



# The Lawyers' Fund for Client Protection

of the State of New York

## Highlights from the 2012 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 2012.

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.

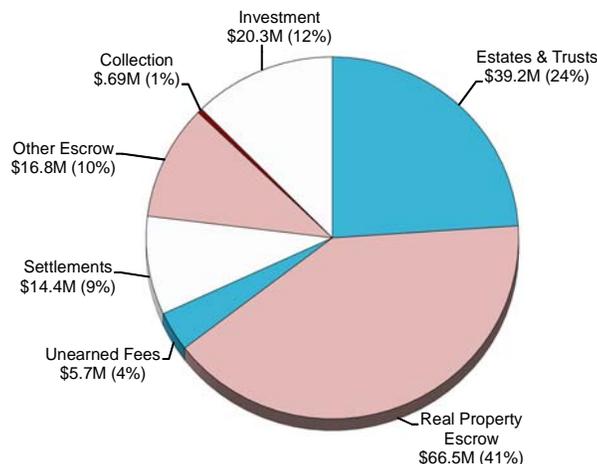
There are over 298,000 registered lawyers in New York State. The Trustees' experience over 30 years has clearly established that the overwhelming majority of New York's lawyers are honest and caring and deserving of their clients' trust. In 2012, as in every year since the Fund's inception in 1982, a small number of former lawyers are responsible for the dishonest conduct resulting in the Fund's awards. In 2012, 60 now suspended, disbarred or deceased lawyers were responsible for the client losses reimbursed by the Fund. Of these 60 former lawyers, 31 appear for the first time in the Fund's awards.

In 2012, the Trustees approved 187 awards reimbursing a total of \$5.4 million to eligible law clients for losses caused by dishonest conduct of attorneys in New York State. All eligible law clients received 100 per cent reimbursement for their loss in 2012. Since 1982, the Trustees have granted 7,255 awards totaling \$163.7 million.

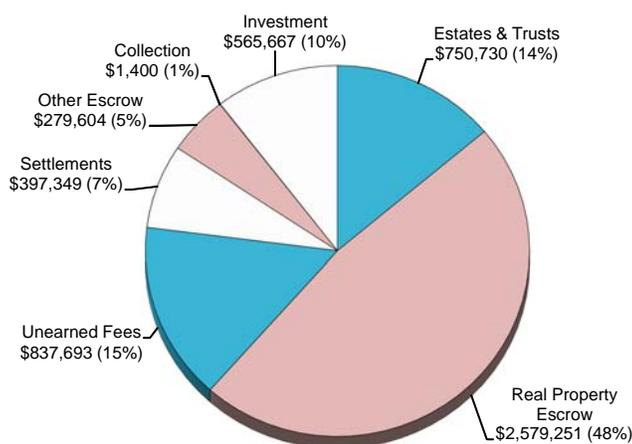
The Trustees are proud of New York's legal profession, and grateful for the financial and other support lawyers in New York State provide to the Lawyers' Fund and its client protection program. Each year, members of the bar generously donate their time and talents and assist claimants before the Fund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

**"I received your letter stating the Board of Trustees has approved (my) award. I just wanted to say thank you! I know (my former lawyer) does not reflect the majority of the members and I thank (lawyers in New York) for setting up the Fund to help protect those of us trusting the system".**  
**Message from a Claimant, 2012**

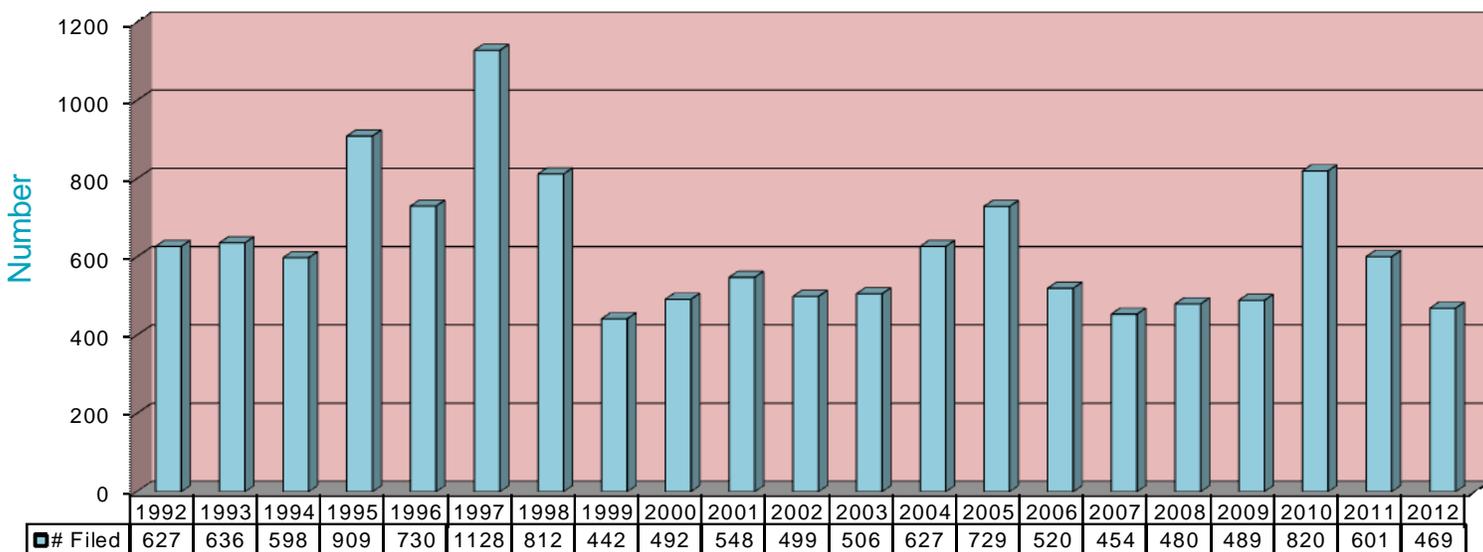
### Amount of Awards Since 1982 By Misconduct : \$163.7 Million



### Amount of 2012 Awards By Misconduct : \$5.4 Million



### Number of Reimbursement Claims Filed, 1992 - 2012 (Total Number of Reimbursement Claims Filed Since 1982: 17,029)



## 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.).

**"I want to thank you for all your hard work in this matter and cannot say enough thanks. Really appreciate what your group of fine Trustees do..."**  
**Message from a claimant, 2012**

## 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 260 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, 2012, a total of 1,997 deposits were received by the Fund. Staff successfully located 210 missing clients and restored \$579,536.

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 2012, 469 claims were filed with the Fund, a decrease of 22 percent from 2011. In 2012, there were 209 (45%) claims seeking reimbursement of legal fees and 111 (24%) claims involving real property escrows. The largest reported losses (\$19.5 million) involved investment transactions. The second largest reported losses (\$7.9 million) involved real estate losses.

The Trustees approved 187 awards in 2012, with documented losses of \$5.4 million. Awards totaled \$5.4 million, and ranged between \$100 and \$300,000. The median loss and award was \$5,000. All awards since 1982 involve actual client and escrow losses of \$204 million. In 2012, 100 percent of eligible claimants received full reimbursement of their loss.

Of the 187 awards in 2012, unearned legal fees were the largest category of awards in number (90) followed by losses in real estate transactions (60). Awards in real estate transactions were the largest dollar amount (\$2.6 million). In 2012, 32

### Realty Awards, 1995-2012 - By Judicial Department

Dept't	Number of Awards	%	Amount of Awards	%
1st	235	16.5%	\$13,140,154	24.9%
2nd	1,085	76.4%	\$36,460,539	69.2%
3rd	36	2.5%	\$1,508,740	2.9%
4th	65	4.6%	\$1,578,831	3.0%
<b>Totals</b>	<b>1,421</b>	<b>100%</b>	<b>\$52,688,264</b>	<b>100%</b>

percent of the awards approved, and 48 percent of the amount of reimbursement provided, involved thefts of real property escrows. **Twenty-seven (27) former lawyers were responsible for the 60 real estate awards. Of these 27 former lawyers, 11 were from the Second Judicial Department. It is important to note that there are over 53,000 registered lawyers in the Second Judicial Department.** Since 1982, final determinations have been reached in 16,255 claims: 7,255 (45%) were found to qualify for reimbursement and 9,000 (55%) were determined to be ineligible.

A major concern for the Trustees continues to be the problem of lawyer theft of real estate escrow funds. Since 1982, real estate escrow losses are the largest single category of awards from the Fund in both the number of awards approved and amount of reimbursement provided. In 30 years, 30 percent of the number of all awards from the Fund and 40 percent of all money paid out by the Fund have reimbursed real estate escrow losses. Since 1982, the Trustees have approved 2,231 awards totaling \$66.5 million for real property losses. The Trustees look forward to continuing collaborative efforts with bar leaders to analyze and address lawyer theft of real estate escrows and down payments.

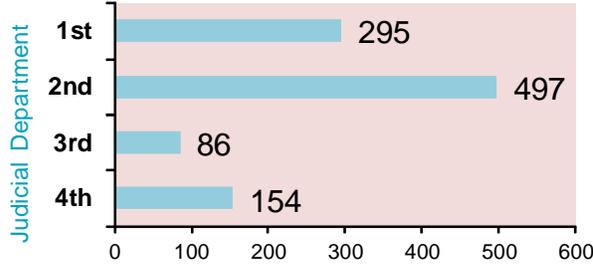
# Lawyers Involved in Awards, 1982 to 2012

In 30 years, 1,032 former members of the bar have been responsible for the 7,255 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 298,000 registered lawyers in New York State. The Trustees' awards in 2012 were attributable to dishonest conduct by 60 now suspended, disbarred or deceased lawyers. Of these 60 former lawyers, 29 were respondents in awards from prior years and the names of 31 dishonest lawyers appear for the first time in 2012 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 1,032 former lawyers, and the Fund's 7,255 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

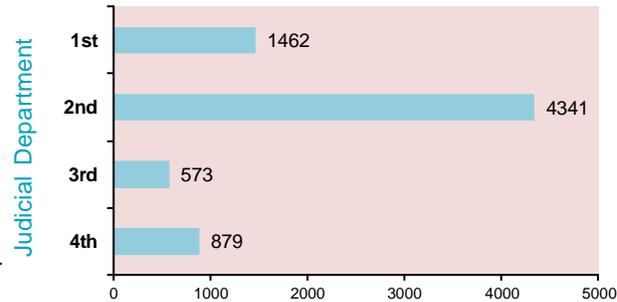
### Third Judicial Department

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

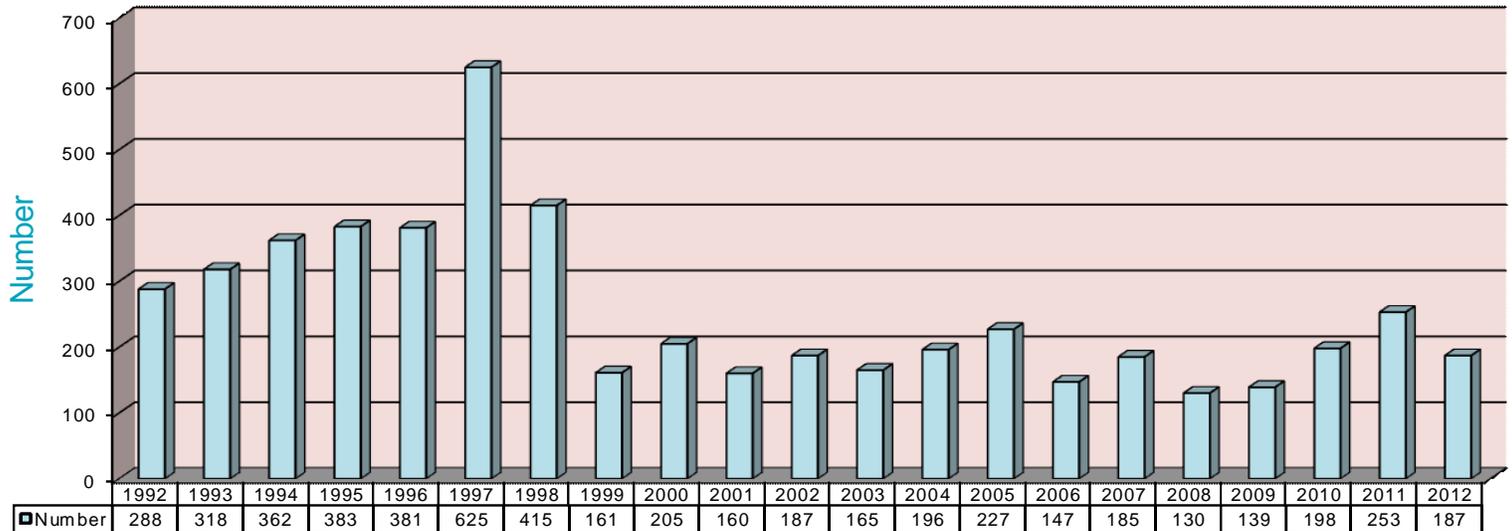
### Fourth Judicial Department

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

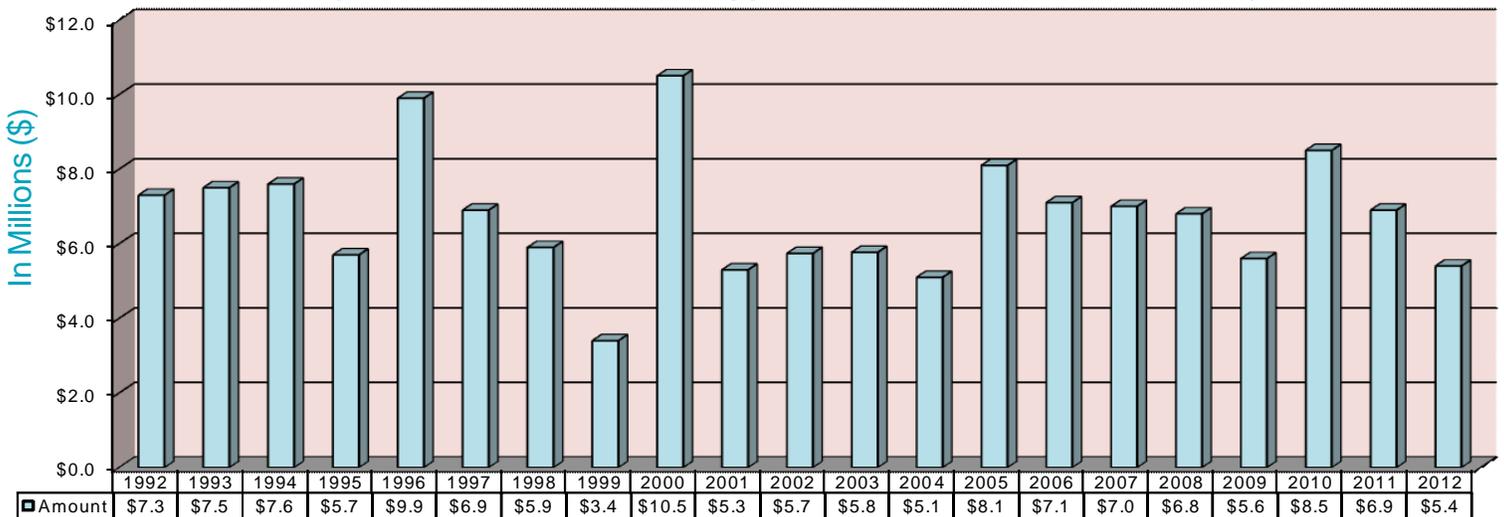
## Distribution of Awards Since 1982



## Number of Awards Approved From 1992-2012 (Total Number of Awards Approved Since 1982: 7,255)



## Amount of Awards Approved From 1992-2012 (In Millions \$) (Total Amount of Awards Approved Since 1982: \$163.7 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.

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.



**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.

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; Janel Kaczor, Administrative Secretary; Ray Wood, Investigator, and Harriett Tremblay, Secretary.



**Peter A. Bellacosa** of Manhattan is the Fund's Treasurer and a partner in the litigation group of the Kirkland & Ellis law firm.



**Anthony J. Baynes** of Erie County, is the founder and current Chairman of the AJ Baynes Group, a Buffalo based development and logistics company.

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.



**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); Hon. Charles J. Hynes, Kings County District Attorney (1982-2009) and Theresa B. Mazzullo of Rochester (2002-2012).

## Revenue of the Lawyers' Fund

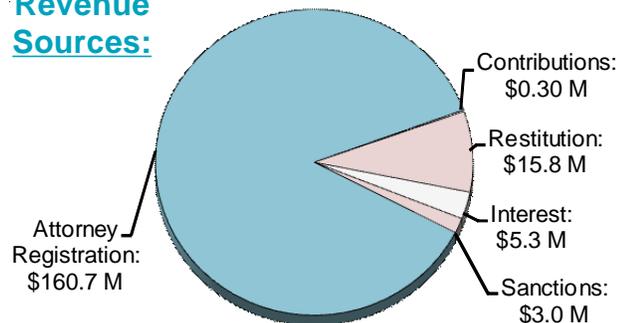
The biennial attorney registration fee required of every practicing attorney is the Fund's principal source of revenue. Section 468-a of the Judiciary Law allots \$60 of each \$375 registration fee to the Lawyers' Fund. Since April 1, 1993, additional revenue from the biennial registration fee has been 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.**

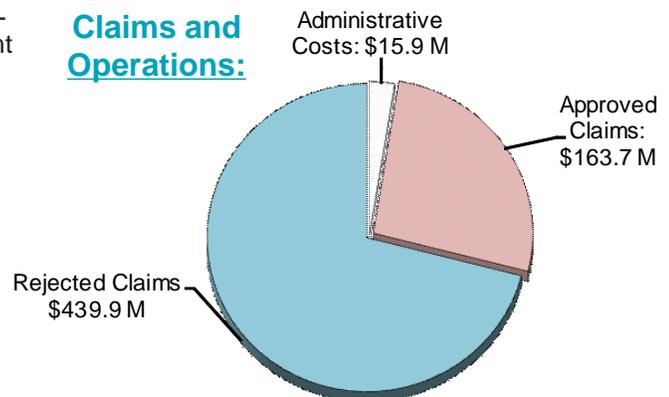
Other sources of revenue for the Fund include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$160.7 million from attorney registration fees; \$15.8 million in restitution; \$5.3 million in interest income; \$3.0 million in judicial sanction revenue; and \$301,000 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.

## The Fund's Finances Since 1982

### Revenue Sources:



### Claims and Operations:



**"I have not enough words how to thank you! Thank you from the bottom of my heart for all your hard work and not giving up on me. God bless you and give you wisdom and strength to be able to help people like me."  
Message from a claimant, 2012**

## 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).