



Annual Report of the Board of Trustees for 1999

Claims seeking reimbursement for losses resulting from dishonest conduct in the practice of law in New York State dropped by 46 percent in 1999.

Losses alleged by claimants last year dropped by 35 percent.

The New York Lawyers' Fund last year restored \$3.4 million to 161 eligible law clients and escrow beneficiaries.

Only one eligible victim in 1999—a pension fund—received less than full reimbursement for its loss. The remaining 160 victims of lawyer dishonesty received 100 percent reimbursement of their losses.

Sixty-nine of those eligible claimants were represented by lawyers, free of charge to them and to the Lawyers' Fund.

At year's end, the fund's Board of Trustees increased the fund's coverage from \$200,000 to \$300,000 per eligible loss, effective January 1, 2000 and paramount in the nation.

Reimbursement awards in 1999 reimburse losses caused by 68 former members of the New York bar. There are 181,000 lawyers admitted to practice in the Empire State.

The median client and escrow loss reimbursed last year was \$5,000.

All claims processed to final disposition in 1999 involved alleged losses of \$14 million.

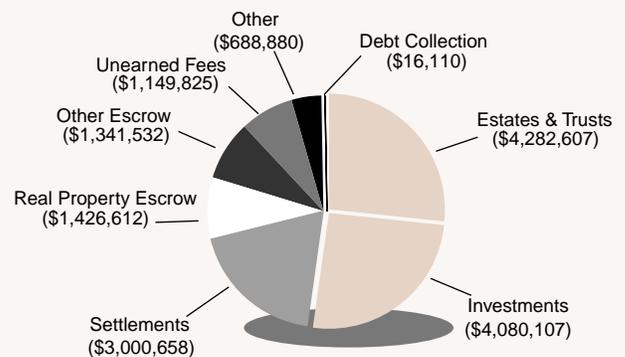
At year's end, there were 235 pending claims. They allege dishonest conduct by 110 lawyers and law firms, and losses of \$16 million.

The fund had \$6.3 million in its trust account in the state treasury at the close of 1999.

All awards since 1982 total \$75.4 million. They have been paid to 4876 eligible claimants of 606 former lawyers.

Reported Losses in 1999

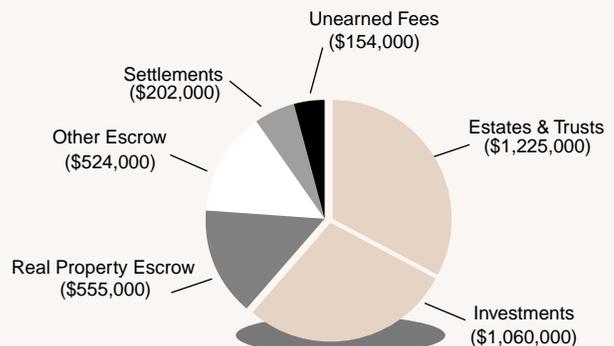
There were 442 reimbursement claims filed in 1999. The bulk of reported losses (71%) involve alleged embezzlements in investment transactions, thefts from estates and trusts, and thefts of settlement proceeds.



Losses in 1999 Awards

The Trustees approved 161 reimbursement awards in 1999. Awards totaled \$3.4 million, and reimbursed actual client losses of \$3.7 million.

Thefts from estates and trusts and frauds in investment transactions accounted for the bulk of client losses (61%).



The New York Lawyers' Fund was created by the State Legislature in 1981. The law provides for the reimbursement of losses caused by a lawyer's "dishonest conduct", which is defined as the "misappropriation or wilful misapplication" of client property in the practice of law.

Examples of eligible losses include the theft of estate assets, real property escrows, litigation settlements, debt-collection proceeds, and embezzled investments. The fund requires the lawyer's removal from practice, and evidence that the lawyer is unable to make restitution. The fund's Trustees budget \$8 million annually for awards to eligible victims.

The fund has no jurisdiction in fee disputes, and will only reimburse legal fees where there's evidence of deceit or larceny by false promise. In investment frauds, the client must show that "but for" dishonest conduct in an attorney-client relationship, the loss would not have occurred.

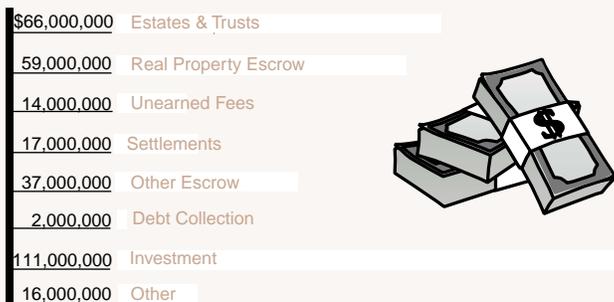
The fund does not reimburse losses incurred by government agencies, financial institutions, or business organizations having 20 or more employees.

Claim investigations are coordinated with the efforts of Attorney Grievance Committees and District Attorneys to avoid duplication of effort and expense.

Claim filings in 1999 totaled 442, down from 812 filed claims in 1998. Claims in 1999 alleged losses of \$16 million. The largest number (199) sought reimbursement of legal fees. The largest reported losses (\$4.3 million) involved the administration of estates and trusts, followed by \$4 million in alleged losses involving investment transactions with lawyers.

Reported Losses Since 1982

All reimbursement claims since 1982 total 9795. The claims allege losses of \$322 million.



The Trustees meet quarterly to evaluate the merits of claims. Claim reports are readied for the Trustees promptly following a lawyer's disbarment. Awards are paid by the NYS Comptroller from the fund's trust account in the New York State Treasury.

The Trustees approved 161 awards in 1999, with documented losses of \$3.7 million. Awards totaled \$3.4 million, and ranged between \$9 and \$200,000. Median loss and award: \$5,000.

Only three claimants have challenged Trustees' determinations, in Article 78 proceedings, which denied them awards. They involved investment transactions with lawyers. Two proceedings were judicially dismissed, and the third challenge is pending.

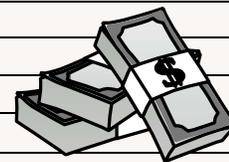
Since 1982, final determinations have been reached in 9,795 claims. Nearly half of all claims (4,876) were approved; and half (4,744) were rejected. Losses alleged in rejected claims now exceed \$183 million.

All awards since 1982 involve actual client and escrow losses of \$109 million. Most losses involve thefts from estates and trusts (\$40 million), followed by thefts in real property transactions, typically residential purchases and sales (\$27 million).

Reported Losses Since 1989

Alleged losses in filed claims since 1989 have ranged from \$14 million in 1989 to \$41 million in 1997.

1999	15,900,000
1998	24,300,000
1997	40,800,000
1996	29,900,000
1995	36,800,000
1994	25,500,000
1993	25,400,000
1992	25,200,000
1991	28,300,000
1990	15,800,000
1989	14,000,000



Actual Losses in all Awards

The Trustees have approved 4876 reimbursement awards since 1982. Actual losses of law clients and escrow beneficiaries total \$108.3 million.



Lawyers Involved in All Awards

The Trustees' awards since 1982 involve 606 former lawyers. Their law offices were located in these judicial departments of New York State.

First Department	187
Second Department	274
Third Department	50
Fourth Department	95



Awards since 1982 involve dishonest conduct by 606 former members of the bar. The national experience (and there are now client protection funds in every state) is that most losses involve sole practitioners. Very few losses in New York State involve female lawyers.

A large percentage of losses that come to the fund involve a lawyer's medical and professional problems, alcohol, gambling and drug abuse.

The NYS Department of Law represents the fund in its subrogation efforts, and provides an Assistant Attorney General at an annual cost to the fund of \$95,500.

Orders of restitution, including money judgments imposed in disbarment proceedings, safeguard the fund's creditor rights. One recent order permitted the fund's seizure of a \$1 million lottery jackpot to satisfy a \$100,000 restitution claim. The fund's recovery included interest and legal fees.

The theft of a personal injury settlement, by forgery of the client's endorsement, has been nearly eliminated in New York, thanks to an Insurance Department procedure, proposed by the fund, that requires notice to a client when an insurer mails the settlement check to the client's attorney. The ABA has crafted this procedure into a Model Rule for all states.

Claim Filings Since 1990

Claims to the fund in 1999 dropped by 46%.

1999	442
1998	812
1997	1128
1996	730
1995	909
1994	598
1993	636
1992	627
1991	515
1990	438



Lawyers in New York assist claimants pursue their claims at the fund without legal fee. They do it in great numbers; indeed, nearly half of all claimants have counsel assisting them. Many are standing volunteers ready to help clients in trouble.

Awards of Reimbursement Since 1989

The number of reimbursement awards dropped in 1999 after years of steady growth.

1999	161
1998	415
1997	625
1996	381
1995	383
1994	362
1993	318
1992	288
1991	200
1990	219
1989	177



The fund's site on the Internet—www.nylawfund.org—was financed by a testamentary gift from a Justice of the Supreme Court. The site contains complete information about the fund, helpful advice for consumers and the legal community including, *A Practical Guide to Attorney Trust Accounts and Recordkeeping*; *Know Your Escrow Rights*; *What's a Power of Attorney?*; and *Avoiding Grief with a Lawyer – A Practical Guide*. There are hypertext links to other Internet legal sites, and the Trustees' annual reports.

The Lawyers' Fund acts as a statewide clearing house for reports of bounced checks on attorney trust and escrow accounts. In six years, the fund has processed 3500 bank reports involving bounced checks on trust accounts totaling \$57 million. The reports have identified upwards of 40 lawyers who had misused escrow funds. Most have clients who have claims pending with the fund.

Court rules designate the Lawyers' Fund as a depository for funds that belong to missing law clients and escrow beneficiaries. 22 NYCRR 1200.46(f-1). The rules and sample pleading forms are posted in the fund's Internet site.

Distribution of Awards Since 1982

The Trustees awards since 1982 were paid to law clients and escrow beneficiaries of lawyers who had offices in these judicial departments of New York State.



First Department	960
Second Department	2935
Third Department	434
Fourth Department	547

Section 468-b of the Judiciary Law provides for the administration of the fund, and section 97-t of the State Finance Law governs the management of its assets as a special government trust.

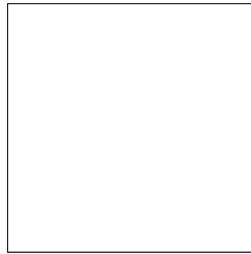
Both statutes vest full administrative responsibility in a seven member Board of Trustees appointed by the Court of Appeals.

The Trustees serve *pro bono publico*. Their regulations are published at 22 NYCRR Part 7200.

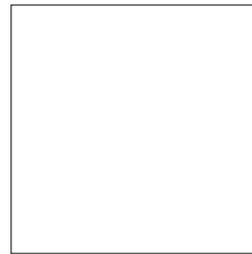
They are assisted by a staff of seven persons headquartered in Albany.

The fund's main source of revenue is a \$100 share of the biennial registration fee, augmented by interest; financial sanctions for frivolous conduct; restitution receipts; and contributions.

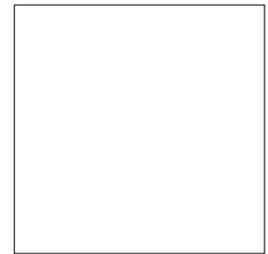
The fund gets no money from the IOLA program, or from general tax revenues.



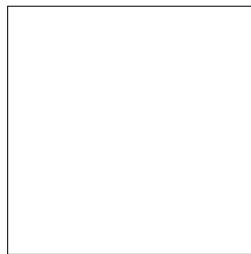
Eleanor Breitel Alter has served as Chairman of the Board of Trustees since 1985. She is a partner in the Manhattan law firm of Kasowitz, Benson, Torres & Friedman.



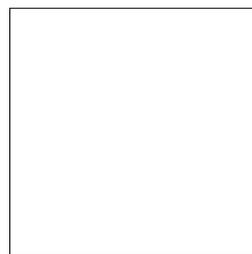
Theodore D. Hoffman of Nassau County is Vice-Chairman. He is Of Counsel to the Garden City law firm of Albanese, Albanese & Fiore.



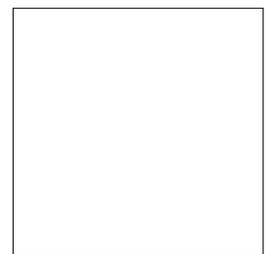
Ray W. Manuszewski of Erie County serves as Treasurer. He is a former President of Manufacturers Hanover in Buffalo.



Bernard F. Ashe of Albany County is a former General Counsel to New York State United Teachers.



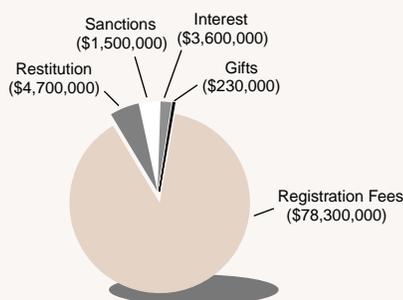
Charles Joseph Hynes of Brooklyn is the District Attorney of Kings County.



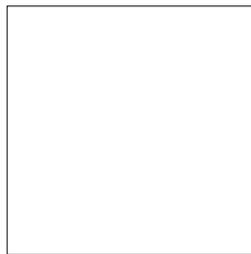
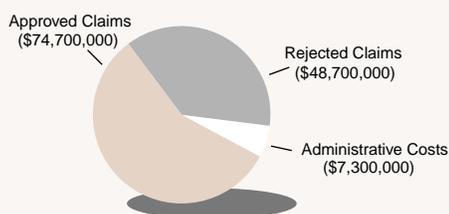
Eric A. Seiff lives in the Bronx and is partner in the Manhattan law firm of Seiff, Kretz & Maffeo.

The Fund's Finances Since 1982

Revenue Sources



Claims and Operations



Shirley B. Waters of Oneida County is Vice President of the Rome Sentinel Company, which publishes the *Daily Sentinel* newspaper.

Former Trustees

Hon. Judith S. Kaye (1981-83)

Joseph Kelner, Esq. of Manhattan (1981-82)

Anthony R. Palermo, Esq. of Rochester (1981-90)

John F.X. Mannion of Syracuse (1981-92)



Timothy J. O'Sullivan, a graduate of LeMoyne College and the Albany Law School, serves as the fund's Executive Director.



The Lawyers' Fund for Client Protection

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