

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

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Lawyers' Fund Issues 2001 Annual Report

The New York Lawyers' Fund for Client Protection has issued its Annual Report for 2001.

The Lawyers' Fund is a state agency, financed by New York's legal profession, which reimburses law clients for losses caused by their attorney's dishonest conduct in the practice of law.

Last year, the Lawyers' Fund paid out \$5.3 million in awards to 160 law clients. For the first time in the Fund's 19 year history, all clients obtaining an award received 100 percent reimbursement. Since 1986, the Lawyers' Fund has provided full reimbursement to 97 percent of all eligible clients.

Less than one-half of one percent of New York's lawyers are responsible for the losses reimbursed by the Lawyers' Fund. There are 189,000 registered lawyers in New York State. Only 65 former lawyers were involved in the 160 awards granted in 2001. Since the Fund's inception in 1982, New York's legal profession has restored over \$91 million to 5,241 eligible clients. All awards since 1982 have involved only 683 former lawyers.

The Lawyers' Fund is a special trust created by the State Legislature. The Fund's principal source is from a biennial attorney registration fee required of every active lawyer in New York. Of each \$300 fee, the Fund receives \$100 to pay all awards of reimbursement and administrative costs. The Fund receives no money from taxpayers or the State's Interest on Lawyer Account Program (IOLA).

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

The Lawyers' Fund is chaired by **Eleanor Breitel Alter**, a Manhattan lawyer with Kasowitz, Benson, Torres & Friedman. According to Mrs. Alter, there are now client protection funds in every state. The New York Lawyers' Fund provides coverage of \$300,000 for each client loss, the Nation's highest award limit.

In addition to Mrs. Alter, the Trustees are **Bernard F. Ashe** of Albany, former General Counsel to New York State United

Teachers (NYSUT); **Charlotte G. Holstein** of Syracuse, Executive Director of F.O.C.U.S. Greater Syracuse; **Theodore D. Hoffmann** of Hicksville, Of Counsel to the Garden City law firm of Albanese, Albanese & Fiore; **Charles Joseph Hynes**, District Attorney of Kings County; **Ray W. Manuszewski** of Cheektowaga, Erie County, former Regional President of Manufacturers Hanover Trust Company N.A. in Buffalo; and **Eric A. Seiff**, a partner in the Manhattan law firm of Seiff, Kretz & Maffeo.

Typical losses covered by the Lawyers' Fund include the theft of estate or trust assets, real estate down payments, settlement proceeds in litigation, money embezzled from law clients in investment transactions and unearned legal fees accepted by a lawyer who falsely promised to render legal services. The Fund has no jurisdiction over alleged neglect, malpractice or in claims involving disputes over legal fees.

The Lawyers' Fund ended 2001 with only 198 pending claims, nearly the same number as the close of 2000 when the Fund had the lowest number of pending claims since 1984.

Included in the Trustees' Annual Report are recommendations for changes in policy and court rules in order to protect legal consumers. The recommendations include:

- The lifting of confidentiality in attorney disciplinary proceedings when there is probable cause that a lawyer has stolen escrow funds. The Trustees point out that their experience has shown that a few dishonest lawyers exploit the laws of confidentiality in order to conceal criminal activity.

- New laws requiring the named fiduciary of an estate to be provided with a copy of the estate's monthly bank statement. This simple step would help detect thefts from estates, the largest category of reported losses to the Lawyers' Fund.

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

A successful court program discussed in the Trustees' Annual Report is the Dishonored Check Notice Rule. This program is designed to detect bounced checks on attorney escrow accounts. Participating banks are required to forward notice of bounced escrow account checks to the Lawyers' Fund. The Fund then notifies the appropriate disciplinary authorities. Since 1993, this program has identified 86 lawyers misusing client funds.

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