

## **2004 Membership:**

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Joseph H. Jacovini, Esq.  
Beth Lang  
Maureen Murphy McBride, Esq.  
James M. Mead  
Morris M. Shuster, Esq.

## **Staff:**

Kathryn J. Peifer, Esq., *Executive Director*  
Lisa A. Watkins, Esq., *Counsel*  
Susan L. Erdman, *Administrative Assistant*

## **Legal Authorization:**

Pa. Constitution, Article V, § 12  
Pennsylvania Rules of Disciplinary Enforcement, §501 *et seq.*

## **About the Board**

The Pennsylvania Lawyers Fund for Client Security was established by the Pennsylvania Supreme Court in 1982 as a means of helping clients recover some or all losses of money and/or property stolen from them by their attorneys. It is funded by a special annual assessment (\$45 for 2004-05) paid by any attorney admitted to practice law in Pennsylvania. Clients may receive up to \$75,000 for any claim.

The fund is supervised by the Pennsylvania Lawyers Fund for Client Security Board. This board includes five members of the bar of the Supreme Court and two non-lawyer public members. Each member's term is three years in length, and a member may serve a maximum of two consecutive terms.

**Pennsylvania**

**Lawyers**

**Fund**

**for**

**Client**

**Security**

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## 2004 Claims Statistics

Statistics for the 2004-05 fiscal year can be found in Table 3.15.1. Chart 3.15.2 on page 89 is a breakdown of amounts claimed by category. Chart 3.15.3 on page 90 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.15.4 on page 91 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 2004-05.

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
Received	199*	\$6,746,249
<small>*17 in excess of \$75,000 limit</small>		
Awarded	191	1,966,412
Rejected	54	847,977
Discontinued	14	271,954
<b>Total</b>	<b>259</b>	<b>\$3,086,343</b>
Pending	177	\$7,194,574

Table 3.15.1

### Claims Categories

**Fiduciary funds** - Theft of estate funds and trust/escrow funds consistently tops the list of claims filed against attorneys. Combined, these two types of theft during FY 2004-05 cost the fund \$1,343,324, 68.31 percent of its total award dollars, settling 61 claims. Of this amount \$270,823 went to eight former clients of one attorney.

**Non-performance\*** - The acceptance of un-earned fees or retainers represented the third highest payment category in 2004-05 with awards to 116 claimants totaling \$258,568, 13.15 percent of the total dollars awarded. Of this amount, 19 former clients of one attorney received \$124,182.

\*Since the fund does not arbitrate fee disputes, for an award to be considered when the attorney performed any services of value, the claimant typically must first file a complaint with the local bar association's fee dispute committee. If the committee determines that all or a portion of the fees or retainer paid were not earned, and the attorney does not return the fee, the board will consider this type of claim and categorize the award as non-performance by the attorney.

**Lawsuit Settlement Proceeds** - Claims of misappropriation of settlement proceeds often occur when an attorney settles a lawsuit without the knowledge or consent of the client. The attorney receives the funds and fails to remit them to

the client. Also included in this category are claims involving attorneys who withhold funds from settlement proceeds to pay clients' medical providers and fail to make the payment/s. Payments of \$199,015 to ten claimants fitting this category were made in 2004-05, 10.12 percent of the total dollars awarded. Of this, \$95,785 were paid to two former clients of one attorney.

Notwithstanding the award amounts reported, it should be noted that claims are filed against fewer than one percent of all Pennsylvania licensed attorneys.

## 2004 Activities

During the year the board met in Hershey, Pittsburgh and Philadelphia.

### Restitution and Subrogation Efforts

The fund received \$118,283 in restitution payments during FY 2004-05.

### Mandatory Overdraft Notification

Pennsylvania Rule of Disciplinary Enforcement 221 requires financial institutions to report to the fund all checks drawn on attorney fiduciary accounts which contain insufficient funds. In 2004-05 the fund received 225

overdraft notices, 190 of which were reviewed and dismissed and 26 of which were referred to the Office of Disciplinary Counsel. Nine notices remained pending at the end of the fiscal year.

### County Bench, Bar Meetings

The board has been holding meetings and dinners with leaders of the county benches and bars in conjunction with the board's quarterly business meetings since 1989. These meetings keep the county bench and bar leaders informed about the fund's activities, both statewide and regionally, and request the assistance of the bench and bar in carrying out the fund's mission. In 2004 and 2005 the fund met with Allegheny, Dauphin and Philadelphia Counties.

### Lawyers Concerned for Lawyers

With prior approval of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security may provide funding to nonprofit organizations that assist Pennsylvania lawyers and judges who are impaired by alcohol or drugs. In accordance with this rule, during FY 2004-05 \$245,000 of funding was given to the organization known as Lawyers Concerned for Lawyers. Such assistance complements the fund's mission to ameliorate losses resulting from attorney dishonesty as oftentimes when an attorney converts client funds, the conduct is related to substance abuse. The financial support for Lawyers Concerned for Lawyers helps to mitigate the losses by providing a resource for impaired attorneys. **AOPC**

## Categories of Claims

Amounts Awarded  
2004-05

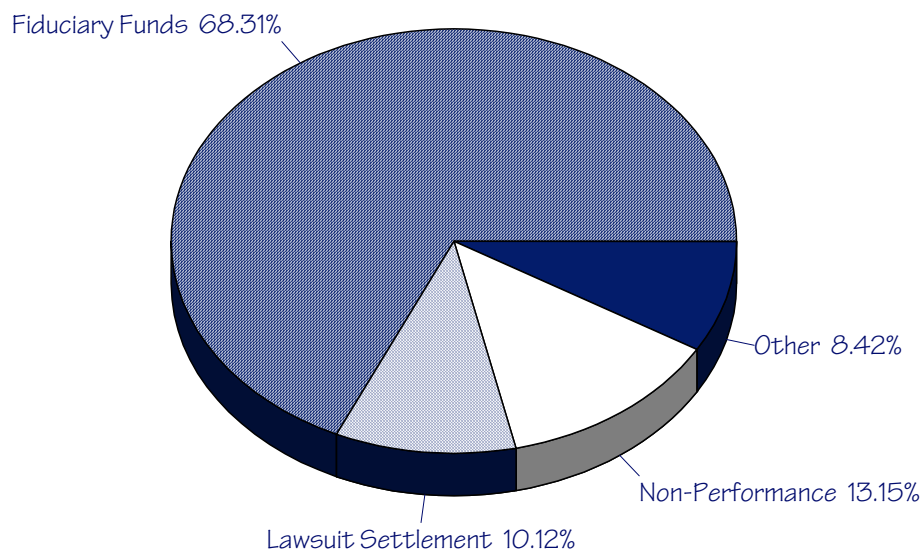
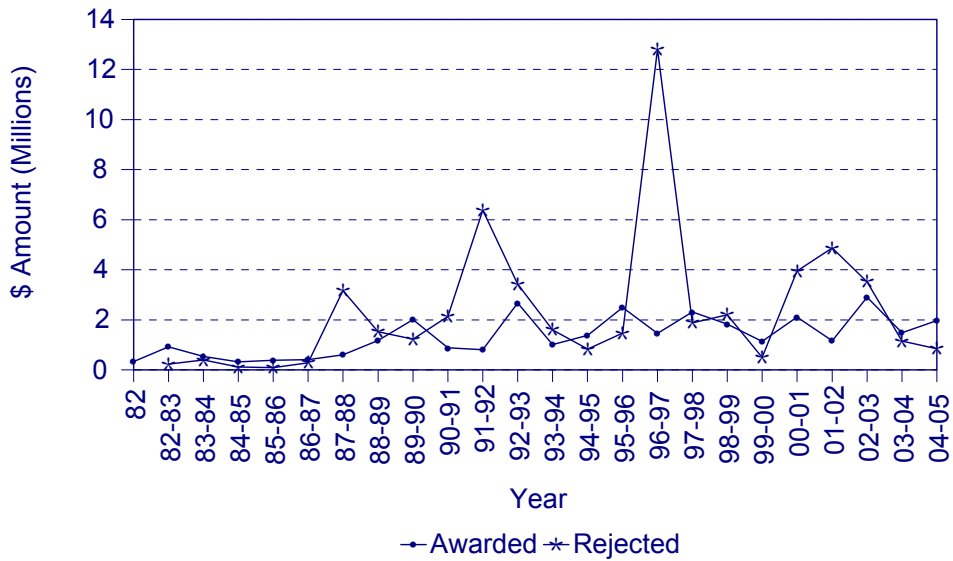


Table 3.15.2

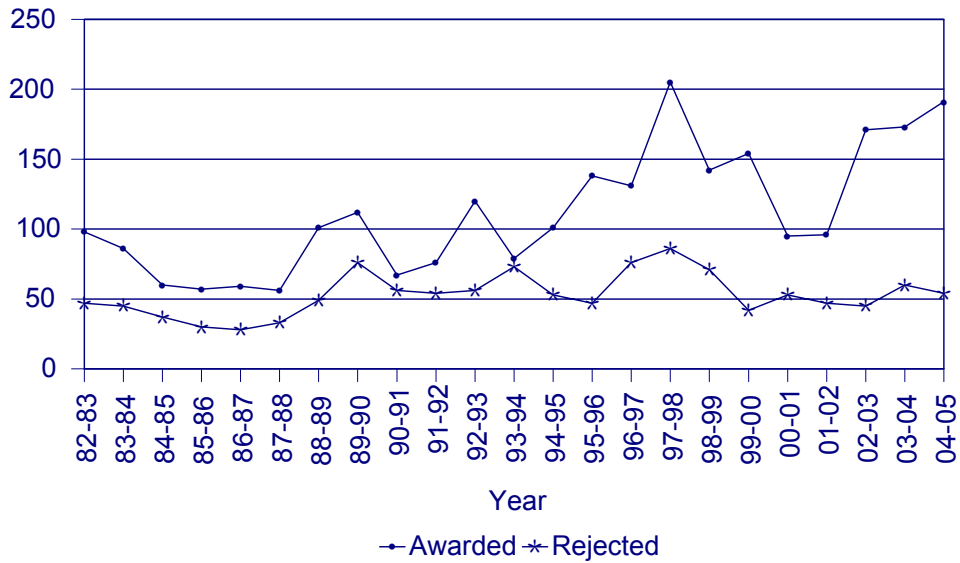
### Claim Awards v. Rejections

1982-2005



### Claims Awarded v. Rejections

1982-2005

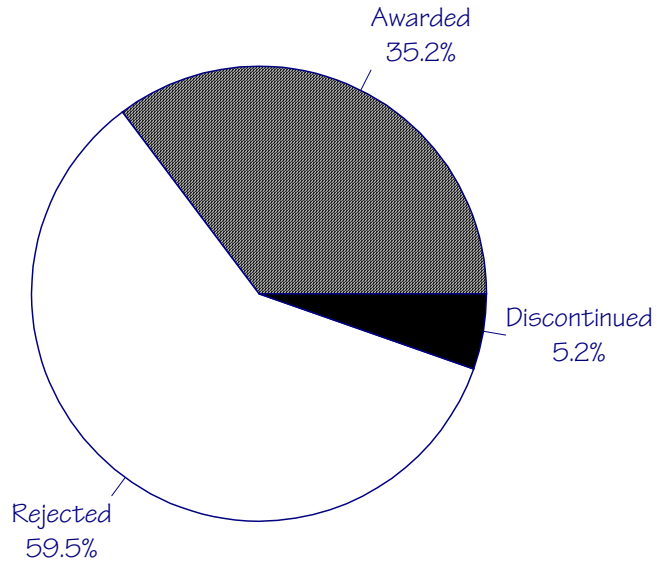


Effective 7-1-00, the maximum reimbursable amount was raised from \$50,000 to \$75,000.

Table 3.15.3

## Comparison of Claim Dispositions

Cumulative



2005

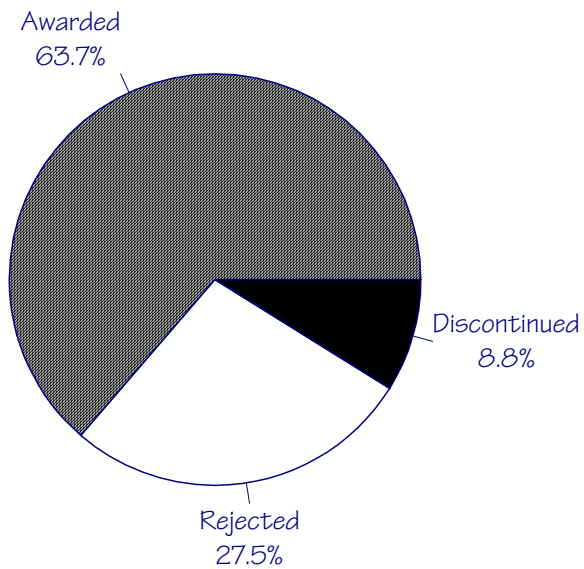


Table 3.15.4