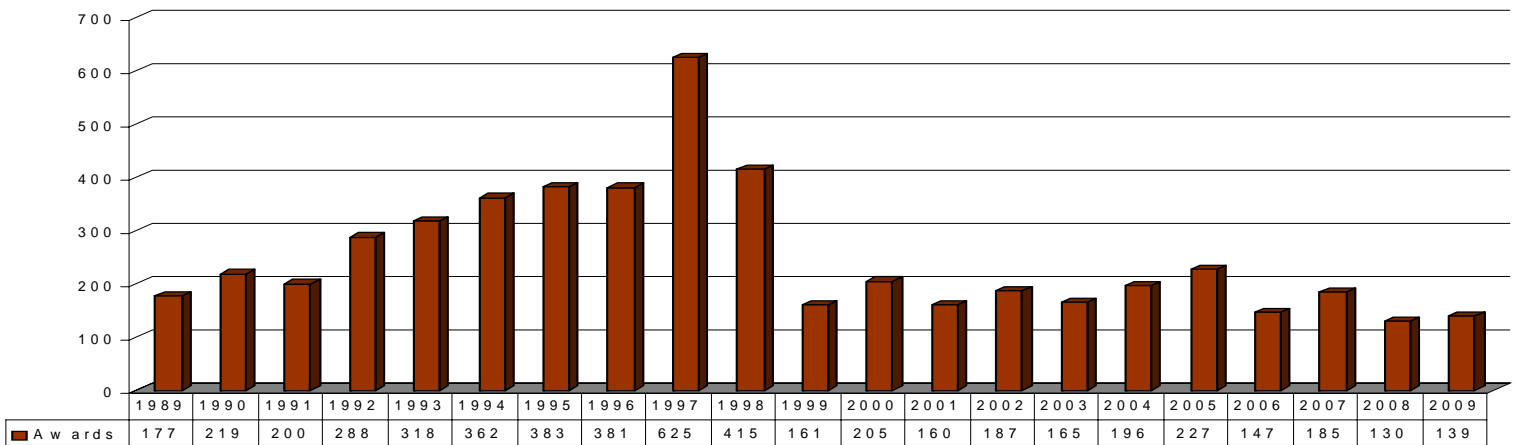
### Fourth Judicial Department

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

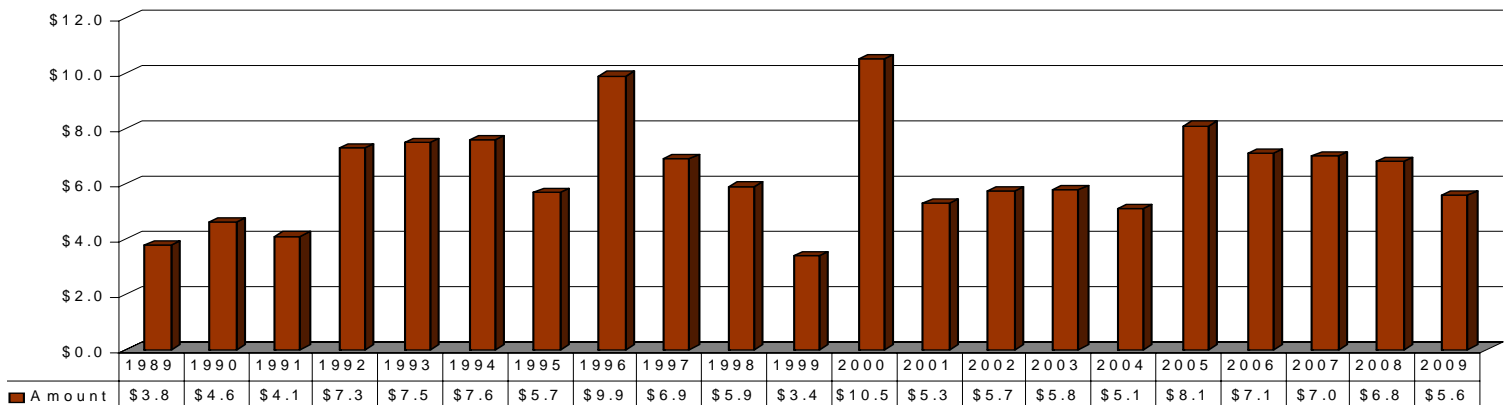
### Distribution of Awards Since 1982



## Approved Awards Experience From 1989-2009 (Number of Awards Approved Since 1982: 6,617)



## Approved Awards Experience From 1989-2009 (In Millions \$) (Total Awards Approved Since 1982: \$142.9 Million)



## The Board of Trustees



**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.



**Eric A. Seiff** of the Bronx is Vice-Chairman of the Board. Mr. Seiff is a partner in the Manhattan law firm of Seiff, Kretz & Abercrombie.



**Nancy Burner** of Suffolk County, is the founding partner of Burner, Smith & Assoc., LLP, an estate planning, trusts and estates, and elder law firm in Setauket and Westhampton Beach.



**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.



**Peter A. Bellacosa** of Manhattan is a partner in the litigation group of the Kirkland & Ellis law firm. Mr. Bellacosa was appointed to the Board of Trustees in 2009.



**Theresa B. Mazzullo** of Rochester, Monroe County, is the CEO of Excell Partners, a state supported seed venture capital company.



**Patricia L. Gatling**, of Manhattan, is the Commissioner and Chair of the New York City Commission on Human Rights. Ms. Gatling was appointed to the Board in November 2008.

Former members of the Board of Trustees include the Hon. Judith S. Kaye, former 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); John F. X. Mannion of Syracuse (1981-1992); Ray W. Manuszewski of Cheektowaga (1981-2002); Theodore D. Hoffmann of Hicksville (1990 to 2002); Shirley B. Waters of Rome (1992 to 2001); Bernard F. Ashe of Albany (1981-2008) and Charles J. Hynes of Brooklyn (1982-2009).

The Lawyers' Fund is administered by a Board of Trustees who are appointed by the Court of Appeals. Since 1981, the Board has been composed of five members of the bar and two business and community leaders.

The Trustees serve renewable three-year terms. They receive no compensation for their services.

The Fund's office is located in Albany. The Trustees are assisted by a five-member staff composed of Timothy J. O'Sullivan, Executive Director and Counsel; Michael J. Knight, Deputy Counsel; Jahnel Hall-Worthen, Administrative Secretary; Ray Wood, Investigator, and Harriett Tremblay, Secretary.

As one of the smallest of state agencies, the Fund relies greatly upon the support and kindness of colleagues in public service. The Trustees acknowledge our special appreciation to the Court of Appeals; the staffs of the Attorney Grievance Committees and District Attorneys' Offices; the Office of Court Administration; the Attorney General's Office and the Office of the State Comptroller.

## Revenue of the Lawyers' Fund

The biennial attorney registration fee required of every practicing attorney is the Fund's principal source of revenue. Section 468-a of the Judiciary Law allots \$60 of each \$350 registration fee to the Lawyers' Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

**The Lawyers' Fund does not receive any revenue from the Interest on Lawyer Account (IOLA) program. The Fund also does not receive any tax dollars.**

Other sources of revenue for the Fund include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$138 million from attorney registration fees; \$12.4 million in restitution; \$5.2 million in interest income; \$2.8 million in judicial sanction revenue; and \$291,000 in contributions from lawyers and the public. The Fund's revenues are annually appropriated to the Board of Trustees by the State Legislature as one component of the Judiciary Budget.

## Recommended Changes in Legal Practice and Policy

Each year, the Trustees recommend changes in legal practice and policy in fulfillment of their statutory responsibility to maintain the integrity of the legal profession and promote public confidence in the administration of justice. The full text of these recommendations can be found in our complete annual report posted at <http://www.nylawfund.org>.



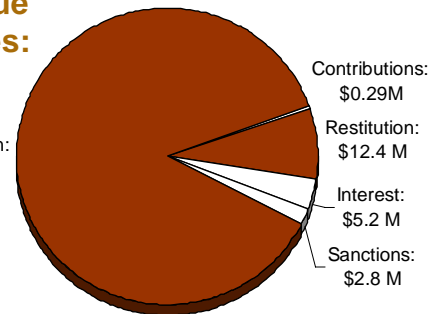
### Dedication: Hon. Charles J. Hynes

The Trustees are honored to dedicate this Annual Report to Charles J. Hynes who retired in 2009 after 27 years of noble service as a Trustee with the Lawyers' Fund. Since his initial appointment to the Board in 1982, "Joe" has been a trusted colleague and dear friend whose strength and wisdom has guided the Lawyers' Fund for three decades. His sense of duty and commitment to the Lawyers' Fund, our legal profession, our justice system and the public remains a beacon for the Fund's Trustees and staff, and all those in public service. The Fund has been fortunate to have Joe's progressive intellect and reasoned compassion as a resource to benefit New York's client protection program and legal profession. We at the Lawyers' Fund feel privileged to have had Joe as a vital part of our family for these 27 years. For that, we will always be grateful.

## The Fund's Finances Since 1982

### Revenue Sources:

Attorney Registration: \$138 M



### Claims and Operations:

Administrative Costs: \$13.5 M

