



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

## Highlights from the 2005 Annual Report of the Board of Trustees

This Report of the Board of Trustees of the Lawyers' Fund for Client Protection focuses on the activities and operations of the Lawyers' Fund for the 2005 calendar year.

The Lawyers' Fund was established in 1981 in order to maintain the integrity and protect the good name of New York's legal profession by reimbursing law client losses caused by the dishonest conduct of attorneys in our State. The Fund began business on April 1, 1982.

Over two decades of experience has clearly established that the vast majority of lawyers in New York State are honest and caring for their clients and deserving of their trust. The dishonest conduct and resulting client losses reimbursed by the Fund are attributable to substantially less than one-third of one percent of New York's current 221,000 registered lawyers.

**"A personal thanks to all of you who worked on behalf of our congregation... Your efforts are greatly appreciated."**

**Message from a Claimant, 2005.**

These few dishonest lawyers can cause substantial harm. Since 1982, the Lawyers' Fund has awarded \$116 million to 6,016 eligible law clients. In 2005, there were 227 awards granted totaling \$8.1 million. The losses in 2005 were caused by 56 now suspended, disbarred or deceased lawyers, 32 of whom appear for the first time in 2005.

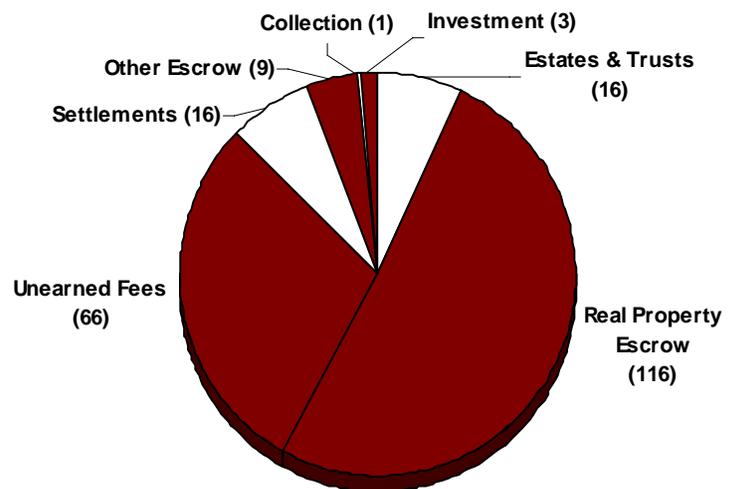
The legal profession is unique in accepting responsibility and reimbursing for losses caused by a handful of its members. No other profession provides such protection to its clients.

The Fund ended 2005 with 515 pending claims, up from 340 claims at the end of 2004. The Fund's exposure on the 515 pending claims was \$13.9 million. At the close of 2005, the Fund had \$5.4 million in revenue in the state treasury.

The Fund's maximum award of \$300,000 per individual loss is the highest award limit among the nation's 50 client protection funds.

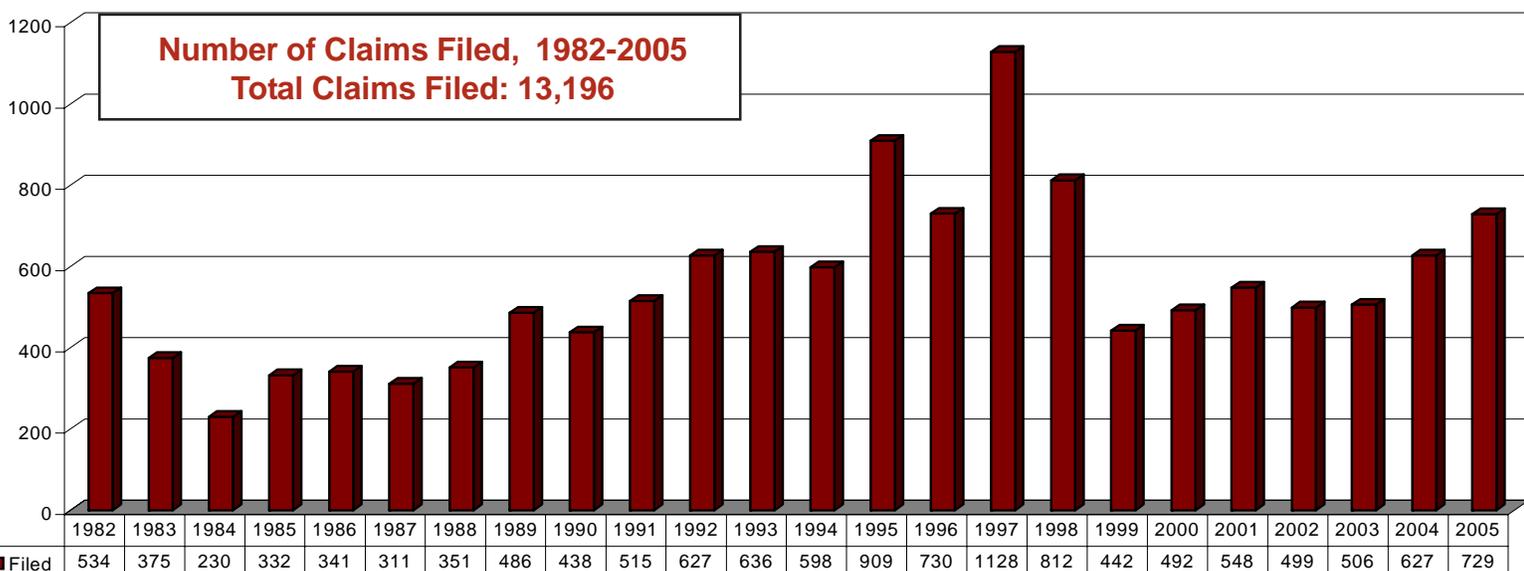
Since 1982, 91 cents out of every \$1 in revenue received by the Fund has been directly applied towards the payment of awards of reimbursement.

### Number of Awards Approved in 2005 by Category of Loss : 227 Awards



**"The Lawyers' Fund is a wonderful organization and there aren't enough words to honor them. My sincerest thanks and God Bless all of you for being so honest and caring in helping me find my 'faith' again."**

**Message from a Claimant, 2005.**



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

Section 97-t of the State Finance Law provides for the establishment of the Fund and for the management of its assets as a special revenue fund by the State Comptroller.

Section 468-b of the Judiciary Law governs the administration of the Fund. This statute 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.*).

In 2005, the Trustees amended section 7200.8 (a) of the Regulations governing the eligibility of claims by codifying the requirement that there be a sufficient nexus between the dishonest conduct alleged in a claim and the practice of law in New York State. This amendment was intended to clarify the Fund's jurisdiction over losses occurring outside New York's borders by a lawyer who may have been admitted to practice in New York at one time. To qualify for an award, a claimant must establish that there is a sufficient connection between the loss and the practice of law in New York.

*"The Lawyers' Fund program is a blessing to anyone that encounters similar problems and I will be forever grateful to you, the Fund and our lawyer for guiding me through the process."*

**Message from a Claimant 2005.**

## Claims Received and Processed

In 2005, 729 claims were filed with the Fund, an increase of 16 percent from 2004. The largest number (237) of claims sought reimbursement of other escrow losses. The largest reported losses (\$10 million) involved alleged losses in real estate transactions. The second largest reported losses (\$3.5 million) involved investment transactions with lawyers.

The Trustees approved 227 awards in 2005, with documented losses of \$8.6 million. Awards totaled \$8.1 million, and ranged between \$170 and \$300,000. The median loss and award was \$10,000. All awards since 1982 involve actual client and escrow losses of \$153 million.

Of the 227 awards in 2005, losses in real estate transactions was the largest category of awards in both number (116) and dollar amount (\$5.3 Million). In 2005, 51 percent of the awards approved, and 65 percent of the amount of reimbursement provided, involved thefts of real property escrows.

Since 1982, final determinations have been reached in 12,741 claims: 6,016 (47%) were found to qualify for reimbursement and 6,725 (53%) were determined to be ineligible.

## Court Programs

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. In 12 years, the Fund has processed over 6,000 bounced check reports with a total face amount in excess of \$143 million. The reports have identified upwards of 145 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 1200.46(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 deposits. As of December 31, 2005, a total of 972 deposits totaling \$1.7 million were received by the Fund. Staff successfully located 89 missing clients and restored \$248,000.

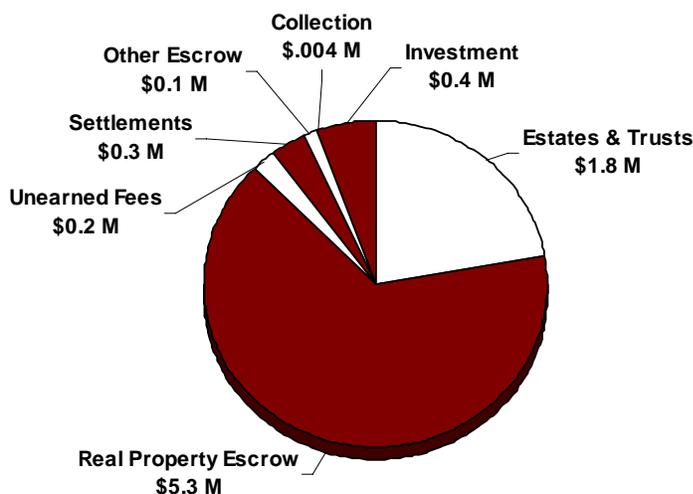
## Public Information and Education Efforts

The Trustees encourage publicity about the Lawyers' Fund. The Trustees firmly believe that responsible public information efforts promote public confidence in the integrity of the legal profession and the administration of justice in New York State.

The Fund 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.

The Trustees also publish materials to educate lawyers and clients in an effort to prevent losses; engage in programs to assist lawyers in complying with their fiduciary and escrow obligations; and recommend court rules intended to improve our legal system and protect law clients. The Trustees' publications include *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*.

**Amount of 2005 Awards  
By Misconduct : \$8.1 Million**



## Lawyers Involved in Awards, 1982 to 2005

Only 806 former members of the bar have been responsible for the 6,016 awards granted by the Fund in 23 years. The Trustees' awards in 2005 were attributable to dishonest conduct by 56 now suspended, disbarred or deceased lawyers. Of these 56 former lawyers, 24 were respondents in awards from prior years and the names of 32 dishonest lawyers appear for the first time in 2005 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.

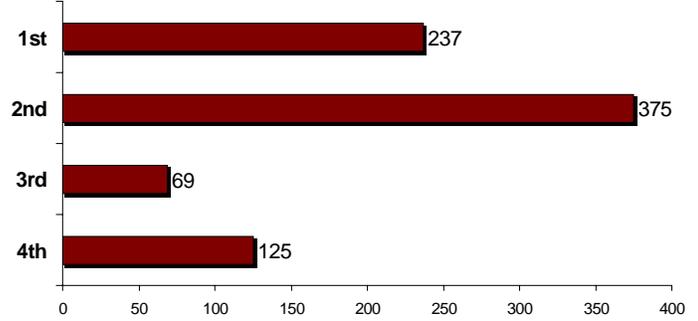
The geographic distribution of these 806 former lawyers, and the Fund's 6,016 awards, among the state's judicial departments is represented in the bar graphs to the right:

"Thank you for your immediate response to our family situation...we are greatly delighted, surprised at how suddenly your organization has responded. We greatly appreciate your work."

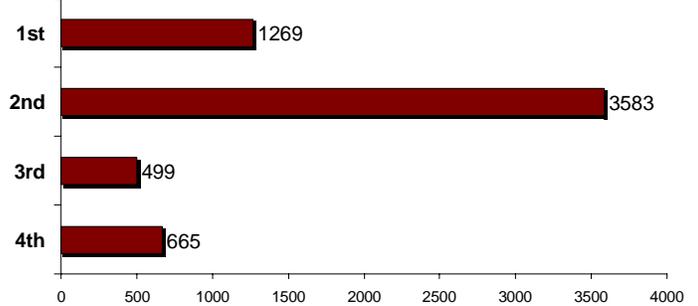
**Message from a Claimant, 2005.**

## Geographic Distribution of Lawyers Involved in Awards, 1982-2005

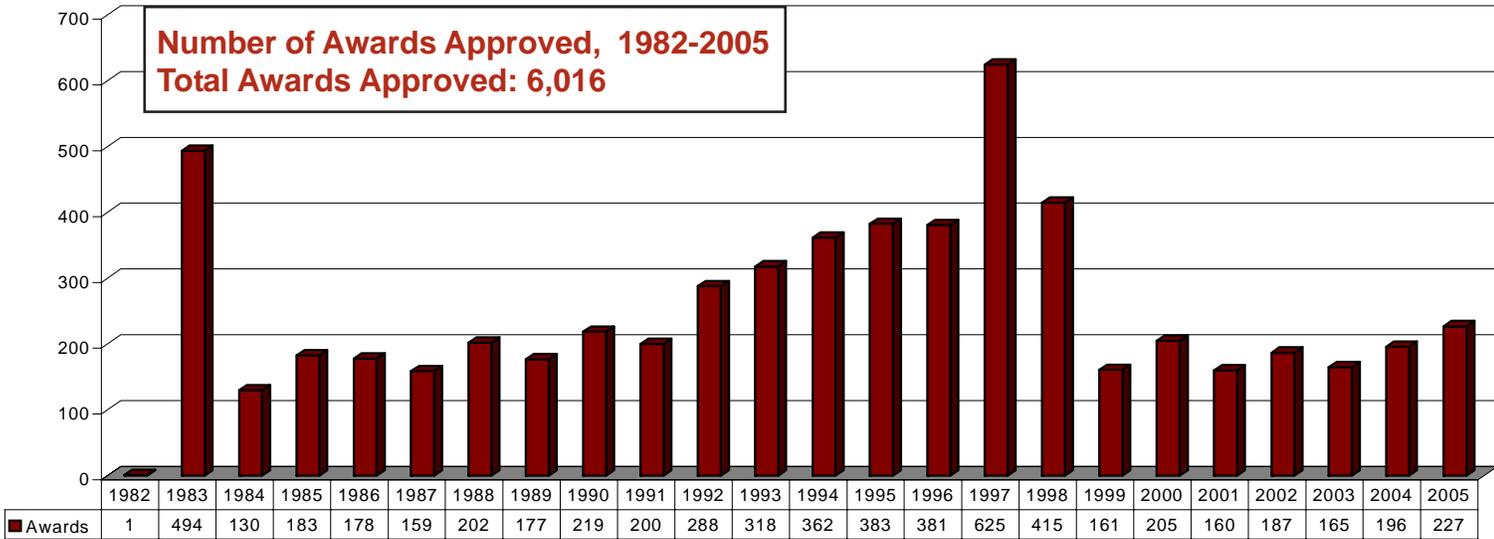
### Lawyers Involved in All Awards Since 1982



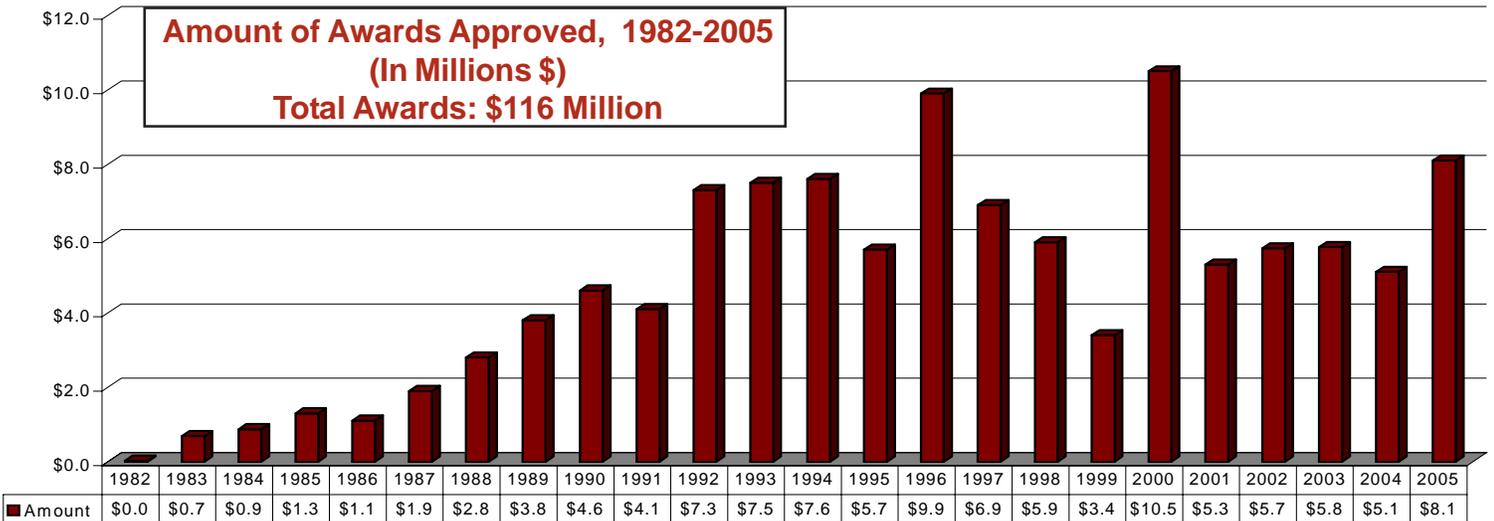
### Number of Awards Since 1982



### Number of Awards Approved, 1982-2005 Total Awards Approved: 6,016



### Amount of Awards Approved, 1982-2005 (In Millions \$) Total Awards: \$116 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.



**Bernard F. Ashe** of Delmar, Albany County, is Vice-Chairman of the Board. Mr. Ashe is a former General Counsel to New York State United Teachers.



**Nancy Burner** of Setauket, Suffolk County, is a solo practitioner and elder law attorney.



**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.



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



**Theresa B. Mazzullo** of Rochester, Monroe County, is President and a Principal of EPIC Advisors, Incorporated, a retirement plan administration firm.



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

Former members of the Board of Trustees include the Hon. Judith S. Kaye, 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); and Shirley B. Waters of Rome (1992 to 2001).

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; Sue Gartley, Administrative Secretary; Ray Wood, Investigator; and Jahnel Hall-Worthen, 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.

*"...thanks to people like you, through your determination and diligence you have restored our faith by the way you extracted justice, when we felt there would be no justice...so again, we express our deepest thanks for a job well done."*

**Message from a Claimant, 2005.**

## Revenue of the Lawyers' Fund

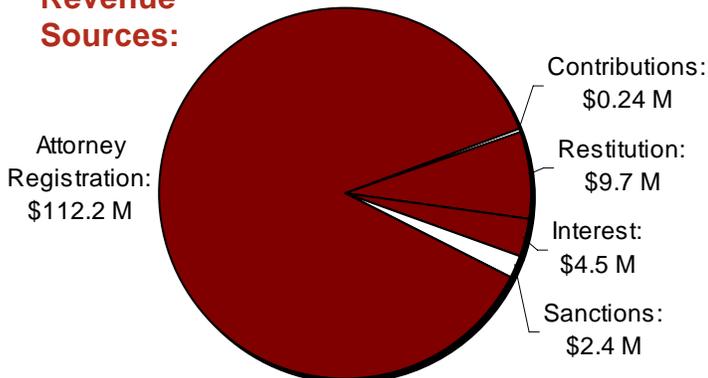
The biennial attorney registration fee required of every practicing attorney is the Fund's principal source of revenue. Section 468-a of the Judiciary Law allots \$60 of each \$350 registration fee to the Lawyers' Fund. Since April 1, 1993, the Legislature has annually supplemented this \$60 portion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

**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.**

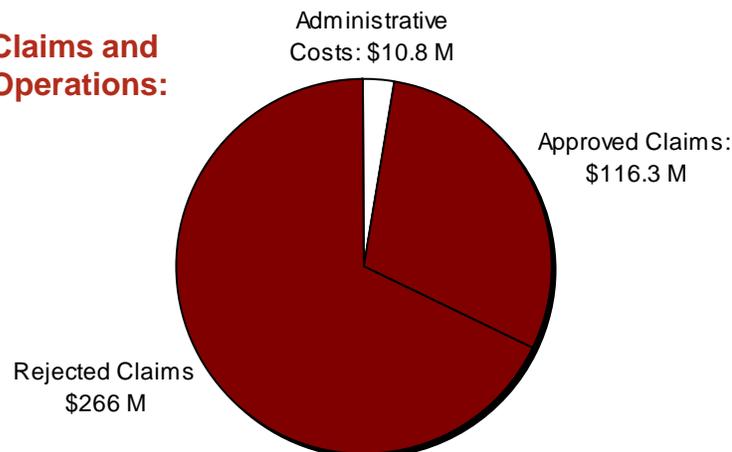
The Fund's other sources of revenue include restitution, interest, sanctions and contributions. Since 1982, the Fund has received \$112.2 million from attorney registration fees; \$9.7 million in restitution; \$4.5 million in interest income; \$2.4 million in judicial sanction revenue; and \$241,000 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:



The Lawyers' Fund for Client Protection

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www.nylawfund.org