



# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2011 Annual Report of the Board of Trustees

This Annual Report of the Lawyers' Fund for Client Protection focuses on the Fund's activities in calendar year 2011.

The Lawyers' Fund is an independent public trust, financed by New York's legal profession, which reimburses law clients for financial losses caused by dishonest conduct in the practice of law. No other profession provides such protection to its clients.

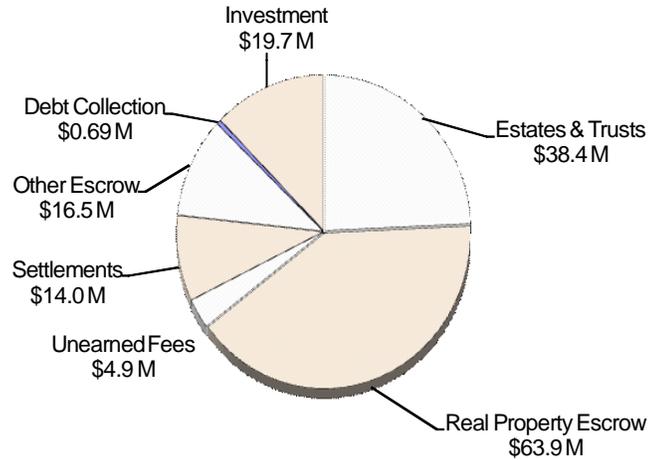
There are over 271,000 registered lawyers in New York State. The Trustees' experience over 29 years has clearly established that the overwhelming majority of New York's lawyers are honest and caring and deserving of their clients' trust. In 2011, as in every year since the Fund's inception in 1982, a small number of former lawyers are responsible for the dishonest conduct resulting in the Fund's awards. In 2011, 46 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 46 former lawyers, 26 appear for the first time in the Fund's awards.

In 2011, the Trustees approved 253 awards reimbursing a total of \$6.9 million to eligible law clients for losses caused by dishonest conduct of attorneys in New York State. All but five eligible law clients received 100 per cent reimbursement for their loss in 2011. Since 1982, the Trustees have granted 7,068 awards totaling \$158.3 million.

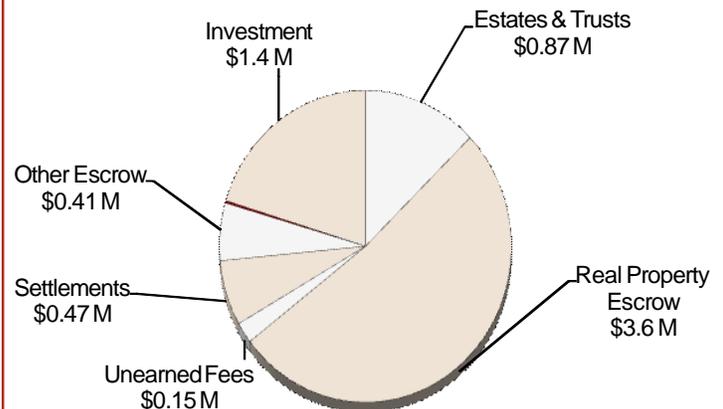
The Trustees are proud of New York's legal profession, and grateful for the financial and other support lawyers in New York State provide to the Lawyers' Fund and its client protection program. Each year, members of the bar generously donate their time and talents and assist claimants before the Fund as a public service, without legal fee.

**"It is a pleasure to know that the contributions made to the Fund can reassure our clients of the integrity of the legal profession and that the actions of one attorney do not reflect the integrity of the rest."**  
**Message from a Claimant's Attorney, 2011**

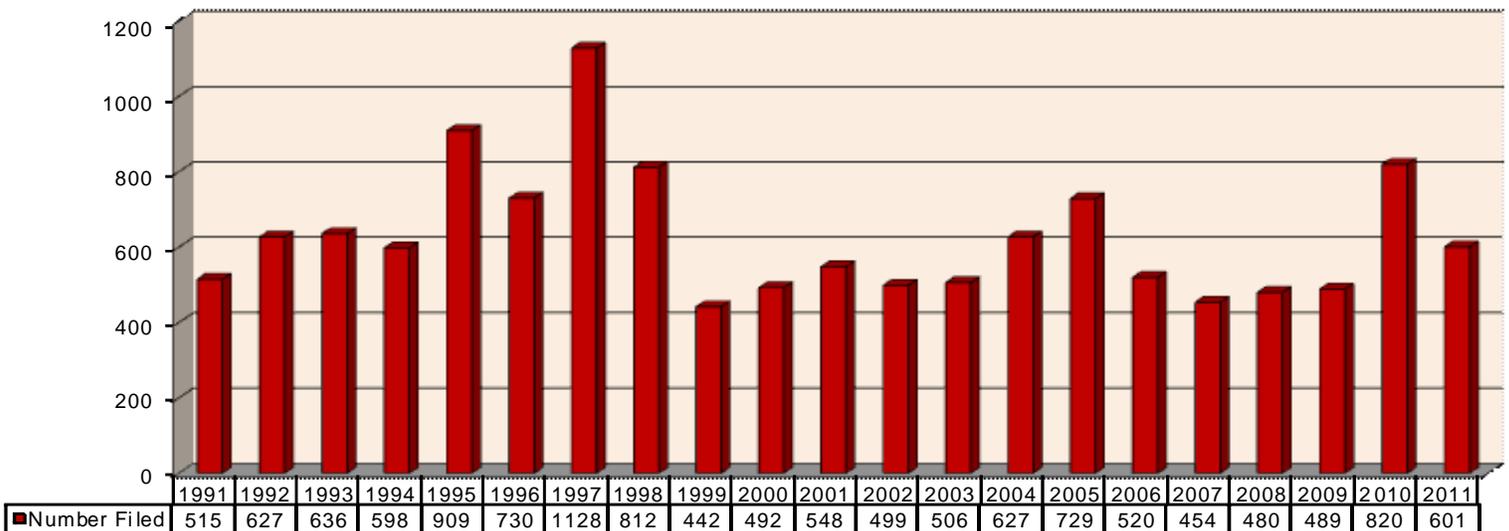
### Amount of Awards Since 1982 By Misconduct : \$158.3 Million



### Amount of 2011 Awards By Misconduct : \$6.9 Million



### Number of Reimbursement Claims Filed, 1991 - 2011 (Total Number of Reimbursement Claims Filed Since 1982: 16,560)



## 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.).

**"This is just a letter of great thanks. The money that was reimbursed was an answer to prayer. This money will help us so much!! All we can say is thank you for doing such a wonderful service"**  
**Message from a claimant, 2011**

## 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 254 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, 2011, a total of 1,897 deposits totaling \$3.9 million were received by the Fund. Staff successfully located 194 missing clients and restored \$541,285.

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.

## Claims Received and Processed

In 2011, 601 claims were filed with the Fund, a decrease of 27 percent from 2010. In 2010, there were 252 (41.9%) claims seeking reimbursement of legal fees and 187 (31.1%) claims involving real property escrows. The largest reported losses (\$17.6 million) involved real estate losses. The second largest reported losses (\$17.2 million) involved investment transactions.

The Trustees approved 253 awards in 2011, with documented losses of \$9.9 million. Awards totaled \$6.9 million, and ranged between \$140 and \$300,000. The median loss and award was \$5,000. All awards since 1982 involve actual client and escrow losses of \$199.6 million. In 2011, 98 percent of eligible claimants received full reimbursement of their loss.

Of the 253 awards in 2011, unearned legal fees were the largest category of awards in number (101) followed by losses in real estate transactions (95). Awards in real estate transactions were the largest dollar amount (\$3.6 million). In 2011, 38 percent of the awards approved, and 52 percent of the amount of reimbursement provided, involved thefts of real property escrows. **Twenty-two (22) former lawyers were responsible for the 95 real estate awards. Of these 22 former lawyers, 16 were from the Second Judicial Department. It is important to note that there are over 52,000 registered lawyers in the Second Judicial Department.** Since 1982, final determinations have been reached in 15,730 claims: 7,068 (45%) were found to qualify for reimbursement and 8,662 (55%) were determined to be ineligible.

The Trustees remain concerned about the continuing problem of lawyer theft of real estate escrow funds. In 2011, the Trustees analyzed the Fund's claims experience with real property losses from 1995 to 2010. This analysis showed that for this 15-year period, awards involving

### Realty Awards, 1995-2011 - By Judicial Department

Dep't	Number of Awards	%	Amount of Awards	%
1st	230	16.9%	\$12,961,484	25.9%
2nd	1,036	76.1%	\$34,420,518	68.7%
3rd	33	2.4%	\$1,373,121	2.7%
4th	62	4.6%	\$1,353,890	2.7%
<b>Totals</b>	<b>1,361</b>	<b>100%</b>	<b>\$50,109,013</b>	<b>100%</b>

real estate losses and down payment thefts were concentrated in the Tenth Judicial District. The Trustees hosted a conference in 2011 to discuss the Fund's experience with real estate escrow losses. In attendance were representatives of the District Attorneys and Bar

Associations of Nassau and Suffolk Counties, the New York State Bar Association's Task Force on Attorney Escrow Accounts, the Attorney Disciplinary System, and Touro Law School. The Trustees look forward to continuing these collaborative efforts to analyze and address lawyer theft of real estate escrows and down payments.

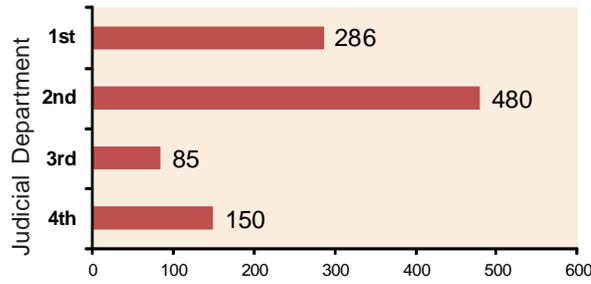
# Lawyers Involved in Awards, 1982 to 2011

In 29 years, 1,001 former members of the bar have been responsible for the 7,068 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 over 271,000 registered lawyers in New York State. The Trustees' awards in 2011 were attributable to dishonest conduct by 46 now suspended, disbarred or deceased lawyers. Of these 46 former lawyers, 20 were respondents in awards from prior years and the names of 26 dishonest lawyers appear for the first time in 2011 awards.

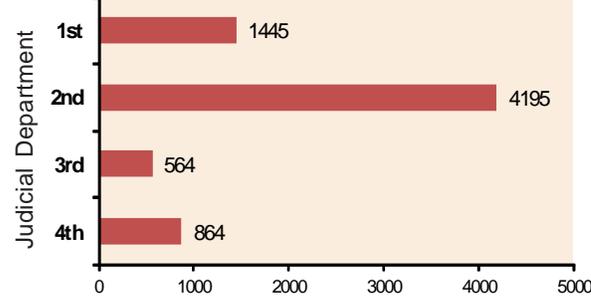
Most thefts involve sole practitioners, the majority of which are male and middle-aged. The apparent causes of misconduct by these lawyers are often traced to alcohol or drug abuse. Other causes are economic pressures, mental illness, marital, professional and medical problems, and gambling activity.

The geographic distribution of these 1,001 former lawyers, and the Fund's 7,068 awards, among the state's judicial departments is represented in the bar graphs to the right:

## Lawyers Involved in All Awards Since 1982



## Distribution of 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

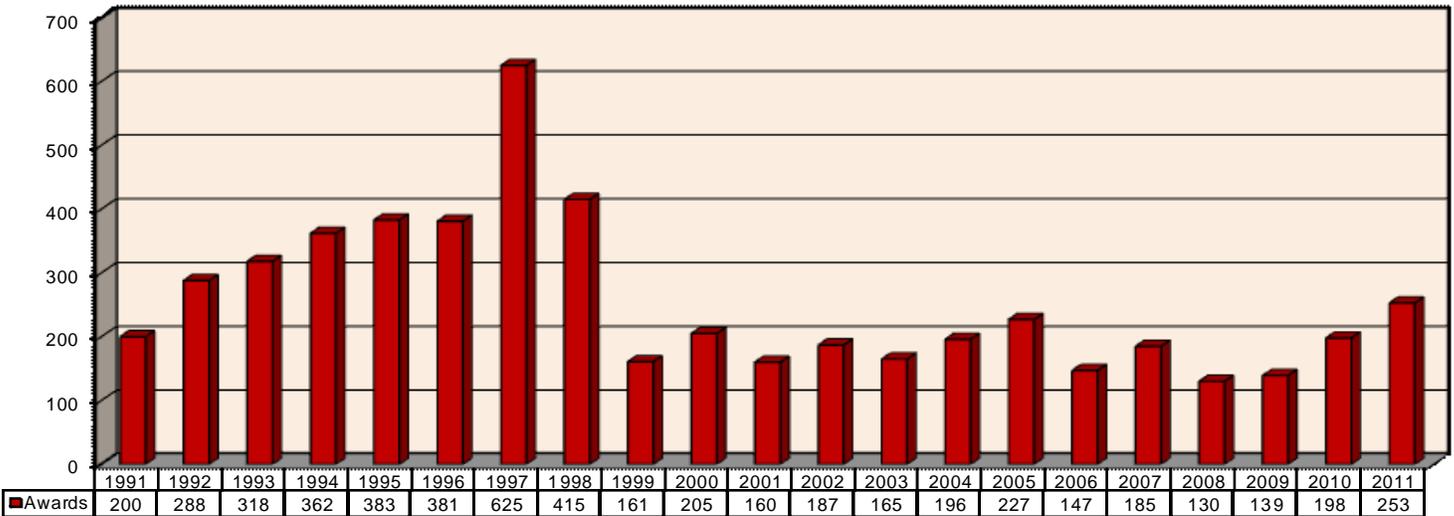
### Third Judicial Department

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

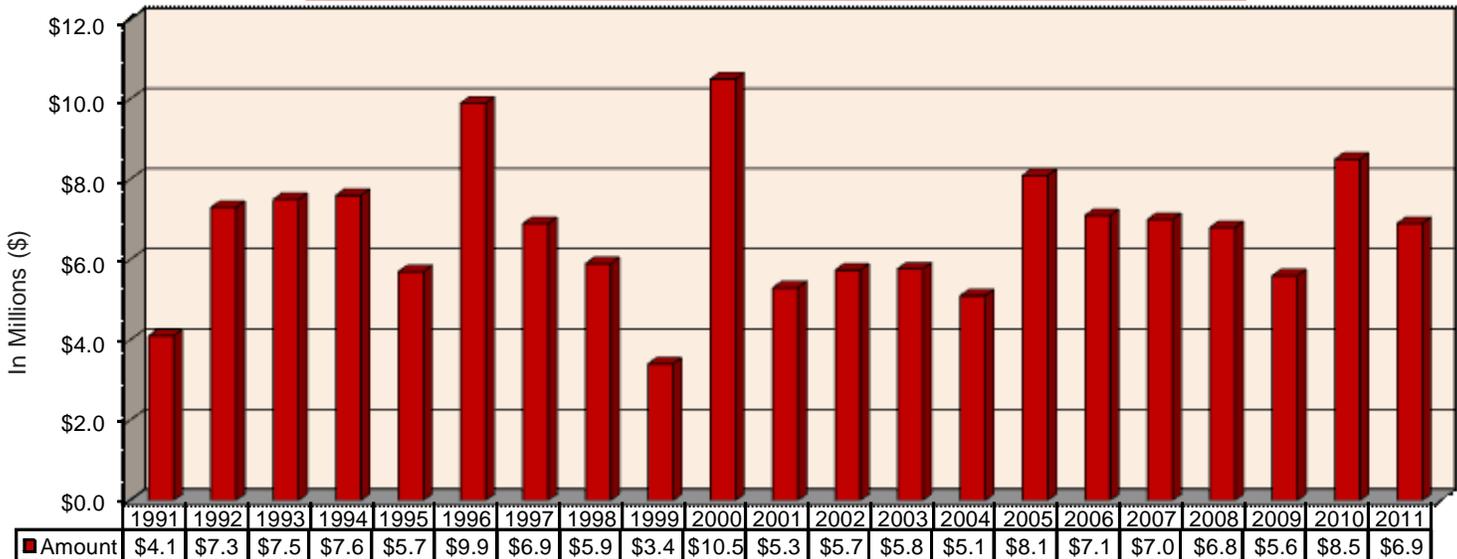
### Fourth Judicial Department

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

## Number of Awards Approved From 1991-2011 (Total Number of Awards Approved Since 1982: 7,068)



## Amount of Awards Approved From 1991-2011 (In Millions \$) (Total Amount of Awards Approved Since 1982: \$158.3 Million)



## The Board of Trustees



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



**Nancy Burner** of Suffolk County, is the Vice-Chairman of the Fund and the founding partner of Nancy Burner & Associates, P.C., in Setauket and Westhampton Beach.



**Eleanor Breitel Alter** of Manhattan is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman.



**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.



**Theresa B. Mazzullo** of Rochester, Monroe County, is the Fund's Treasurer and the CEO of Excell Partners, a state supported seed venture capital fund.



**Patricia L. Gatling**, of Manhattan, is the Commissioner and Chair of the New York City Commission on Human Rights.

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 Hon. Charles J. Hynes, Kings County District Attorney (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 \$375 registration fee to the Lawyers' Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been made available to the Fund.

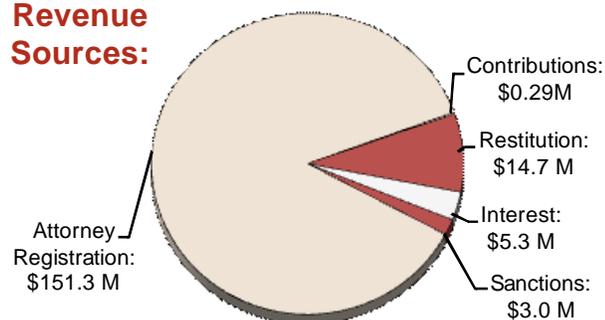
**The Lawyers' Fund does not receive any revenue from the Interest on Lawyer Account (IOLA) program. The Fund also does not receive any tax dollars.**

Other sources of revenue for the Fund include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$151.3 million from attorney registration fees; \$14.7 million in restitution; \$5.3 million in interest income; \$3.0 million in judicial sanction revenue; and \$298,000 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.

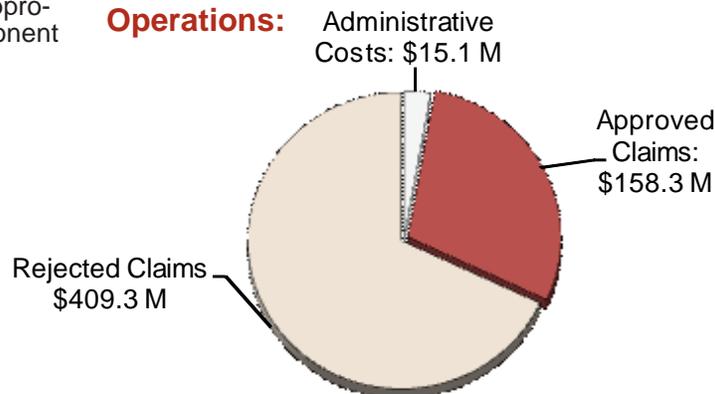
**"I want to express my gratitude to the Lawyers' Fund for Client Protection for the decision they have reached in this matter. It restores one's faith to know that justice has prevailed."  
Message from a claimant, 2011**

## The Fund's Finances Since 1982

### Revenue Sources:



### Claims and Operations:



## 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 [www.nylawfund.org](http://www.nylawfund.org).