

nova scotia real estate COMMISSION



ANNUAL REPORT 2009

Nova Scotia Real Estate Commission

Notice of Annual General Meeting

Auditorium • 7 Scarfe Court • Burnside • Nova Scotia • 902-468-3511

Wednesday, March 17, 2010
1:00 - 2:30 PM

Agenda










Chairman – Mary MacDonald

1. Call to Order
2. Introduction of Head Table—Mary MacDonald
3. Commission Chairman’s Report—Mary MacDonald
4. Finance & Recovery Fund—Ernie Buote
5. Licensing Committee—Elizabeth Irwin
6. Complaint Review Committee—David Melvin
7. Discipline Committee—John MacKay
8. Commercial Committee—John Walker
9. Review of the election procedures by the Registrar
10. Address by Nominees (each nominee is permitted to speak for two minutes)
11. Election—first ballot
12. Open Forum—this will be an opportunity for Industry Members to ask questions for the Commission’s comments or to bring forward items for the Commission to consider in their upcoming discussions
13. Presentations—advertising guidelines and changes to the Real Estate Trading Act
14. Results of first ballot and start of second ballot if necessary
15. Further ballots if required
16. Adjournment

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Our Commissioners

				
Mary MacDonald Chairperson	John MacKay Discipline Committee	Donna Anderson Licensing Committee	Elizabeth Irwin Vice Chairperson Licensing Committee Finance Committee	Gordon Burns Complaint Review Committee
				
David Melvin Complaint Review	Ernie Buote Complaint Review Finance Committee	Doug Dixon Registrar	Ron Stuart Licensing Committee	Avis Chapman Licensing Committee

The following table shows the terms of the Commissioners' appointments. All of the Commissioners serve three year terms regardless of whether they are appointed or elected.

Every year, the term for one position for each of the three appointment types (NSAR appointment, peer election, public appointment) expires.

Name	Term	Appointment	Location	Brokerage	Attendance*
Elizabeth Irwin	April 30, 2010	NSAR	Halifax	Royal LePage Atlantic	4 of 5
Mary MacDonald	April 30, 2011	NSAR	Liverpool	Walt MacDonald Real Estate Ltd.	4 of 5
John MacKay	April 30, 2012	NSAR	Wolfville	MacKay Real Estate	5 of 5
Gordon Burns	April 30, 2012	Elected	Dartmouth	Century 21 ABC Realty Ltd.	3 of 3
Ernie Buote	April 30, 2010	Elected	Halifax	Domus Realty	5 of 5
Ron Stuart	April 30, 2011	Elected	Halifax	Harbourside Realty Ltd.	5 of 5
David Melvin	July 2009	Public	Dartmouth		5 of 5
Donna Anderson	August 2010	Public	Sydney		5 of 5
Avis Chapman	September 2011	Public	Amherst		5 of 5

*The attendance record of the Commissioners serving on the Nova Scotia Real Estate Commission between January 1, 2009 and December 31, 2009. There were a total of

five Commission meetings held. The following list shows how many meetings each Commissioner attended and how many they were expected to attend.

Our Staff



Brad Chisholm
Compliance Officer



Doug Dixon
Registrar



Cathy Campbell
Bookkeeper



Elaine Moulton
Administrator



Pam Crane
Licensing Officer



Carolin MacDonald
Compliance Auditor



Susan Best
Compliance Auditor



Peggy Kell
Communications Officer



Mary MacDonald
Chairperson

Message from the Chair

Commissioners report for 2009

I am now at the end of my fifth year as a Commissioner and my second as Commission Chair. This experience has given me the opportunity to see the real estate industry in Nova Scotia from a couple of different perspectives than I had previously encountered during my 23 year career. Sitting at the Commission table during roundtable discussions, Commissioners have to look at issues from the public's perspective, while keeping in mind practicality from an industry perspective. I have also had the opportunity to attend several international conferences with ARELLO, the international regulatory association, and have been able to compare regulations and practices in Nova Scotia with other jurisdictions. We in Nova Scotia should be proud of our many accomplishments, how the Commission is structured and deals with issues. I believe we are far ahead of most jurisdictions. I look forward to serving my last year as Past-Chair of the Commission and continuing to be involved with the many issues that come before the Commission.

After seeing a net increase of 100 people per year from 2002 to 2008, 2009 saw a slight decrease in numbers. The year finished out with approximately 1,800 Industry Members, which was down 30-40 from the year before. It is expected that the numbers will remain stable in 2010.

Designated Agency has become an everyday part of the industry in Nova Scotia. To date there are eight brokerages employing approximately 400 Industry Members that have switched over to this model, which means that around 20 per cent of Industry Members are practicing Designated Agency. There are very few issues arising from transactions by Designated Agents. As well, it has now been a couple of years since Limited Dual Agency has been replaced by Transaction Brokerage. As a result of this change and a much higher understanding of agency responsibilities by

Industry Members in general, complaints and problems involving agency issues are dwindling. The rollout of the agency changes, the extensive education efforts and the changes to forms and practices have all contributed to a much more professional real estate industry.

The Commission operates on a very tight budget with a relatively small staff. This past year has been the first time that revenues and expenses did not come in close to budget. As a result, the Commission had to make adjustments in the 2010 Budget and increased new and renewal fees to offset the loss of income from the Interest Bearing Trust Accounts. See the Finance Chair's Report for more details.

I want to thank the current Commissioners and Committee members for their efforts throughout the year. Both the Commissioners and Committee members contribute many hundreds of volunteer hours that benefit the public, as well as all 1,800 Industry Members in the province. We are fortunate to have so many willing volunteers who bring a wealth of experience and insight to the table on the many issues. I also want to thank the Registrar and staff of the Nova Scotia Real Estate Commission for their ongoing efforts. The Commission's operations always run smoothly and professionally providing information and services to both the public and Industry Members, as well as supporting the work of the Commissioners and Committees.

I strongly encourage you to attend the Commission's Annual General Meeting on Wednesday March 17th at 1:00 p.m. in the auditorium at 7 Scarfe Court. This is your opportunity to get an update on the Commission's work, to elect an Industry Member to the Commission, and to provide feedback to the Commissioners. I hope you take the time to participate.

Message from the Registrar

Report for 2009



Doug Dixon
Registrar

The Commission did not undertake any large new projects in 2009. It was a year that allowed for the changes made over the previous couple of years to settle. The last three years saw significant changes to agency and to all of the Standard Forms. Feedback on most of the forms has been very positive and many of the changes seem to have resolved recurring problems. The conversion of a number of brokerages to Designated Agency has gone very smoothly and the Commission has not seen any problems or complaints related to those changes. The transition from Limited Dual agency to Transaction Brokerage has gone well and many of the old problems have stopped as Industry Members have a better understanding of agency and make better decisions as to whether a consumer is a client or customer.

In 2009, the Commission established a new Web site. The address www.nsrec.ns.ca is the same, but the style and format is very up-to-date and contains an extensive amount of new information, particularly for consumers. Industry Members should go onto the site and review the consumer information as it is a good resource for you to provide to your customers and clients. It is also a good reference for you to use when, on those rare occasions, a consumer might not agree with what you are telling them. There will be more additions to the Web site in 2010. This will include a Members Only portal to information and notices on various topics of interest to Industry Members. It will also allow Industry Members to go in, view their profile, and complete updates to their contact information.

The Commission has been busy revising various brochures, pamphlets and other information pieces. Work is ongoing

to provide more information to the public on real estate practices and the role of the Commission. Staff will also be working on revamping the Policies and Procedures portion of the Brokerage Manuals. It is intended that the revised Policies and Procedures will provide a substantial amount of new information in a very user-friendly format with extensive interpretations and examples.

The staff additions, made in late 2008, have settled in quite well and are doing an outstanding job. Sue Best, as one of the Commission's Compliance Auditors has been very busy travelling the province doing trust and brokerage audits, as well as start-up and close-out audits. The Commission's Communications Officer, Peggy Kell, has been kept busy on numerous projects, including the rebranding of the Commission, the new Web site and many communication pieces. She has also been responsible for monitoring industry advertising and answering advertising and promotion questions by Industry Members.

I would like to take this opportunity to thank the staff of the Commission for their professionalism and their attention to detail. As Registrar, I often receive compliments from Industry Members and the public on how helpful a staff person was whenever they needed information or had a problem they were trying to resolve. A knowledgeable staff that takes an interest in what they do makes a huge difference in the level of service provided. I believe the addition of two new staff members has added to that level of service and professionalism.



Elizabeth Irwin
Royal LePage Atlantic

Licensing Committee

Chairperson's report for 2009

The Licensing Committee's mandate is to review the Registrar's licensing decisions and recommendations; to research licensing issues and to make recommendations to the Commission on any issues concerning licensing and licensing education. This Committee performs a very important function that has long-term impact on the real estate industry.

During the past year, the committee reviewed all licensing exemptions and made decisions on exemption requests from applicants. The committee also reviews any conditions the Registrar places on Industry Members' licenses. The most common exemption request is from broker applicants who want the requirement of three-years experience as a salesperson waived. This request typically comes from applicants with direct sales/leasing experience or equivalent experience.

The Committee discussed or dealt with a number of issues over the last year, including approving the mandatory course, Ethics in Real Estate, for the 2010-2011 licensing cycle.

In addition to the standard mandatory-course requirements, Legal Update, for the 2009-2010 licensing cycle, the Commission required all Industry Members with a broker-level licence, (brokers, managing associate brokers and associate brokers) to complete the two-day course Raising

the Bar. This course is intended to inform the participants on what resources are available to them, as well as address the most common administration and supervision problems experienced in real estate brokerage. This course was implemented because of the diverse broker-education background of Industry Members with broker designations. The table below shows a breakdown of that background.

The goal of this course is to clearly communicate the Commission's expectations of broker-level Industry Members. This will allow the Commission to raise the standards of practice in the industry to where they should be, as well as act as a cutoff to the many excuses often made when issues arise.

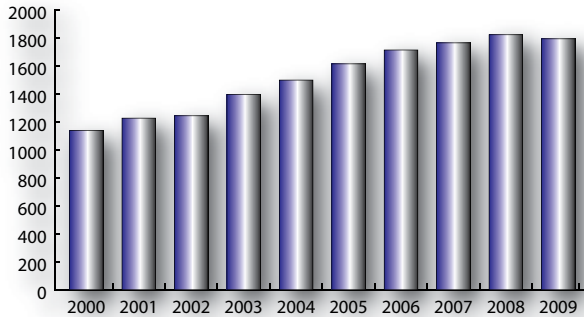
The following pages provide a statistical overview of licensing. The number of new Industry Members continues to decline slightly and the retention rate has remained high into the fall of 2009, resulting in fairly stable numbers. The Commission projected numbers in 2010 would be similar to 2009.

I would ask that any Industry Members with suggestions or concerns related to licensing issues forward them to the Commission for discussion and consideration. In closing, I want to thank the members of the Committee for their efforts and many hours spent working on behalf of the Commission.

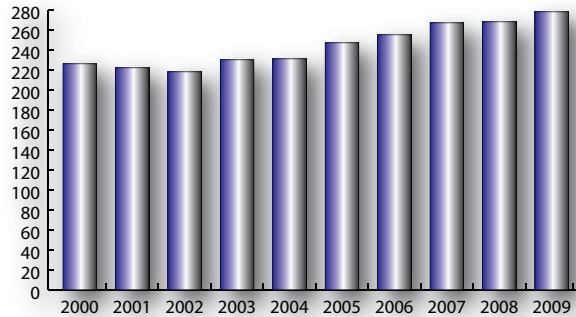
Broker licensing course	Brokers	Managing associate broker	Associate broker	Totals
No course	113	9	24	146
Four-day course	21	3	3	27
Six-day course	65	22	42	129
Three-week course	13	8	13	34
Totals	212	42	82	336

Licensing statistics at a glance

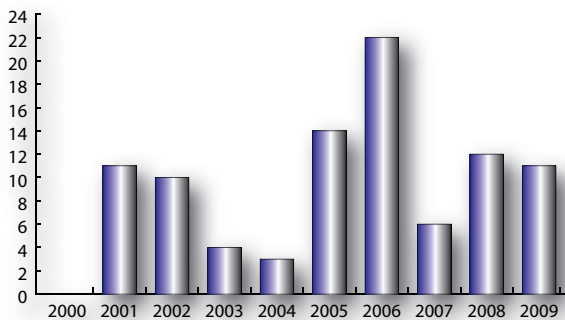
The industry from 2000 to 2009



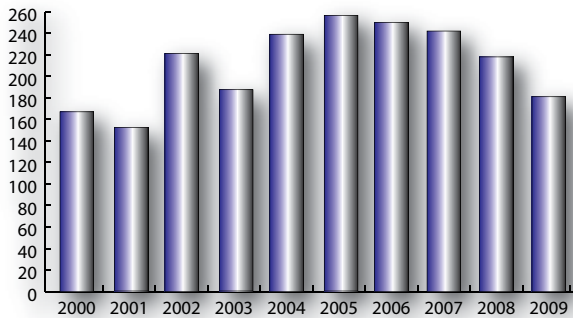
Total number of Industry Members



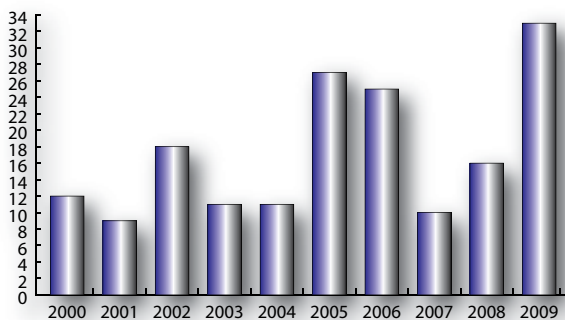
Number of brokerage offices



Number of new associate brokers



Number of new salespeople



Number of new brokers and managers

Licensing Committee

Elizabeth A. Irwin, Chairperson/Commissioner
Halifax

Donna Anderson, Commissioner
Sydney (Public Member)

Mike Barnard, Member
New Minas

Avis Chapman, Commissioner
Amherst (Public Member)

Nora Landry, Member
Dartmouth

Paula Pulling, Member
Bedford

Ron Stuart, Commissioner
Halifax

John Walker, Member
Halifax

Douglas Dixon, Registrar

Pamela Crane, Licensing Officer



David Melvin
Livingstone & Company

Complaint Review Committee

Chairperson's report for 2009

The Complaint Review Committee met four times in 2009 to review the complaints investigated by the Commission staff. The Complaint Review Committee's mandate is to review all proposed Settlement Agreements and any public requests to review a decision of the Registrar. In practice, the Committee reviews all complaints, whether they are dismissed, dealt with through a Settlement Agreement or sent on for a Discipline Hearing.

The Committee can approve the decision of the Registrar to dismiss a complaint or to have it dealt with through a Settlement Agreement. The Committee can also reverse or alter the decision of the Registrar by altering the terms of the Settlement Agreement, by not allowing a complaint to be dismissed or by sending a matter on to the Discipline Committee.

The Committee, on average, reviews 8-12 complaints at each quarterly meeting. The Committee members, in advance of the meeting, review a case summary of each complaint and discuss the case with staff at the Committee meeting. In unusual circumstances, or in situations that are new to the Commission, the Registrar may bring a case to the Committee for its opinion prior to proceeding further.

The number of complaints the Commission handled in 2009 was up slightly over the last several years. The fol-

lowing report shows where complaints have come from, the types of complaints made, and the nature of the complaints. In 2009, two cases were referred to the Discipline Committee for a hearing.

The most common issue at the core of many complaints stems from poor communications. Most often, a lack of communication prevents a client or customer from being fully informed before they make a decision or take action. Alternately, in some cases, inappropriate communications is at the root of a complaint. While Industry Members are required to keep their clients fully informed of all facts of which the Industry Member is aware, including full disclosure of all material latent defects, there is some information Industry Members should not communicate because they have not been authorized to pass it on. Industry Members can also get into trouble when they communicate with parties that they are not permitted to deal directly with, such as clients under contract with another brokerage.

I would like to thank the committee members for their time and effort they have devoted to the work of the committee. The Complaint Review Committee meetings always involve lots of lively discussion and debate. The Commission and the Complaint Review Committee takes its responsibilities seriously and makes every effort to be fair to consumers and balanced in its approach to Industry Members.

Complaint Review Committee

David Melvin, Chairperson/Commissioner
Dartmouth

Ernie Buote, Commissioner
Halifax

Gordon Burns, Member
Dartmouth

Michael Harris, Member
Berwick

Lynn Hoffmann, Member
Kentville

Howard Oakey, Public Representative
Bedford

Charles Pace, Member
Halifax

Jim Woods, Member
New Glasgow

Peter Wyman, Member
Annapolis Royal

Douglas Dixon, Registrar

Brad Chisholm, Compliance Officer

Audits and investigations

Compliance Officer's report for 2009

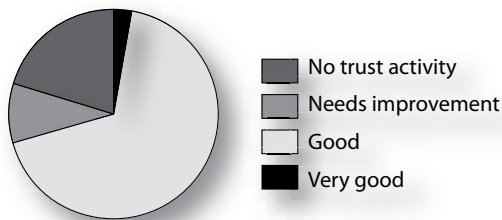


Brad Chisholm
Compliance Officer

Audits

Every year the Commission Compliance Auditors conduct yearly trust audits on each brokerage in Nova Scotia. In addition to the trust audits, each brokerage is subject to a brokerage and trust audit every three years. The brokerage and trust audit comprises an in-depth review of the brokerage's transaction files and records management. In 2009, we conducted 104 trust account audits and 101 brokerage audits. Brokerage audits include an audit of trust accounts. The results of these audits are shown below:

Compliance audits 2009



In addition to the activities above, the Commission auditors completed an additional 15 audits resulting from a change of broker, a brokerage close-out, or a spot audit.

The trust and brokerage audits ensure brokerages comply with the standards and procedures for trust accounts and record keeping, which in turn protects the best interests of the public. The audits also help the Commission identify problem trends in the industry, which can then be addressed through continuing education courses and/or industry bulletins. While the Commission's approach to audits factors heavily on education and correction, Brokers need to be aware that there are repercussions for failing to comply with trust account and records management requirements. Any brokerage that receives three consecutive "Needs Improvement" audits is subject to disciplinary action. In 2009, the Commission charged four brokers on these grounds. The fines for non-compliance begin at \$500.00, but increase with each offense and can, in more extreme situations, result in licence restrictions, conditions or termination.

Investigations

The number of complaints the Commission received and investigations initiated was higher than the past few years.

Some of the charges laid in 2009 resulted from 2008 investigations still ongoing at the beginning of 2009.

At the beginning of 2009, there were 18 investigations carried over from 2008. During 2009, the Commission received 50 real estate complaints from public and Industry Member sources. Of those 50 complaints received, 37 investigations were initiated.

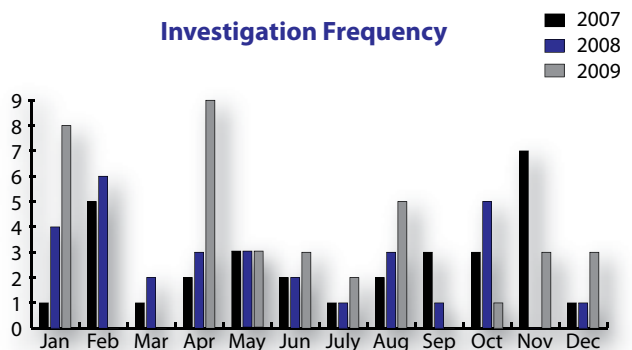
The 18 cases carried over from 2008 were closed in 2009 and 12 of the investigations initiated in 2009 were closed by year-end leaving 25 outstanding.

Origin

In 2009, 34 of the investigations were initiated through written public complaints and three investigations resulted from complaints filed by Industry Members or the Commission.

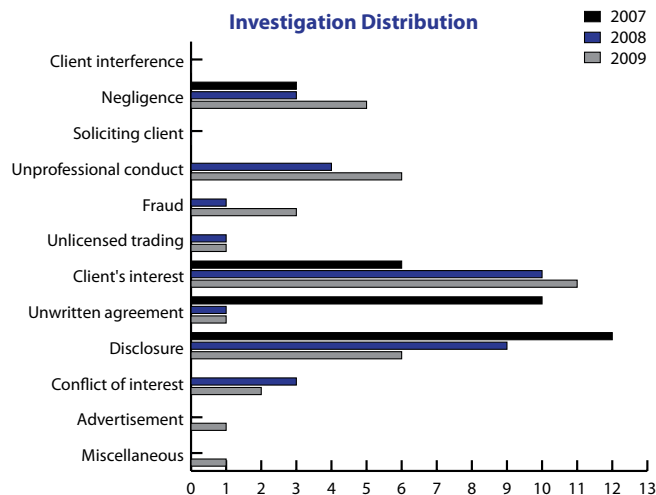
Frequency

The chart below summarizes comparative figures for the total number of investigations initiated each month.



Distribution

The chart on the following page summarizes the distribution of the 37 investigations initiated in 2009 as well as the data for 2008 and 2007.



Examples

The Commission receives and investigates a variety of complaints including the following:

Negligence—incomplete or improperly completed real estate forms; showing a property without authorization from the seller

Soliciting clients—knowingly soliciting another Industry Member's client

Deposit dispute—failure to obtain a buyer's deposit as per the agreement of purchase and sale

Unprofessional behavior—failure to cooperate with other Industry Members; yelling at clients or customers

Miscellaneous—failure to respond to a real estate complaint within the designated time period set by the Compliance Officer

Unlicensed trading—marketing property without a licence, an unlicensed assistant trading (showing houses, providing advice)

Client's interest—failure to follow up with a client before financing or inspection deadlines expire

Unwritten agreement—failure to obtain written and signed extensions or amendments

Disclosure—failure to disclose well or septic problems, failing to verify listing information

Advertisement—misleading advertising, failure to include complete brokerage name or complete salesperson name in an advertisement

Fraud—misappropriation of trust funds; falsifying a client's signature on a document

Public discredit—making derogatory remarks about another Industry Member

Commission dispute—misinforming listing clients as to commission payable

Charges

Of the 30 investigations closed in 2009, 13 resulted in formal charges. The table below outlines the penalties levied through settlement agreements for first-time offences and repeat offences.

Trade practices and you

The following articles document common mistakes and omissions Industry Members make and give tips on how to avoid them.

Amendments concerning late deposits

The Commission requires the listing brokerage to notify the seller in writing if the deposit is not delivered to the listing brokerage on or before the deadline set out in the Agreement of Purchase and Sale. The seller can then determine their options. The Commission does not mandate the need for an amendment to the Agreement of Purchase and Sale, however, it is a recommended best practice.

Due to recent questions from a broker over this matter, the Commission consulted legal counsel for their opinion. Their advice was that using an amendment is the "best practice" option. Failing to use an amendment may create risk and uncertainty and the whole purpose of using written contracts is to eliminate uncertainty when two or more parties come to an agreement. An example of a scenario that can create uncertainty is if another offer appears after the deposit deadline, but before the deposit is secured.

A seller's silence after being notified of a late deposit absolutely can, according to legal counsel, be interpreted by the court as agreement to extend the deadline and proceed, but

Offence	Penalty (first offence)	Penalty (repeat offence)
Unprofessional conduct	\$400 fine and reprimand	\$500 - 1,000 fine
Client's interest	\$500 fine	\$500 - 1,000 fine
Disclosure	\$500 fine	\$1,000 fine
Unwritten Agreement	\$400 fine and course requirement	\$1,000 fine
Negligence	\$500 fine and reprimand	\$500 - 1,000 fine
Deposit Dispute	\$500 fine and reprimand	\$500 - 1,000 fine

a seller may also be successful in cancelling a deal days after the deadline if the deposit does not arrive and there is no amendment.

Whether to provide written notice or to amend the Agreement of Purchase and Sale is at the discretion of the broker. The Commission's best-practice recommendation is to amend the Agreement of Purchase and Sale.

Use of a listing cut as addendum

In a recent case before the Commission, a listing cut was used as an addendum in the Agreement of Purchase and Sale, which led to issues with closing.

A property was listed for sale with an error in the property description. The property description stated there was a central vacuum, when in fact the house had piping and electrical roughed in to accommodate a central vacuum, but no vacuum. The listing cut, which erroneously stated there was a central vac, was used as an addendum titled a Schedule A in the Agreement of Purchase and sale. The buyer's representative wrote Schedule A in pen on the listing cut. In the Agreement of Purchase and Sale, the only reference to the Schedule A was in the Additional Terms and Condition Section and spoke only in regards to a \$3000 cash back. A building inspection was conducted on the property without issue. Upon pre-closing viewing, the buyers refused to close citing that the vacuum, which was part of the Agreement, was missing.

This issue was brought to the Commission Board of Directors for discussion. The Commissioners found that the use of a listing cut as part of the agreement is reckless. Any terms and conditions that are important to the buyer or seller should be reflected in the wording of the Agreement of Purchase and Sale. What is in the best interest of your client is for you to verify all facts and to carefully prepare all documentation to ensure that you fulfil your fiduciary duties to your client by protecting their interests.

Defects and Disclosure

There has been a noticeable increase of complaints over the past year concerning material defects and disclosure. More specifically, a number of complaints relate to well water quality/quantity and dysfunctional septic systems. Some of these cases have resulted in legal claims against sellers and their respective real estate representatives.

As a seller's salesperson, you are required to disclose to a buyer/buyer's representative your knowledge of any material issues concerning water quality or quantity and the functionality of the septic system. You are also required to ensure

that your seller is fully briefed on his/her disclosure obligations to potential buyers.

If a question is raised by the seller concerning whether or not a particular issue should or should not be disclosed, do not advise them of your own opinion, but rather refer them to seek legal advice. If you do express an opinion and the seller takes your advice and is subsequently sued by the buyer, you will likely be sued yourself. Your duty is to provide the seller with the right tools to make informed decision, not to convince him/her of what course to take.

On the flip side, as a buyer's representative your job is to make sure the buyer is provided with the right tools to make an informed decision. The buyer should know what disclosures/warranties they should request from the seller. The buyer should also know up front that a typical home inspection has limitations and that important considerations like water quality and quantity tests and septic system evaluations are not usually addressed by the inspector. The buyer should be told what options they have with respect to verifying safe drinking water, adequate water supply and a proper working septic system.

Where things go wrong—discipline case studies

The following case studies show where Industry Members run into trouble.

Self representation

When an Industry Member chooses self-representation when purchasing or selling property, they must ensure that their actions are above scrutiny because they have a personal stake in the transaction. Industry Members must disclose in writing their status as a licensed Industry Member and their intentions for the property.

Improper disclosure

An Industry Member disclosed that they were a licensed REALTOR® on an offer to purchase. This in itself does not meet disclosure requirements. The title REALTOR® means a person is a member of the Nova Scotia Association of REALTORS®. It has nothing to do with licensing. Intent was also not disclosed. The Industry Member was found in breach of By-Law 702, Article 21.

Improper paperwork

An Industry Member included an Addendum with the Agreement of Purchase and Sale that was not referenced in the number of fax pages or in the Agreement. The Adden-

dum greatly changed the offer in favour of the Industry Member. Upon receipt of this offer the sellers, offended and concerned the Industry Members may be attempting to commit fraud, filed a complaint with the Commission. The Industry Member was found guilty of breaching By-Law 702, Article 11.

Dishonest intentions

An Industry Member disclosed that they were a salesperson on an offer to purchase and disclosed personal use as the reason for the purchase. Within two weeks of the sale, the property was advertised for rent. The sellers were emotionally attached to the property and had been clear in their desire for the property not to be turned into a rental. The Industry Member was found guilty of breaching By-Law 702

Failure to be impartial

One of the key components of transaction brokerage is that the Industry Member acts as a fair and impartial facilitator, assisting both parties to the Agreement of Purchase and Sale to complete the transaction. Among the Industry Members services to both parties, is providing the names of real estate service providers without making any specific recommendations. In one complaint before the Commission in 2009, a buyer asked Industry Member acting in a transaction brokerage situation for their opinion on having a home inspection. The Industry Member advised the buyer that it was within their rights to have a building inspection, but that the inspectors in that county weren't very good and would not provide the buyer with any more information than the Industry Member already had. Shortly after taking possession of the home, the buyer discovered major structural issues with repair estimates in the range of \$25,000-\$35,000. The Industry Member was found guilty of breaching By-Law 702, Article 2.

Avoid unnecessary problems

The following compliance issues are regularly identified in public and Industry Member complaints. It is important to be aware that the following situations can result in fines and reprimands—disciplinary action that can easily be avoided.

Get it in writing—The By-Law states that all real estate agreements must be in writing. Where Industry Members run into issues is when contracts are modified, the extension or amendments are not captured in writing. Failure to document any part of a transaction can have consequences that reach beyond Commission disciplinary action to include litigation and lost commissions.

Disclose all offers—Disclose multiple-offer situations to other Industry Members. As a seller's agent, unless the seller has given express written consent to the contrary, you must disclose a multiple-offer situation to all potential buyers and their representative in a timely manner.

Identify...in writing—Failure to disclose agency in writing is one of the most common complaints the Commission receives. The By-Law states that all Industry Members must fully disclose, in writing, their role and the services they are providing to all parties in a transaction.

Tell the truth—Misleading advertising not only violates the Commission By-Law, it also violates the Competition Act and can lead to civil and, in extreme cases, criminal charges. Before publishing any advertisement, ensure that everything stated in the ad is not only truthful, but clearly and easily understood.

Cooperation is key—While being investigated by the Commission is typically not the highlight of anyone's day, failing to cooperate with the Commission is guaranteed not to improve matters. Both the Act and the By-Law require all Industry Members to fully cooperate with a Commission investigation. Failure to do so can result in a fine and/or a reprimand in addition to any fines or reprimands you may receive as a result of the matter being investigated.

Play nice with others—Regardless of personal feelings, the By-Law prohibits you from publicly discrediting another Industry Member. As mother always said, "If you don't have anything nice to say..."

Discover and disclose—As a real estate professional, you are obligated under the By-Law to discover all pertinent facts about a property and disclose any material latent defects to your clients and any Industry Members party to the transaction.

Display good form on forms—NSAR sells standard forms to its members for all real estate transactions. Take the time to fill them out correctly. A Commission audit or investigation includes a review of all agreements and documents pertaining to a transaction. Serious documentation issues noted on one transaction could lead to all transactions for a brokerage falling under scrutiny.

Authorized persons only—Before you show a property, obtain the written consent of the owner.

Common audit issues

Compliance Auditor's report for 2009



Susan Best
Compliance Auditor

Common pitfalls in transaction files

When the Compliance Auditors audit brokerage transaction files, the following issues are commonly identified.

Using an Addendum rather than an Amendment to Agreement of Purchase and Sale—An Addendum is a supplement to any Agreement that contains additional information pertinent to the subject. An Amendment is a contract either to alter, add to, or correct part of an agreement without changing its principal idea or essence. They are not interchangeable.

Agreement of Purchase and Sale Part I: Common Clauses—The first section of Form 400, page 1, provides a space for Industry Members to record which, if any, Schedules (and Addenda) will form part of the Agreement. It also provides an area to record the number of pages that will be transmitted with the offer. While listing any attachments in Section 11, Additional Terms and Conditions, is legal, Industry Member should use the first section to ensure that the receiving brokerage knows how many pages to expect as part of the offer. This can mitigate confusion down the road.

When all conditions are met—If a deposit is tied to “all conditions being met” the seller is at risk of not having a good-faith deposit to use as leverage should a sale not come together. Why? The date is too ambiguous and does not specifically direct the buyer to provide the deposit by a certain date. To avoid confusion, the Commission strongly recommends deposits being due on a specific date, or tied to a specific clause in the Agreement of Purchase and Sale.

Claim for commission in the holdover period – A Seller Brokerage Agreement expires and is not renewed and the property is not listed with another brokerage. If an offer is received and accepted from a buyer that was introduced to the property while the Seller Brokerage Agreement was in full force and effect, clause 6.1 of the Seller Brokerage Agreement may be triggered. The Commission suggests that the brokerage document this chain of events in the transaction file and/or indicate on their invoice that the claim for commission is as per section 6.1 of the Seller Brokerage Agreement.

Time is of the essence—It is the understanding that the essential nature or performance of the contract by a party will be done within the specified period of time or the contract is voidable. Acceptance of a real estate agreement after the contract has expired disregards this notion. All real estate agreements require a response on or before the response deadline as proposed by the opposing party, or an extension to that deadline must be agreed upon. Otherwise, the contract is terminated and a new contract must be written.

Witnessing a faxed signature—A witness is someone who can give a firsthand account of something seen, heard, or experienced. If a client faxes a document with their unwitnessed signature, it cannot be witnessed after the fact.

Trust account record keeping

When the Compliance Auditors audit trust account files, the following issues are commonly identified.

Late deposits—deposits must be received no later than the date specified in the real estate agreement. If not, the seller must be notified in writing. The Commission recommends obtaining written instruction from the seller on how they wish to proceed.

Foreign exchange on deposits—when a deposit is received from another country, the buyer (or brokerage) has to accommodate the foreign-exchange rate to ensure that the deposit is received as per the terms of the real estate agreement. Unless otherwise specified, deposits are received in Canadian dollars. As a consequence, a \$1000 deposit in a foreign currency may result in a Canadian dollar amount less than the specified \$1000, causing a shortfall in the deposit amount. The result could be termination of the Agreement of Purchase and Sale.



John MacKay
MacKay Real Estate

The Discipline Committee's role is to hold discipline hearings. Very few investigations progress to the hearing stage because the majority of Industry Members facing disciplinary action choose to go through the Settlement Agreement process. For most infractions, Settlement Agreements are the quickest and simplest way to resolve the issue, from both the Industry Member's and the Commission's point of view.

There were two hearings held in 2009 and both hearings resulted in the Industry Members being found guilty of the charges put forward. One of the hearings involved a large number of charges and resulted in a permanent cancellation of licence, which the Industry Member did not appeal. The other hearing resulted in a suspension of licence, but that has been held in abeyance until a Supreme Court Appeal is heard in 2010. This is the only hearing matter being carried over into 2010.

If the Industry Member does not agree with a Settlement Agreement then the matter is referred to a full discipline hearing. After the Commission's and witnesses' evidence has been examined and cross examined at a hearing, the

Discipline Committee

Chairperson's report for 2009

Hearing Panel decides whether or not the Industry Member is guilty of any of the charges. If they are found guilty of any of the charges there is then an opportunity for both the Commission and the Industry Member to speak to appropriate penalties.

An Industry Member has the right to appeal the decision of the Hearing Panel to the Supreme Court of Nova Scotia and further to the Nova Scotia Court of Appeal, should they wish to and if there are grounds to do so.

The Commission published a Discipline Newsletter last fall, which gave summaries of number of discipline cases that were handled either through the Settlement Agreement process or a Discipline Hearing. The newsletter is available on the Commission's Web site (<http://www.nsrec.ns.ca/media.php?mid=327>). Discipline Newsletters are provided as learning opportunities for the industry and to highlight the consequences when a consumer's best interests are not protected.

I wish to thank the committee members for serving on this committee.

Discipline Committee

John MacKay, Chairperson/Commissioner
Wolfville

Carol Alexander, Member
Chester

Debbie Benn, Member
Port Hastings

Avis Chapman, Commissioner
Amherst

Don Clark, Member
Halifax

Al Demings, Member
Dartmouth

Susan Green, Member
New Glasgow

Brian Hirtle, Member
Kentville

Matt Honsberger, Member
Halifax

Gail Morris, Member
Halifax

Sheila Sinnott, Member
Mahone Bay

Wendy Spencer, Member
Bedford

Mark Stein, Member
Halifax

Douglas Dixon, Registrar

Communications update

Message from the Communications Officer



Peggy Kell
Communications Officer

Advertising dos

When creating advertisements, ensure that you do:

- identify your brokerage and yourself (name as it appears on your licence) in every ad
- tell the truth and back it up with proof
- explain the essential terms and conditions of any incentive in the advertisement
- portray yourself and your brokerage in a tasteful and ethical manner
- proofread all of your advertising before it is published
- check and correct your grammar and spelling
- have your broker approve your advertisements
- measure twice and list once
- ask the Communications Officer if you have any questions about advertising

Advertising don'ts

When creating advertisements, ensure that you don't:

- downgrade or dismiss your competitors; you should be skilled at promoting your own services and value, not talking about what others do or don't do
- promote or offer any incentives that are not available at a brokerage-wide level
- provide false or misleading information
- portray yourself or your firm in a tacky or tasteless manner
- compare yourself to a competitor in such a way that if the competitor changed their policies, the ad would be untrue
- approve an ad until it is the final version and can be read in its entirety
- guess, estimate or rely on disclaimers

The Commission's new Web site—2009 saw the Commission's Web site receive a complete overhaul. The new Web site (www.nsrec.ns.ca) is designed with both consumers and Industry Members in mind, with extensive information for buyers and sellers as well as informative industry articles, publications, and a comprehensive section on the complaint and discipline process specifically written for Industry Members.

Commission Advertising Guidelines—The Commission developed, published and distributed the *Commission Advertising Guidelines* resource in 2009. This publication was designed to assist Industry Members to create advertising that complies with the Act, By-Law and Competition Act. Copies of the *Advertising Guidelines* were included for every Industry Member in the licensing renewal packages sent to all brokerages across the province. The publication can also be viewed or downloaded and saved to your desktop at the following link: <http://www.nsrec.ns.ca/media.php?mid=425>

Commission brochures—The Commission's brochures were also revamped in 2009. The brochures *Nova Scotia Real Estate Commission—Ensuring Consumer Confidence*, *Working with a Industry Member* and *Working with a Commercial Industry Member* are available on our Web site at the following link: <http://www.nsrec.ns.ca/content.php?doc=57>. These brochures were designed to permit Industry Members to print them on their own printers and distribute them to clients and customers.

Newsletters and bulletins—As part of the Commission's strategic communications plan, Industry Members can expect communications from the Commission at regular intervals. Commission News Bulletins will be sent out monthly, unless a need is identified that requires immediate addressing, like a forms change or a newly occurring and incorrect or inappropriate trade practice. Commission Newsletters will be sent out quarterly and contain best-practices articles as well as responses to questions raised by Industry Members. Discipline Newsletters will be sent out twice a year and document discipline cases including a detailed analysis of what went wrong.

I encourage anyone who has questions about industry practices that they would like to see addressed in a bulletin or a newsletter to write or call me at the Commission.



John Walker
GWL Realty Advisors Inc.

Commercial Committee Chairperson's report for 2009

This was a very quiet year for the Commercial Committee. The Committee did not meet in 2009, as no new issues were brought forward.

The commercial highlight of the year was a Commercial Forum held in October. A number of guest speakers were invited and presented on the following topics:

Sustainable Buildings and Programs – Lara Ryan, Executive Director of Canada Green Building Council

Renewable Energy Systems and Funding Opportunities – Jeff Larson, CEO of MaManna Renewable Energy

Brownfield Development & Contaminated Sites Regulation News – Andrew Thalheimer, Dillon Consulting Ltd.

Economic Overview of Greater Halifax – Fred Morley, Greater Halifax Partnership

Halifax Gateway Council & New Air Cargo Facility at HSIA – Nancy Philips, Chair, Halifax Gateway Council

Halifax Logistics Park and Transloading in Halifax – Robert Pittman, Consolidated Fastfrate

Dartmouth Crossing – Glenn Munro, North American Development Group

Industry Members involved in commercial transactions are asked to send any concerns or issues they may have to the Commission or to the members of the Commercial Committee. The Committee would like to be pro-active on issues concerning the commercial community.

John Walker was appointed by the Commission as a non-voting Commissioner representing the commercial real estate sector.

Commercial Committee

- John Walker, Chair/Commissioner—Halifax
- Neil Black, Member—Dartmouth
- Bill Greenwood, Member—Halifax
- Tim Margolian, Member—Halifax
- Roger O'Neil, Member—Halifax
- Kenneth Young, Member—Bridgewater
- Douglas Dixon, Registrar

The Commissioner election process

The following list explains the voting process for the elections to be held at the Annual General Meeting.

- All persons licensed under the Real Estate Trading Act are entitled to vote either in person or by proxy.
- Any person elected to serve as a Commissioner must be an Industry Member.
- No corporation or partnership is eligible for election.
- The only nominations to be considered for election are those listed in this Notice of Meeting.
- Industry Members must return their ballots (their own plus those by proxy) to the registration desk if they leave at any time during the meeting.
- The election is conducted by written ballot.
- Ballots can indicate only one vote per nominee.
- Ballots will be considered spoiled if the ballot indicates more than one vote or if it indicates more than one vote per nominee. It will also be considered spoiled if it does not clearly indicate for which nominee the vote is being cast.
- A nominee will be declared elected if the nominee receives 50-per cent-plus-one of votes cast. For example, if there are 200 votes cast, the nominee must have 101 or more votes to be declared elected.
- The person receiving the highest number of votes cast and declared elected, will be elected to a three year term.
- Should a person not be elected after the first ballot, a second ballot will be held. The same procedure will be used in every ballot that follows until a person has been declared elected.
- The nominee having the lowest number of votes will be dropped from the next ballot.
- Any nominees having less than ten percent of the votes cast will be dropped from the next ballot.
- The successful nominee will take office effective May 1, 2009 for a three-year term.
For nominees, see next page.

Commissioners:

The nominees for 2010

Nominee: Crystal Yeo

Brokerage: Exit Realty Optimum

Type of license: Associate Broker

Years licensed: 8

Primary types of real estate practiced: Residential

Degrees or designations held: N/A

Director or committee experience in any organization:

- Member of Professional Standards Committee (2 years)
- Member of School Advisory Committee for Oldfield Consolidated School (2 years) and Chairperson (1 year).
- Parent member of Tot's Academy Childcare Society (2 years).

Other experience: Associate Broker licence, February 2006.

Nominee: John Linders

Brokerage: RE/MAX Nova

Type of license: Salesperson

Years licensed: 29

Primary types of real estate practiced: Residential

Degrees or designations held: B.Sc., B.Ed., M.Ed. (Dalhousie University)

Director or committee experience in any organization:

- Director – Halifax Dartmouth Real Estate Board
- Chairman – Public Relations Committee, Halifax Dartmouth Real Estate Board
- Member – New Construction Forms Committee
- Chairman – Course Advisory Committee, Dartmouth Regional Vocational School

Other experience:

- Course Development & Instructor – New Construction Forms & Practice – HDREB, NSAR
- Course Development & Instructor – HST Calculations in New Construction
- Course Development & Instructor – Marketing R-2000 Homes – HDREB, NSAR, NSHBA
- Vice Principal – Halifax County School System
- Department Head, Related Subjects – Nova Scotia Technical/Vocational Education

Nominee: Paul J. Doucet

Brokerage: Prudential Property Specialists

Type of license: Broker

Years licensed: 28

Primary types of real estate practiced: Residential

Degrees or designations held: N/A

Director or committee experience in any organization:

- Certified Trainer with REIC (1987)
- Served on BOD of the Saint John Real Estate Board and NBREA as director (3 years)
- Director with former HDREB (3 years)
- Former Commissioner and Chair of NSREC (5 years)
- Chair of Provincial Broker Council
- Chair of REIA E&O Claims Committee
- Chair of Long Range Financial Task Force for NSAR
- Long time member of Standard Forms Committee
- Served on several National and Provincial Task Forces.

Other experience: Actively involved with fund raising for Sunshine Kids (Children with Cancer), Bryony House and Families SOS. Led our sales team in raising over \$45,000 each year for these organizations.

Nominee: Wendy Spencer

Brokerage: Exit Realty Metro

Type of license: Broker

Years licensed: 11

Primary types of real estate practiced: Brokerage management

Degrees or designations held: N/A

Director or committee experience in any organization: Held numerous positions with the Parent Teacher Association.

Other experience: Although my committee experience is limited, I feel my election to serve as a Commissioner for NSREC will benefit NSREC, the consumer and our membership. My moral and ethical standards will enable me to perform any duties required with an open mind and an unbiased opinion.



Ernie Buote
Domus Realty

2009 Results

After 12 years of very predictable revenues and expenses, 2009 proved to be a very different year financially for the Commission. The Commission budgeted very conservatively on the revenue side, expecting interest rates to remain low and returns on investments to be still recovering from unsettled markets. Unfortunately, interest earned on trust accounts (IBTA) fell significantly; \$86,000 below budget. On the expense side, the Commission incurred significant legal bills related to a very serious discipline matter, from which there will be no possibility of recovering expenses until 2010. As a result, these two items created a deficit, even with the elimination of two large expense items.

Licensing fee revenue was over budget, mainly due to a higher retention rate of existing Industry Members. The number of new applicants was down across the board, but not significantly.

On the expense side, most operating items came in fairly close to budget. Legal expenses for 2009 came in under budget, but Hearing Costs came in \$42,000 over budget. Printing shows as \$15,000 over Budget, but that is due to the Commissioners approving the printing of the Advertising Guidelines booklet after last year's budget was approved. Because of the decreased revenues, it was decided that the Commission would not put budgeted amounts into the Reserve or Recovery Funds. The Budget anticipated putting \$15,000 into the Recovery Fund and \$30,000 into the Reserve Fund. The total amount accumulated in the Reserve Fund is still close to the long range plan as a result of the Commission putting extra funds in two years ago because of a budget surplus.

Finance Committee

Chairperson's report for 2009

2010 Budget

The biggest single increase to expenses for 2010 is salaries. The main reason for this increase is a staff member returning from maternity leave. Conference (Out of Province) shows an \$8,000 decrease due to various circumstances cancelling travel to two different conferences. The Commission also decided not to put anything into the Recovery Fund in 2010 and only put \$20,000 into the Reserve Fund. On the revenue side, it is anticipated that the IBTA will only generate about \$10,000 instead of the normal \$125,000. New Industry Members and renewals are expected to remain stable. In order to balance the 2010 Budget, with the major factors above considered, it was necessary for the Commission to increase licensing fees, which is the only income source other than IBTA and investments. All new application fees have been adjusted to \$300 and renewal fee for all categories of licence is \$270 for the 2010 – 2011 licensing cycle.

The Commission continues to operate on a very tight budget. The Commissioners review the financial statements on a regular basis throughout the year, focusing on any variances from the budget. Typically, there are no significant expenses above budget without the approval of the Commissioners. Included later in this report is the Commission's Finance Summary and notes, as well as the detailed Auditor's Report.

Finance Committee

Ernie Buote, Chair/Commissioner—Halifax
Mary MacDonald, Commissioner—Liverpool
Elizabeth Irwin, Commissioner—Halifax
John McKay, Commissioner—Wolfville
Doug Dixon, Registrar

Recovery Fund

Report for 2009



Ernie Buote
Domus Realty

About the Recovery Fund

There were no claims against the Recovery Fund in 2009. The fees for the Recovery Fund will remain the same for 2010, as they have been for the last six years. The Recovery Fund fee was eliminated for all licence renewals where the applicant has been in a licensing category for five years. Should an applicant change from Salesperson or Associate Broker to Broker or Managing Associate Broker, they will be required to pay the Recovery Fund fee for the new category for a period of five years.

The Recovery Fund portfolio, which consists of bonds and mutual funds, showed significant improvement in the last nine months of 2009. The huge failure in the markets around March 2009 caused the Recovery to drop in value by about \$135,000. By year end, almost all of that value had been recovered. The Fund book value, as of December 31, 2009, was \$481,859, up from \$410,335. It is the Commission's intention to leave the principal amounts in the Fund, anticipating that their value will continue to appreciate as the markets return to normal over the next several years.

Typically, the Recovery Fund has provided grant money to the Nova Scotia Association of REALTORS® (NSAR) Education Department. This year the Commission gave a grant of \$27,338, but it was not necessary to take it from the Recovery Fund investments as it could be paid from the 2009 Recovery Fund Assessment. The education grants from the Commission help keep licensing and continuing education costs reasonable for Industry Members and new applicants taking the courses.

The Recovery Fund was created to protect consumers when they suffer a financial loss due to fraud or breach of trust by a licensee. The Provincial Government regulations require the Commission to maintain a minimum balance of \$300,000 in the Fund. Any monies in excess of that amount may be used for a variety of other purposes, such as public and professional education relating to the real estate industry, reform of the industry, promoting standardization and supporting just and desirable legislation affecting the industry.

Recovery Fund projects

Over the last seventeen years the Recovery Fund has played a major role in funding many projects. Some of those projects include:

Grants supporting continuing education	\$406,000
Subsidizing development of the new SLC.....	95,000
Subsidizing development of the new BLC	54,000
Grant towards new classroom facilities	5,000
Distribution of R.E. Encyclopedias & Supp.	27,000
Distribution of new BLC materials.....	5,475
Subsidizing Buyer/Seller booklets	20,000
Standard Form exchange/update	16,000
Development of Self Regulation	250,000
Agency Task Force.....	23,000
Total.....	\$901,475

As you can see, the Recovery Fund has enabled many worthwhile projects to take place and the Fund is playing a very important role in supporting the advancement of professionalism, both with existing Industry Members and those entering the industry.

Recovery Fund Committee

- Ernie Buote, Chair/Commissioner—Halifax
- Richard Miller, Member (NSREC Appointment)—Halifax
- Dennis Richards, Member (NSAR Appointment)—Dartmouth
- Doug Dixon, Registrar



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Auditors' Report

To the Board of Directors of the
Nova Scotia Real Estate Commission

We have audited the balance sheet of the Nova Scotia Real Estate Commission as at December 31, 2009 and the statements of revenue and expenditures and net assets and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at December 31, 2009 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Chartered Accountants
Halifax, Nova Scotia
February 25, 2010

Member of
Deloitte Touche Tohmatsu

NOVA SCOTIA REAL ESTATE COMMISSION
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December 31, 2009

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NOVA SCOTIA REAL ESTATE COMMISSION

Balance Sheet

As at December 31, 2009

	<u>2009</u>	<u>2008</u>
ASSETS		
Current		
Cash and cash equivalents	\$ 480,278	\$ 588,729
Restricted cash	22,872	22,556
Accounts receivable	3,070	-
Accrued interest receivable	1,016	955
Prepaid expenses	4,389	1,969
Inventory - manuals and guides	6,505	12,511
	<u>518,130</u>	<u>626,720</u>
Recovery fund investments		
(cost - 2009 - \$487,706; 2008 - \$471,172)	481,859	410,335
Capital assets (Note 4)	26,634	34,420
	<u>\$ 1,026,623</u>	<u>\$ 1,071,475</u>
LIABILITIES		
Current		
Accounts payable and accrued liabilities	\$ 19,985	\$ 50,435
Due to Nova Scotia Association of Realtors	1,991	1,375
Funds held in trust	22,872	22,556
Deferred revenue	285,138	260,649
	<u>329,986</u>	<u>335,015</u>
Deferred capital grants	3,304	12,271
	<u>333,290</u>	<u>347,286</u>
NET ASSETS		
Reserve Fund (Note 5)	148,496	145,170
Recovery Fund (Note 5) (Schedule 1)	497,560	441,530
General Fund (Note 5)	47,277	137,489
	<u>693,333</u>	<u>724,189</u>
	<u>\$ 1,026,623</u>	<u>\$ 1,071,475</u>

NOVA SCOTIA REAL ESTATE COMMISSION
Statement of Revenue and Expenditures and Net Assets
Year ended December 31, 2009

	2009	2008
Revenue		
Recovery Fund		
Assessment income	\$ 68,895	\$ 72,020
Investment income	12,585	24,675
Unrealized gain (loss) on investments classified as held-for-trading	54,990	(98,439)
	136,470	(1,744)
General Fund		
Administration fees	3,475	3,510
Amortization of deferred capital grant	8,967	8,967
Background checks	5,460	6,690
Brokerage manuals	2,100	1,800
Buyer/seller guides	1,294	1,639
Examination fees	25,905	30,165
Fines and penalties	12,000	18,450
Hearing cost recovery	11,752	4,936
IBTA interest	13,746	122,739
Investment income	8,225	18,985
Licensing fees	571,589	540,152
Reinstatement of license	13,295	15,115
	677,808	773,148
	814,278	771,404
Expenditures		
Accounting	15,577	12,300
Advertising	550	5,728
AGM and conference	1,579	3,900
Amortization	10,164	12,331
Bank service charges	17,489	17,202
Benefits	53,018	45,011
Buyer/seller guides	6,006	4,109
Car allowances	2,640	2,640
Computer	1,764	1,985
Conferences	37,574	33,773
Dues and subscriptions	7,984	7,382
Grant to education by Recovery Fund	27,338	54,000
Hearing costs	66,520	41,922
Insurance	2,007	2,135
Legal	11,470	20,801
Miscellaneous	5,163	4,257
Office	2,035	2,949
Per diems	19,050	18,050
Photocopies	9,290	8,409
Postage and courier	9,088	8,351
Printing	17,141	331
Provincial reference manuals	5,475	-
Rent, cleaning and utilities	57,800	61,204
Salaries	398,557	343,489
SPL and BM exams	5,216	7,115
Staff training	8,021	6,378
Staff travel	15,553	17,774
Taxes	734	1,488
Telecommunications	12,902	13,443
Travel and meetings	9,995	9,126
Website maintenance	7,434	2,022
	845,134	769,605
(Deficiency) excess of revenue over expenditures	(30,856)	1,799
Net assets, beginning of year	724,189	722,390
Net assets, end of year	\$ 693,333	\$ 724,189

NOVA SCOTIA REAL ESTATE COMMISSION

Statement of Cash Flows

Year ended December 31, 2009

	<u>2009</u>	<u>2008</u>
NET (OUTFLOW) INFLOW OF CASH RELATED TO THE FOLLOWING ACTIVITIES		
Operating Activities		
(Deficiency) excess of revenue over expenditures	\$ (30,856)	\$ 1,799
Items not affecting cash		
Amortization of capital assets	10,164	12,331
Amortization of deferred capital grant	(8,967)	(8,967)
Unrealized (gain) loss on investments classified as held-for-trading	(54,990)	98,439
Changes in non-cash operating working capital items	(4,574)	15,876
	<u>(89,223)</u>	<u>119,478</u>
Investing Activities		
Purchases of investments (net)	(16,534)	(29,760)
Purchase of capital assets	(2,378)	(12,181)
Increase in restricted cash	(316)	(13,184)
	<u>(19,228)</u>	<u>(55,125)</u>
NET CASH AND CASH EQUIVALENTS	(108,451)	64,353
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	588,729	524,376
CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 480,278	\$ 588,729
Cash and cash equivalents are comprised of:		
Cash	\$ 333,247	\$ 445,019
Short-term investments	147,031	143,710
	<u>\$ 480,278</u>	<u>\$ 588,729</u>

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2009

1. DESCRIPTION OF BUSINESS

The Nova Scotia Real Estate Commission was established by the Province of Nova Scotia Bill No. 31 assented to December 20, 1996. Bill 31 is an Act to Provide for Regulation of Trading in Real Estate in Nova Scotia.

Included in these financial statements are the transactions of the Nova Scotia Real Estate Recovery Fund, which is administered and supervised by the Commission. The purpose of the Fund is to provide a self-insurance fund for licensed members in the Nova Scotia real estate industry within limits outlined in Note 6.

2. CHANGES IN ACCOUNTING POLICIES

The Canadian Institute of Chartered Accountants (“CICA”) has decided that not-for-profit organizations will not be required to apply Sections 3862, Financial Instruments – Disclosure, and 3863, Financial Instruments – Presentation, of the CICA Handbook which would otherwise have applied to the financial statements of the Commission for the year ended December 31, 2009. The Commission has elected to use this exemption and applies the requirements of Section 3861, Financial Instruments – Disclosure and Presentation.

In November 2008, the CICA issued amendments to Section 1540, Cash flow statement, Section 1751, Interim financial statements, Section 4400, Financial statement presentation by not-for-profit organizations, Section 4430, Capital assets held by not-for-profit organizations, Section 4460, Disclosure of related party transactions by not-for-profit organizations and issued Section 4470, Disclosure of allocated expenses by not-for-profit organizations. The adoption of the new standard had no impact on the Commission’s financial statements.

3. ACCOUNTING POLICIES

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles and include the following significant accounting policies:

Cash and cash equivalents

Cash and cash equivalents is comprised of short-term amounts on deposit with financial institutions with maturities of three months or less.

Financial instruments

Financial assets and financial liabilities are initially recognized at fair value and their subsequent measurement is dependent on their classification as described below. Their classification depends on the purpose, for which the financial instruments were acquired or issued, their characteristics and the Commission’s designation of such instruments. Settlement date accounting is used.

<u>Asset/Liability</u>	<u>Classification</u>	<u>Measurement</u>
Cash, cash equivalents and restricted cash	Held-for-trading	Fair value
Accounts receivable, accruals and due from related parties	Loans and receivables	Amortized cost
Investments	Held-for-trading	Fair value
Accounts payable and accrued liabilities	Other financial liabilities	Amortized cost

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2009

3. ACCOUNTING POLICIES (continued)

Held for trading

Held for trading financial assets are financial assets typically acquired for resale prior to maturity or that are designated as held for trading. They are measured at fair value at the balance sheet date. Fair value fluctuations including interest earned, interest accrued, gains and losses realized on disposal and unrealized gains and losses are included in income.

Other liabilities

Other liabilities are recorded at amortized cost using the effective interest method and include all financial liabilities, other than derivative instruments.

Transaction costs

Transaction costs related to held for trading financial assets are expensed as incurred. Transaction costs related to other liabilities and loans and receivables are added to the carrying value of the asset or netted against the carrying value of the liability and are then recognized over the expected life of the instrument using the effective interest method.

Capital assets

Capital assets are stated at cost and are being amortized on a straight-line basis at the following annual rates:

Furniture and equipment	10%
Computers	25%
Software	50%
Leasehold improvements	10%

Investments

Investments are recorded at fair value. The fair value is determined using closing published price quotations in an active market.

Amortization of grants from Recovery Fund

The grants were received from the Recovery Fund for the purchase of capital assets and are amortized to income on the same basis as the related capital assets.

Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Significant management estimates in these financial statements relate to amortization of capital assets. Actual results could differ from these estimates.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2009

3. ACCOUNTING POLICIES (continued)

Revenue recognition

The Commission's revenue is derived primarily from the assessment of fees which are recognized on a on a monthly basis as earned. Other revenues are recognized when persuasive evidence of an arrangement exists, service has occurred, the price to the buyer is fixed and collection is reasonably assured.

4. CAPITAL ASSETS

	2009			2008
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computers	\$ 26,421	\$ 20,323	\$ 6,098	\$ 10,079
Furniture and equipment	80,039	68,703	11,336	12,921
Software	20,785	14,499	6,286	7,102
Leasehold improvements	14,092	11,178	2,914	4,318
	<u>\$ 141,337</u>	<u>\$ 114,703</u>	<u>\$ 26,634</u>	<u>\$ 34,420</u>

5. NET ASSETS

	General Fund	Recovery Fund	Reserve Fund	2009	2008
Balance, beginning of year	\$ 137,489	\$ 441,530	\$ 145,170	\$ 724,189	\$ 722,390
Excess (deficiency) of revenue over expenditures	(74,419)	40,237	3,326	(30,856)	1,799
Transfer from General Fund	(15,793)	15,793	-	-	-
Balance, end of year	<u>\$ 47,277</u>	<u>\$ 497,560</u>	<u>\$ 148,496</u>	<u>\$ 693,333</u>	<u>\$ 724,189</u>

The Reserve Fund has been established by the Commission as a contingency fund for future unexpected expenditures. Transfers to the reserve fund are approved by the Board.

The Recovery Fund balance, end of year, includes accumulated unrealized losses on investments of \$5,847.

6. NOVA SCOTIA REAL ESTATE RECOVERY FUND

The Recovery Fund exceeds the required minimum amount of \$300,000 in cash and investments, and no longer carries insurance for indemnification purposes. Under the regulations, the maximum amount that may be paid from the Recovery Fund arising from a single real estate transaction is:

- a) \$25,000 to any claimant for a claim against a salesperson;
- b) \$50,000 to any claimant for a claim against a broker or manager; and
- c) a total of \$100,000 if there is more than one claim against a brokerage.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2009

7. SHARED EXPENSES

The Commission occupies space in the Nova Scotia Association of Realtors building under a lease agreement between the Nova Scotia Association of Realtors and the Commission. The Commission is charged based upon space utilization. The Commission also shares the lease costs for the photocopier and postage machines, as well as other certain common expenditures that are prorated on a reasonable basis. These financial statements include only the portion allocated to the Commission.

8. FINANCIAL INSTRUMENTS

The fair value of cash and cash equivalents, accounts receivable and accruals, due from related entities and accounts payable and accrual approximates their carrying value due to their short-term nature.

Investments are recorded at fair value.

Market risk

This is the risk that the Commission's investments will fluctuate as a result of changes in market price. The Commission manages this risk by maintaining a diversified portfolio.

9. COMMITMENT

During the year, the Commission entered into a lease agreement for office equipment that expires December 31, 2014.

Future lease payments aggregate \$30,000 and include the following amounts payable over the next four years:

2010	6,000
2011	6,000
2012	6,000
2013	6,000
2014	6,000

SCHEDULE 1

NOVA SCOTIA REAL ESTATE COMMISSION

Schedule of Recovery Fund Transactions

Year ended December 31, 2009

	<u>2009</u>	<u>2008</u>
Net assets beginning balance	\$ 441,530	\$ 512,909
Revenue	136,470	(1,744)
Grant to Education Fund	(27,338)	(54,000)
Transfers to Recovery Fund	15,793	56,385
Transfer to Commission - administration	(68,895)	(72,020)
Ending net assets	<u>\$ 497,560</u>	<u>\$ 441,530</u>

Financial summary 2009-2010

Source of Funds				
Budget		2009	2009	2010
Item	Notes	Budget	Actual	Budget
Administration Fees		2,800	3,475	3,000
Assessment-Recov Fund		68,000	68,895	70,000
Background Check Fees		6,300	5,460	7,000
Branch Office Fees	1	11,570	15,038	16,238
Broker Fees-New	2	2,100	7,340	3,000
Broker Fees-Renewal	1	44,383	44,383	51,188
Brokerage Audit Fees	3	59,000	71,900	90,000
Brokerage Fees-New	2	3,000	3,900	2,400
Brokerage Fees-Renewal	1	44,383	44,308	51,188
Brokerage Manuals		1,200	2,100	1,500
Buyer-Seller Booklets		2,500	1,294	2,000
Exam Fees		27,000	25,485	28,000
Exam Review Fees		1,200	420	120
Fines/Penalties	4	30,000	12,000	20,000
Hearing Cost Recovery	4	35,000	11,752	15,000
Interest-IBTA	5	100,000	13,746	10,000
Interest Income-General		6,000	8,225	7,000
Interest-Recovery Fund	6	0	12,585	24,000
Managing AB Fees-New	2	1,650	1,650	1,500
Managing AB Fees-Renewal	1	9,357	9,470	11,003
Reinstatement of License	7	14,000	13,295	16,000
Salesperson/AB Fees-New	2	50,600	42,280	60,000
Salesperson/AB Fees-Renewal	1	324,243	331,320	372,263
Deferred Capitol Grant		6,000	8,967	8,967
Unused funds transferred from 2008		56,000	54,990	0
Revenue Totals		\$906,286	\$814,278	\$871,367

Overall, most Revenue/Expenses for 2009 were close to budget. Revenues were lower than projected, mostly due to low interest rates on trust accounts. On the Expense side, Hearing Costs and Printing were the only significant over expenditures, both described in the following notes.

Use of Funds				
Budget		2009	2009	2010
Item	Notes	Budget	Actual	Budget
Accounting		14,000	15,577	14,500
Advertising		5,000	550	5,000
AGM & Conference		1,000	1,579	4,000
Background Checks		1,300	1,206	1,100
Bad Debts		0	0	0
Bank Charges		4,800	6,007	6,500
Investment Account Fees		12,000	11,482	12,000
Benefits - Government	8	27,000	25,895	30,000
Benefits - Health and Fitness	8	13,500	12,908	14,000
Benefits - RRSP Contribution		15,000	14,215	15,000
Car Allowance		2,640	2,640	2,640
Computer - Hardware and Software		3,500	56	2,500
Computer - Technical Support	9	6,000	1,708	1,000
Conferences (Out of Prov)	10	35,285	37,574	26,000
Cost of Brokerage Man Sold		500	570	500
Cost of Buyer-Seller Booklets		5,000	5,436	4,000
Depreciation		12,000	10,164	11,000
Dues, Subscriptions & Publications		7,500	7,984	7,700
Facility Rental		1,200	0	1,000
Furniture & Equipment		400	0	200
Hearing Costs	11	25,000	66,520	15,000
Honorariums		27,300	19,050	26,000
Insurance/Directors Liability		900	701	701
Insurance/Property		1,400	1,306	1,400
Legal	12	20,000	11,470	10,000
Maintenance		100	31	100
Miscellaneous		3,500	3,957	3,500
Office		2,500	2,004	2,500
Photocopies		9,000	9,290	9,500
Postage and Courier		12,000	9,088	10,000
Printing	13	3,000	17,141	3,000
Provincial Reference Manuals		15,000	5,475	0
Public Awareness Program	14	10,000	0	8,000
Recovery Fund - Investment	15	15,000	0	0
Rent, Cleaning, Utilities	16	59,000	57,800	68,000
Reserve - General Operations	17	30,000	0	20,000
Salaries	18	396,895	398,557	447,146
SPL & B/M Exams		5,500	5,216	6,000
Staff Training		9,000	8,021	9,000
Staff Travel		22,000	15,553	18,000
Taxes		1,500	734	800
Telecommunications		14,000	12,902	14,000
Transfer to Education		25,000	27,338	25,000
Travel & Meetings		11,000	9,995	11,500
Com&Committees				
Web site Maintenance		8,000	7,434	3,000
Expenditure Totals		894,220	845,134	870,787
NET		-22,853	-29,846	580

Source of funds

1. Renewal Licence Fees – Most categories came in higher in 2009 than budget as the decrease in Industry Members was not as high as expected. Due to the significant loss of revenue in interest on trust accounts, it was necessary to increase all licensing fees in 2010.
2. New Licence Fees – The number of new Salespeople was down in 2009. Previously, there were different fees for different categories of licence. The Commission decided to make all new licence fees the same for 2010, at \$300.
3. Brokerage Audit Fees – The Commission's audit program has never been fully self-funded. In the spring of 2009 the Commission adjusted the audit fees to reflect the true cost of the audit program. As that increase only took effect in July 2009, only 50 per cent of the increase applied in the 2009 financial year. In 2010 the fees will remain the same and the full increase in revenue will be felt in the 2010 financial year.
4. Hearing Cost Recovery – A very extensive hearing was held in 2009, which resulted in significant expense. This was not recovered in 2009 as the Industry Member involved has until July 2010 to pay the amount ordered by the Hearing Panel.
5. Interest -IBTA – Interest earned on trust accounts was down significantly due to the extremely low interest rates. The amount paid to the Commission is based on Prime minus 3 or 3.5 per cent (depending on the financial institution). As Prime was below 3.5 per cent most of 2009, it resulted in very little interest being paid. The Commission has had to be conservative and expect similar interest revenue in 2010.
6. Interest – Recovery Fund – The Commission budgeted for no revenue under this item for 2009, but did not take into account that a portion of the Fund is bonds, which were not affected by the significant losses in stocks. The stock portion of the Fund has shown significant improvement over the last eight months of 2009 and this trend is expected to continue in 2010.
7. Reinstatement of Licence – As part of the increase in licence fees to offset the loss of interest income, the reinstatement fee has been increased for 2010 by \$10.

Use of funds

8. Benefits – These categories show an increase for 2010, mostly due to the return of a staff member from maternity leave.
9. Computer – Technical Support – The 2009 budgeted amount allowed for the replacement of the Commission's database. This was not necessary as the new Web site for the Commission will incorporate a database function.
10. Conferences – Out of Province – The 2010 budget is lower because the Commission will not be sending anyone to the NAR Conference and one staff member who normally attends the annual ARELLO Conference will not be participating this year for personal reasons.
11. Hearing Costs – There were two significant hearings held in 2009, one of which was quite extensive and involved six days of proceedings. The Commission had budgeted for a higher amount, but did not anticipate that lengthy a hearing.
12. Legal – This category covers regular legal support for general matters during the year. There were not as many issues to resolve in 2009 as had been anticipated.
13. Printing – The overage in 2009 was due to the Commissioners approving the printing of the Advertising Guidelines booklet after the budget was finalized.
14. Public Awareness Program - This project did not move forward in 2009, but is expected to take place in 2010.
15. Recovery Fund Investment – As part of the Commission's long range planning it was decided to put \$15,000 into the Recovery Fund each year. Due to the shortfall in revenues in 2009, it was decided not to do this in 2009 and further, it was decided not to do it in 2010.
16. Rent, Cleaning, Utilities – The increase shown for 2010 is anticipation of greater lease expenses due to the Commission taking on additional space.
17. Reserve – General Operations – The Commission's long term financial plan included putting \$30,000 a year into a Reserve Fund as part of prudent financial management. As a result of the lower revenues in 2009, there were no funds added to the Reserve Fund. The amount for 2010 was scaled back to \$20,000.
18. Salaries – The increase in 2010 consists of cost of living increase, merit increases and, most significantly, the return of a staff member from maternity leave.

Proxy for Commissioner Vote Nova Scotia Real Estate Commission

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ONLY THE UNDERSIGNED CAN APPOINT HIS/HER VOTING DELEGATES. (Please print)

THE UNDERSIGNED: _____

HEREBY APPOINTS: _____

OR FAILING HE/SHE: _____

AS THE PROXY ON MY BEHALF AT:

The Nova Scotia Real Estate Commission will hold their Annual General Meeting at the Auditorium of 7 Scarfe Court, Burnside, Nova Scotia, on Wednesday March 17th, 2010 at 1:00 PM.

AND AT ANY ADJOURNMENT THEREOF IN THE SAME MATTER, TO THE SAME

EXTENT AND WITH THE SAME POWER AS IF THE UNDERSIGNED WERE PRESENT

AT THE SAID MEETING OR SUCH ADJOURNMENT THEREOF.

I UNDERSTAND THAT NO VOTING DELEGATE CAN CARRY MORE THAN TWO (2) PROXY VOTES.

DATED THE _____ DAY OF _____ 2009.

Signature of Eligible Voting Industry Member

Printed Name of Eligible Voting Industry Member

Brokerage

NOTE: The completed proxy form must be faxed to the Commission office before 4:00 p.m. on Tuesday, March 16th, 2010 or presented to the Commission prior to the Annual General Meeting. You are encouraged to fax your proxy (468-1016 or 1-800-390-1016) to streamline the registration process.

Fax number: 468-1016 or 1-800-390-1016

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