

nova scotia real estate COMMISSION



ANNUAL REPORT 2010

Nova Scotia Real Estate Commission

Notice of Annual General Meeting

Empire Theatres • 145 Shubie Drive • Dartmouth • Nova Scotia

Wednesday, March 30, 2011
1:00 - 2:30 PM

Agenda

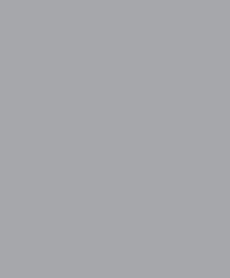
Chairman – David Melvin

1. Call to Order
2. Introduction of Head Table—David Melvin
3. Commission Chairman’s Report—David Melvin
4. Finance & Recovery Fund—Paul Doucet
5. Licensing Committee—Donna Anderson
6. Complaint Review Committee—Gordon Burns
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 and Commission By-Law
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

				
David Melvin Chairperson Finance Committee	John MacKay Discipline Committee	Donna Anderson Licensing Committee	Paul Doucet Vice Chairperson Finance Committee	Gordon Burns Complaint Review
				
Dennis Richards Complaint Review	Robert Wambolt Complaint Review	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*
Robert Wambolt	April 30, 2014	NSAR	St. Peters	Coldwell Banker Mary-Pat Realty	2/2
Dennis Richards	April 30, 2013	NSAR	Dartmouth	Century 21 Trident	3/3
John MacKay	April 30, 2012	NSAR	Wolfville	MacKay Real Estate	4/5
Gordon Burns	April 30, 2012	Elected	Dartmouth	Century 21 ABC Realty Ltd.	4/5
Paul Doucet	April 30, 2013	Elected	Halifax	Prudential Property Specialists	3/3
Ron Stuart	April 30, 2011	Elected	Halifax	Harbourside Realty Ltd.	5/5
David Melvin	July 2012	Public	Dartmouth		5/5
Donna Anderson	August 2013	Public	Sydney		4/5
Avis Chapman	September 2011	Public	Amherst		5/5

*The attendance record of the Commissioners serving on the Nova Scotia Real Estate Commission between January 1, 2010 and December 31, 2010. There were a total of five

Commission meetings held. This column 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 (Sue)
Compliance Auditor



Peggy Kell
Communications Officer



David Melvin
Chairperson

Message from the Chair

Commissioners report for 2010

This spring brings me to the start of my fifth year as a public member on the Commission. As a lawyer with a general practice, I am quite familiar with real estate transactions and the real estate industry in general, but serving on the Commission certainly gives a greater appreciation of the issues faced by the industry and the public. In my role as Chair, this past year, I took part in discussions and decisions on one of the more significant issues to be dealt with in a long time, ``mere postings``. This is an issue that will no doubt continue to evolve over time.

Industry Members, including new applications and renewals, have remained quite stable. It is expected that the numbers will remain the same in 2011. The number of brokerages continues to stay around 210, which is where it has been for most of the 14 years that the Commission has carried out licensing. Many people predicted a significant drop in numbers over the last several years, but the numbers have remained constant.

The Commission is in the process of reviewing and updating the entire By-Law. This is a very large project that has involved many participants. To date staff has put forward many issues for consideration. An ad hoc By-Law Committee, as well as both the Licensing and Complaint Review Committees, have had extensive discussions on various parts of the By-Law. The Commission is consulting with the industry and requesting feedback. See the *Amendments to the Act and By-Law* article on page 23. This is the first comprehensive By-Law review and update since its creation in 1996-97.

Proposed amendments to the Real Estate Trading Act, including the incorporation of licensees, saw significant progress this past year. Meetings between Commission staff, board members, the Minister of Service Nova Scotia and Municipal Relations and ministerial staff were held. These amendments are currently in the hands of Nova Scotia's Legislative Counsel, and await presentation to the legislature.

Another major initiative was making decisions about the Commission office requirements. Two years ago the Commission added two new staff, but did not have proper office

space for them. Over the last 18 months the Commission discussed and researched many options. This past September the Commission decided to carry out an operational review before making any final decisions on space. An opportunity to take stock of the past fourteen years and identify what works and what needs improvement, the focus of the review included general management practices and day-to-day operations, physical space requirements, human resource and related requirements to fulfill the Commission's mandate. The Commission retained an outside management consultant and they completed their review in late December, submitting their report to the Board of Directors. The Board approved the report and its recommendations early in 2011, and the Board and staff are in the process of implementing them. With respect to space, it was concluded that the Commission should remain in its current space, but reconfigure it to accommodate today's needs. It also recommended that a strategic planning session be held to set goals for the next 2 to 3 years.

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 volunteered hours, which benefit the public, as well as all 1,800 Industry Members in the province. We are fortunate to have so many willing volunteers that bring a wealth of experience and insight to the table on the many issues. In the last year we have seen the departure of Mary MacDonald, Elizabeth Irwin and Ernie Buote from the Board of Directors, with new members Paul Doucet, Denis Richards and Robert Wambolt joining us. I also thank the Registrar and staff of the Nova Scotia Real Estate Commission for their ongoing efforts throughout the year.

I encourage you to attend the Annual General Meeting of the Commission, Wednesday March 30th at 1:00 PM, which will be held in the Empire Theatres, 145 Shubie Drive, Dartmouth Crossing. 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 will take the time to participate.

Message from the Registrar

Report for 2010



Doug Dixon
Registrar

This past year was fairly routine for the Commission. The major initiative for 2010 was office requirements. The Commission had added two new staff positions at the end of 2008 and the current office space did not adequately accommodate them. The Commission looked at various options which included staying in the existing space, leasing more space from NSAR, moving and either leasing, buying or building.

As part of the discussions around office requirements, the Board of Directors decided in the early fall to have an Operational Review conducted to look at how the Commission currently functions, as well as look forward to its needs for the next several years. It was felt it would be important to do this before a decision was made regarding office space. A consultant was contracted and the report was received in late December. In January, as part of the recommendations from the consultant, the Board of Directors decided to extend the lease for its current office space and reconfigure it to meet the current needs.

A major initiative that will be rolled out in 2011 is an online licensing system. It is anticipated that a trial run will be done with a small number of brokerages for the 2011-2012 renewal taking place in June 2011. This will be followed by a rollout to all brokerages in the fall of 2011. Sessions will be held throughout the province to train brokers and administrative staff on the new system. Online licensing will

allow brokerages to hire, terminate and carryout Industry Member transfers between brokerages. This will eliminate the need for new applicants or Industry Members to physically go to the Commission office or submit documents to the Commission.

Two other significant projects for 2011 are the proposed changes to the Real Estate Trading Act and the Commission By-Law. See the article on this issue later in this report.

I would like to take this opportunity to thank the Commission staff 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 increased that level of service and professionalism.

In closing, please feel free to call the Commission office if you need information or have a problem involving a real estate transaction. The Commission staff is here to help. Also, if you are aware of a member of the public that is having or had difficulties in their real estate dealings, please pass on the Commission's contact information if you feel the Commission can be of assistance.



Donna Anderson
Public Member

Licensing Committee

Chairperson's report for 2010

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

During the past year the Committee reviewed all exemptions to the licensing requirements and made decisions on exemption requests from applicants. The Committee is also responsible for reviewing any conditions the Registrar places on Industry Members. The most common exemption request is from broker applicants wanting to waive the requirement to have three-years experience as a salesperson. This request typically comes from people with direct sales/leasing experience or equivalent experience.

The Committee has discussed or dealt with a number of issues over the last year, including the approval of the mandatory course, *Ethics in Real Estate*, for the 2010-2011 licensing cycle. The 2011-2012 mandatory course deals with the preparation of real estate agreements and contract law.

In the 2009-2010 licensing cycle, all Industry Members with a broker-level licence, which includes brokers, managing associate brokers and associate brokers, completed a two-day course called *Raising the Bar*. This course educated the participants on the resources available to them, as well as the most common administration and supervision prob-

lems. The Commission notified all broker-level Industry Members in September that the "bar" is truly raised and a higher standard is in place effective November 1, 2010, for all future transactions.

One of the most significant issues in 2010 was setting new qualifications for obtaining a broker-level licence. In the past, there was concern that simply having a salesperson licence for three years did not necessarily mean the salesperson completed a significant amount of business transactions or achieved the experience necessary to move to a higher level of licensing. As a result, after reviewing the requirements of all jurisdictions in the Canada and the United States, the Committee put forward a proposal that was approved by the Commission Board of Directors. When the By-Law revisions come into effect in 2011, broker-level applicants must have completed 24 residential or 12 commercial transactions in the previous three years.

The following page provides a statistical overview of licensing. The numbers of new Industry Members continued to remain high and the retention rate stayed high through 2010. The Commission is projecting a decrease of 40 Industry Members in its 2011 budget.

I 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.

Licensing Committee

Donna Anderson, Commissioner
Sydney (Public Member)

Elizabeth A. Irwin, Commissioner
Halifax

Avis Chapman, Commissioner
Amherst (Public Member)

Mike Barnard, Member
New Minas

Mary MacDonald, Member
Liverpool

Crystal Yeo, Member
Dartmouth

Nora Landry, Member
Dartmouth

Paula Pulling, Member
Bedford

Ron Stuart, Commissioner
Halifax

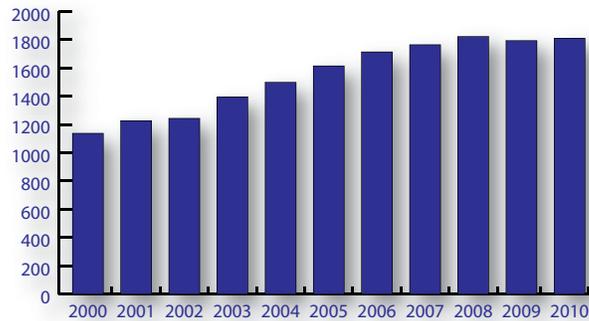
John Walker, Member
Halifax

Douglas Dixon, Registrar

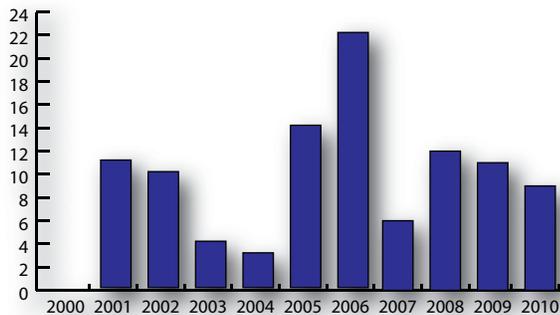
Pamela Crane, Licensing Officer

Licensing statistics at a glance

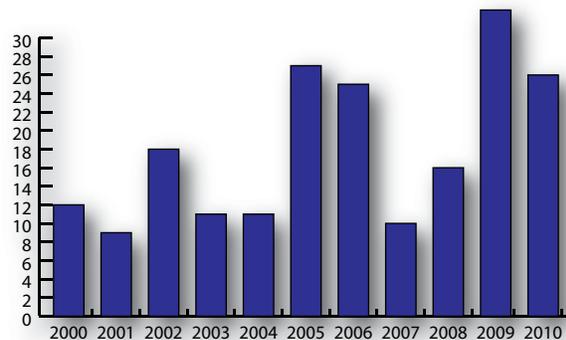
The industry from 2000 to 2010



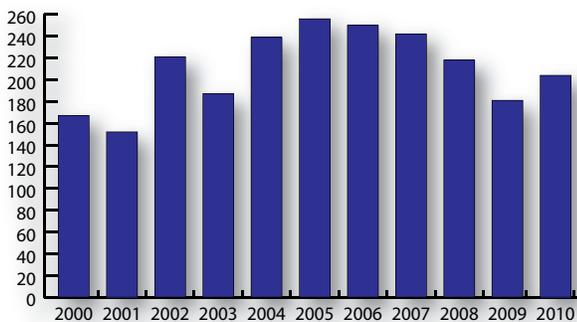
Number of Industry Members



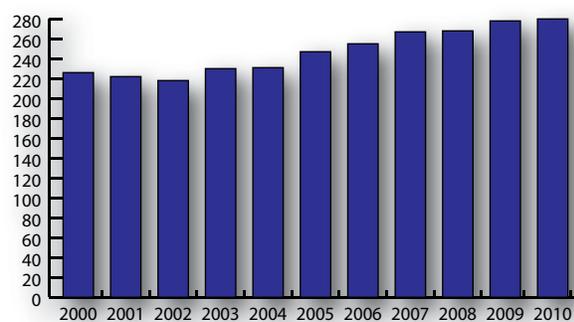
Number of new associate brokers



Number of new brokers and managers



Number of new salespeople



Number of brokerage offices



Gordon Burns
Century 21 ABC Realty Ltd.

Complaint Review Committee

Chairperson's report for 2010

The number of complaints and investigations in 2010 was down significantly from 2009. The statistics on the following pages show where the complaints came from, the types of complaints, and the complaint resolution. Of the cases handled in 2010, only one was sent to the Discipline Committee for a hearing.

The common issue at the core of many complaints continues to be poor communications and/or documentation. Most often, a lack of communication prevents a client or customer from being fully informed before making a decision or, in other cases, the communications are inappropriate. Industry Members must keep their clients fully informed of all facts of which the Industry Member is aware, including full disclosure of all defects. Poorly completed contracts, or contracts that do not accurately reflect the wishes of the parties often lead to problems. Lastly, verbal agreements during negotiations or later on when inspections or other issues arise can cause serious problems leading up to closing because the issue(s) were never properly documented.

The Complaint Review Committee met five times in 2010. Four of the meetings were to review all matters related to the complaints investigated by the Commission staff. The Complaint Review Committee mandate is to review all proposed Settlement Agreements and any requests for a review, by a member of the public, of a Registrar's decision. In practice, the Committee reviews all complaints, whether they are dismissed, settled or sent to hearing. The fifth meeting was to work on proposed amendments to Part 7 of the By-Law, which deals with conduct and business practices issues. For further information, see the *Amendments to the Act and By-Law* article on page 23.

The Committee can approve the decision of the Registrar to dismiss a complaint or propose 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 to hearing.

The Committee, on average, reviews 8-12 complaints at each quarterly meeting. This involves the Committee

members, in advance of the meeting, reviewing a case summary of each complaint and discussing 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.

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

Complaint Review Committee

Gordon Burns, Commissioner
Dartmouth

Ernie Buote, Member
Halifax

Michael Harris, Member
Berwick

Lynn Hoffmann, Member
Kentville

Howard Oakey, Public Representative
Bedford

Charles Pace, Member
Halifax

Dennis Richards, Commissioner
Dartmouth

Robert Wambolt, Commissioner
St. Peters

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 2010



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 audit every three years. The brokerage audit comprises an in-depth review of the brokerage's transaction files and records management. In 2010, we conducted 130 brokerage audits and 82 trust account audits. The results of these audits are categorized as follows:

Compliance Audits 2010



In addition to the activities above, the Commission auditors completed an additional 10 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 2010, the Commission charged six 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 termination.

Investigations

The number of complaints the Commission received and investigations initiated during 2010 was down from 2009.

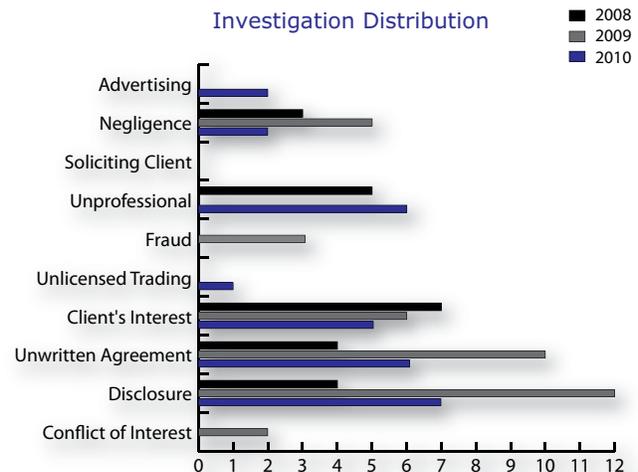
Some of the charges laid in 2010 resulted from 2009 investigations still ongoing at the beginning of 2010.

At the beginning of 2010, 25 investigations from 2009 were outstanding. In 2010, the Commission received 37 real estate complaints. Of those 37 complaints received, 28 investigations were initiated.

Of the 25 cases carried over from 2009, all but three were closed in 2010 and 14 investigations initiated in 2010 were closed by year-end, leaving 17 outstanding.

Distribution

The chart on the following page summarizes the distribution of the 28 investigations initiated in 2010 as well as the data for 2008 and 2009.



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 material latent defects, failing to verify listing information

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

Fraud—misappropriation of trust funds; failing to report cashbacks to lending institutions; falsifying a clients signature on a document

Public discredit—making derogatory remarks about another Industry Member

Commission dispute—misinforming listing clients as to commission payable

Be wary of fraud at closing

In a fraud-at-closing scenario, a seller and a buyer agree on a cash amount that the seller will give the buyer when the property closes. For example, a property sells for \$200,000. The buyer finances the purchase with a \$10,000 down payment and a mortgage of \$190,000. Upon closing, the seller gives the buyer \$8,000 in cash from the proceeds of the house, reducing the sale price of the house to \$192,000. The lender, who mortgaged the house at a sale price of \$200,000, is never informed of this transaction.

This is not to be confused with a cash-back incentive, which is common in real estate trading, because in a cash-back situation, the lender is informed of the cash back amount and the mortgage is financed based on the true selling price of the house. In a fraud-at-closing scenario, the lender is not informed and the selling price of the house is inflated. While this may seem minor when compared to other types of mortgage fraud, the buyer is obligated by law to disclose all financial transactions to the lender.

Disclaimers don’t hold up

Including a disclaimer on listing cuts stating that all measurements are to be confirmed by the buyer, or something to that effect, is very common. However, just because Industry Members use a disclaimer, it does not absolve them of their responsibilities to comply with the Real Estate Trading Act, the Commission By-Law and the obligation to provide duty of care. If you are charged with breaching By-Law 702, Article 10, and it is proven that you failed to verify the accuracy of information on a listing cut; you will be found guilty and fined, regardless of any disclaimers.

Poorly prepared real estate agreements

One of the primary obligations of an Industry Member is to protect and promote the interests of their client, while dealing fairly with all parties to a transaction (By-law 702, Article 2). Lack of attention in preparing paperwork trivializes this obligation and can lead to potential problems in a transaction. Real estate agreements are to be accurate and complete, clearly reflecting the instruction of the brokerage’s client/customer.

Agency Quick Reference Cards

The Commission developed Agency Quick Reference Cards for Industry Members, which are reproduced on the following pages in this report. These cards provide a convenient and simple reference of the roles and responsibilities for seller and buyer agency, as well as transaction brokerage and customer status. The Commission also created cards that demonstrate how to properly complete the Agency Relationships Section of the Agreement of Purchase and Sale.

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

Common law “Agency Relationships” section in the APS

Agency Relationships section

In common law agency, the agency is between the client and the brokerage. Under common law agency, all Industry Members within the brokerage are deemed to know all relevant transaction information about principals (buyers and sellers with whom the brokerage has an agency relationship).

The Industry Member that writes the offer completes the Agency Relationship section of the Agreement of Purchase and Sale for both parties. The following examples demonstrate the four possible ways to complete the Agency section based on the relationships the buyer and seller hold with the brokerage(s). If the agency relationship status of the seller is unknown, i.e. whether the seller is a client or a customer, contact the brokerage advertising the listing and ask.



Simple Agency

The seller is represented by one brokerage and the buyer is represented by another brokerage.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:

- (a) The Seller does does not have an agency relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with
Red Hot Real Estate BROKERAGE
 and Joe Smith BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with
 _____ BROKERAGE
 and _____ BROKERAGE REPRESENTATIVE
 and _____ BROKERAGE REPRESENTATIVE

Seller Customer

The buyer is represented by the brokerage and the seller is a customer.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:

- (a) The Seller does does not have an agency relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with
 _____ BROKERAGE
 and _____ BROKERAGE REPRESENTATIVE
 and _____ BROKERAGE REPRESENTATIVE

Buyer Customer

The seller is represented by the brokerage and the buyer is a customer.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:

- (a) The Seller does does not have an agency relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with
 _____ BROKERAGE
 and _____ BROKERAGE REPRESENTATIVE
 and _____ BROKERAGE REPRESENTATIVE

Transaction Brokerage

The buyer and the seller are both represented by the brokerage (same Industry Member or two Industry Members).

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:

- (a) The Seller does does not have an agency relationship with
 _____ BROKERAGE
 and _____ BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with
 _____ BROKERAGE
 and _____ BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with
XYZ Realty BROKERAGE
 and Jane Doe BROKERAGE REPRESENTATIVE
 and Mark MacDonald BROKERAGE REPRESENTATIVE

Common law agency—seller and buyer agency



About common law agency

In common law agency, the agency is between the client and the brokerage. Under common law agency, all Industry Members within the brokerage are deemed to know all relevant transaction information about principals (buyers and sellers with whom the brokerage has an agency relationship).

As a result, when any Industry Member engaged by a brokerage takes a listing (signs a Seller Brokerage Agreement), every Industry Member engaged by the brokerage is immediately considered to be a representative of that seller and therefore owes that seller undivided loyalty, advice and advocacy.

Agency obligations to a client

Whether the brokerage client is a buyer or a seller, all Industry Members at the brokerage are obligated to provide the following duties and services:

Undivided loyalty: you must act solely in the client's best interests, placing their interests above your own interests and above the interests of other parties. This means avoiding conflicts of interest and protecting the client's negotiating position at all times.

Confidentiality: you have a duty to keep the client's confidences. Confidential information includes any information about the client, the property, or the transaction that is not required by law to be disclosed.

Full disclosure: you must inform the client of all facts of which you know that might affect the relationship with the client or influence the client's decision in the transaction. This includes any conflicts of interest you might have. You are not to decide if information is important to the client, rather, you are obligated to disclose all relevant information to the client and they can make their own decisions.

Obedience: You must obey all of the client's lawful instructions. If the client insists you do something unlawful, you are obliged to refuse and consider terminating the relationship.

Reasonable care and skill: You must exercise reasonable care and skill in performing all assigned duties. You are expected to meet the standard of care of a reasonable and competent Industry Member. However, if you claim expertise in any area of practice, you will be held to a higher standard.

Full accounting: You must account for all money and property placed in your hands while acting on the client's behalf.

Seller agency

The seller brokerage and all Industry Members in its employ promote the listing, seek qualified buyers, and use their professional negotiation skills to advance the seller's interests.

Seller agency best practices

- Ensure listing information is accurate; never rely on old listing cuts to create new ones
- Ensure PCDS, if applicable is completed to the best of the seller's ability and only by the seller
- Disclose stigmas when asked
- Disclose any known material defects
- Disclose your role as the seller's Industry Member to all potential buyers
- Do not accept or submit paperwork that cannot be read
- Deliver all offers and counter offers in a timely manner, even if the property is subject to an Agreement of Purchase and Sale
- Ensure paperwork is completed properly
- Do not present any documentation you do not understand (non-standard forms)
- Ensure the documentation clearly reflects the seller's wishes regarding chattels and leased equipment
- Do not entertain verbal offers; contracts must be in writing
- Advise your client to seek expert advice where needed
- Monitor all dates, events, and requirements (fulfillment of conditions)
- Keep seller informed

Buyer agency

The buyer brokerage and all Industry Members in its employ promote the buyer's interests, locate suitable properties, and use their professional negotiation skills to advance the buyer's interests.

In common law brokerage, an Industry Member cannot be an "exclusive buyer's agent" because all Industry Members engaged by the brokerage owe agency obligation to any sellers under contract.

- Verify listing information yourself
- Ensure the property zoning meets the needs of the client
- Ask buyer about any stigmas with which they may have an issue so questions can be posed to the seller or seller's Industry Member in writing
- Ensure the client knows their right to a building inspection, even on new construction
- Do not make verbal offers, contracts must be in writing
- Ensure paperwork is completed properly and delivered promptly
- Do not present any documentation you do not understand (non-standard forms)
- Ensure buyer is aware of timelines for financing, insurance home inspections, and lawyer review
- Ensure the documentation clearly reflects the buyer's wishes regarding chattels and leased equipment
- Disclose your role as the buyer's Industry Member to sellers
- Disclose any known competing offers
- Keep buyer informed

Common law agency—transaction brokerage and customer status

Transaction brokerage

Transaction brokerage is an option when a brokerage has agency relationships with a seller and a buyer and the buyer is interested in purchasing the seller's property. In transaction brokerage, the brokerage and its Industry Members must treat both parties to the transaction in an even-handed, objective and impartial manner. Industry members cannot use discretion or judgment that benefits one client to the prejudice of the other client. Both the buyer and the seller have the right to refuse to enter into a transaction brokerage relationship and seek alternate representation.

Your duties to both parties are:

- disclose conflict of interest, and obtain informed consent and agreement to transaction brokerage in writing
- assist the buyer and seller in negotiating a mutually acceptable agreement
- provide any advice or information given to one party to the other party
- provide information and advice to assist the parties in addressing issues of mutual interest to both parties
- keep confidential the motivation of the buyer or seller
- keep confidential the price a seller may be prepared to accept or a buyer is maybe willing to pay
- disclose material latent defects concerning the property or the financial ability of the buyer to complete the transaction

- prepare all necessary documents in accordance with the instructions of the buyer or the seller
- exercise reasonable care and skill in the provision of services.

The services you provide are:

- provide real estate statistics and other information through listing services or other local databases
- assist the buyer and seller in negotiating a mutually acceptable agreement
- provide standard form agreements of purchase and sale, lease and other relevant documents
- prepare documents with the instructions of the client(s)
- provide the names of appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers and so on, but not recommend any particular professional (must recommend a minimum of three professionals per specialty)
- present in a timely manner, all offers and counter-offers to and from the client(s) regardless of whether the property is already the subject of a contract
- convey to the client(s) in a timely manner all information that either wishes to have communicated to the other
- keep client(s) informed regarding the progress of the transaction; and,
- comply with the Real Estate Trading Act and By-Law

When to avoid transaction brokerage

It is highly inappropriate for Industry Members to enter into transaction brokerage under the following circumstances.

Family, colleagues, and self

If you represent a family member or a business associate, the personal relationship you have with that person may cause others to question your ability to be impartial. Likewise, you cannot represent yourself impartially. Regardless of how well you handle a transaction brokerage situation, a personal relationship with one party of the transaction or self representation leaves you and your conduct open to speculation by the other party.

Ongoing agency relationship

Any time you have an ongoing agency relationship with a client; you should not enter into a transaction brokerage relationship with them. For example, if you have an agency relationship with a builder, a developer, or a repeat seller, you cannot be perceived to act impartially towards opposing parties to a transaction.

Novice seller or buyer

When representing an inexperienced seller or a first-time home buyer, entering into a transaction brokerage agreement is doing a huge disservice to that person. Novice sellers and buyers need unencumbered representation—they need your help, advice and support— services that cannot be provided under transaction brokerage.

Customer status

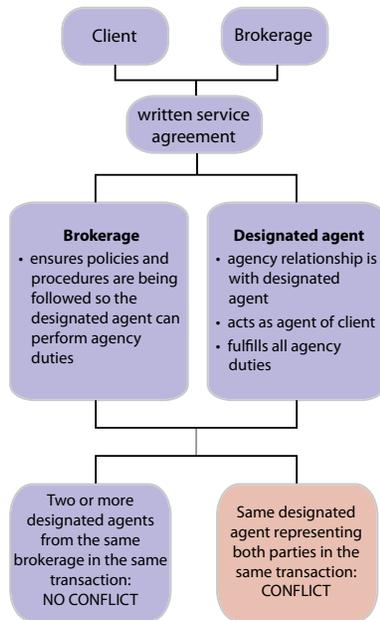
In a no agency relationship, the Industry Member represents either the buyer or the seller in a single agency relationship. The party that is not represented is the customer, for whom the Industry Member performs customer services.

If a buyer or seller chooses customer status, the brokerage does not represent the customer. The brokerage is not the customer's agent and does not owe the customer fiduciary duties. The brokerage will not provide the customer any services that require the exercise of discretion or judgment, the giving of confidential advice or advocating on the customer's behalf.

The services an Industry Member can provide to a customer are:

- exercise reasonable skill and care
- not negligently provide false or misleading information
- present all offers and counter offers in a timely fashion
- convey all information that the customer wants to have communicated to the client in a timely fashion
- keep the customer informed regarding the progress of the transaction
- hold all monies in trust with respect to the transaction in accordance with the Act and By-Law
- comply with the Act and By-Law
- Industry Members must ensure any person who is considering customer status is fully aware of their option to choose another brokerage to represent them rather than agreeing to customer status.

Designated agency—seller and buyer agency



About designated agency

In a designated agency brokerage, representation is by the Industry Member(s) specified in the Brokerage Agreement (designated agent), not all Industry Members engaged by the brokerage. In a designated agency situation, a seller and a buyer can receive the full benefit of agency representation, complete with the undivided loyalty, advice and advocacy of their respective Industry Members, while the brokerage remains impartial. The brokerage's responsibility is to ensure that each of the Industry Members acts in accordance with their respective agency responsibilities, and that the confidential information of the seller and buyer remains confidential.

Unlike common law, designated agency relationships can exist only after a Brokerage Agreement is signed.

Agency obligations to a client

After a Brokerage Agreement is signed, the designated agent is obligated to provide the following duties and services to a buyer or a seller:

Undivided loyalty: you must act solely in the client's best interests, placing their interests above your own interests and above the interests of other parties. This means avoiding conflicts of interest and protecting the client's negotiating position at all times.

Confidentiality: you have a duty to keep the client's confidences. Confidential information includes any information about the client, the property, or the transaction that is not required by law to be disclosed.

Full disclosure: you must inform the client of all facts of which you know that might affect the relationship with the client or influence the client's decision in the transaction. This includes any conflicts of interest you might have. You are not to decide if information is important to the client, rather, you are obligated to disclose all relevant information to the client and they can make their own decisions.

Obedience: You must obey all of the client's lawful instructions. If the client insists you do something unlawful, you are obliged to refuse and consider terminating the relationship.

Reasonable care and skill: You must exercise reasonable care and skill in performing all assigned duties. You are expected to meet the standard of care of a reasonable and competent Industry Member. However, if you claim expertise in any area of practice, you will be held to a higher standard.

Full accounting: You must account for all money and property placed in your hands while acting on the client's behalf.

Designated agency teams

Under designated agency, a team is viewed as a singular entity (one designated agent). A team can represent a buyer or a seller in a transaction with another designated agent at the same brokerage without conflict, however a team cannot split up and represent both a buyer and a seller as designated agents in a single transaction. The only way a team can represent both parties to a transaction is transaction brokerage or by treating one of the parties as a customer.

Seller designated agency

The seller's designated agent promotes the listing, seeks qualified buyers, and uses their professional negotiation skills to advance the seller's interests.

- Ensure listing information is accurate; never rely on old listing cuts to create new ones
- Ensure PCDS, if applicable is completed to the best of the seller's ability and only by the seller
- Disclose stigmas when asked
- Disclose any known material defects
- Disclose your role as the seller's Industry Member to all potential buyers
- Do not accept or submit paperwork that cannot be read
- Deliver all offers and counter offers in a timely manner, even if the property is subject to an Agreement of Purchase and Sale
- Ensure paperwork is completed properly
- Do not present any documentation you do not understand (non-standard forms)
- Ensure the documentation clearly reflects the seller's wishes regarding chattels and leased equipment

- Do not entertain verbal offers; contracts must be in writing
- Advise your client to seek expert advice where needed
- Monitor all dates, events, and requirements (fulfillment of conditions)
- Keep seller informed

Buyer designated agency

The buyer's designated agent promotes the buyer's interests, locates suitable properties, and uses their professional negotiation skills to advance the buyer's interests.

- Verify listing information yourself
- Discover all known facts about a property that may impact its use (zoning, future developments, etc.)
- Ask buyer about any stigmas with which they may have an issue so questions can be posed to the seller or seller's Industry Member in writing
- Ensure the client knows their right to a building inspection, even on new construction
- Do not make verbal offers, contracts must be in writing
- Ensure paperwork is completed properly and delivered promptly
- Do not present any documentation you do not understand (non-standard forms)
- Ensure buyer is aware of timelines for financing, insurance home inspections, and lawyer review
- Ensure the documentation clearly reflects the buyer's wishes regarding chattels and leased equipment
- Disclose your role as the buyer's Industry Member to sellers
- Disclose any known competing offers
- Keep buyer informed

Designated agency—transaction brokerage and customer status

Transaction brokerage

Transaction brokerage is an option when a designated agent (an individual or a team) has agency relationships with a seller and a buyer and the buyer is interested in purchasing the seller's property. In transaction brokerage, the designated agent must treat both parties to the transaction in an even-handed, objective and impartial manner. The designated agent cannot use discretion or judgment that benefits one client to the prejudice of the other client. Both the buyer and the seller have the right to refuse to enter into a transaction brokerage relationship and seek alternate representation.

Your duties to both parties are:

- disclose conflict of interest, and obtain informed consent and agreement to transaction brokerage in writing
- assist the buyer and seller in negotiating a mutually acceptable agreement
- provide any advice or information given to one party to the other party
- provide information and advice to assist the parties in addressing issues of mutual interest to both parties
- keep confidential the motivation of the buyer or seller
- keep confidential the price a seller may be prepared to accept or a buyer is maybe willing to pay
- disclose material latent defects concerning the property and/or the buyer's inability to obtain satisfactory financing

- prepare all necessary documents in accordance with the instructions of the buyer or the seller
- exercise reasonable care and skill in the provision of services.

The services you provide are:

- provide real estate statistics and other information through listing services or other local databases
- assist the buyer and seller in negotiating a mutually acceptable agreement
- provide standard form agreements of purchase and sale, lease and other relevant documents
- prepare documents with the instructions of the client(s)
- provide the names of appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers and so on, but not recommend any particular professional (must recommend a minimum of three professionals per specialty)
- present in a timely manner, all offers and counter-offers to and from the client(s) regardless of whether the property is already the subject of a contract
- convey to the client(s) in a timely manner all information that either wishes to have communicated to the other
- keep client(s) informed regarding the progress of the transaction; and,
- comply with the Real Estate Trading Act and By-Law

When to avoid transaction brokerage

It is highly inappropriate for Industry Members to enter into transaction brokerage under the following circumstances.

Family, colleagues, and self

If you represent a family member or a business associate, the personal relationship you have with that person may cause others to question your ability to be impartial. Likewise, you cannot represent yourself impartially. Regardless of how well you handle a transaction brokerage situation, a personal relationship with one party of the transaction or self representation leaves you and your conduct open to speculation by the other party.

Ongoing agency relationship

Any time you have an ongoing agency relationship with a client; you should not enter into a transaction brokerage relationship with them. For example, if you have an agency relationship with a builder, a developer, or a repeat seller, you cannot be perceived to act impartially towards opposing parties to a transaction.

Novice seller or buyer

When representing an inexperienced seller or a first-time home buyer, entering into a transaction brokerage agreement is doing a huge disservice to that person. Novice sellers and buyers need unencumbered representation—they need your help, advice and support— services that cannot be provided under transaction brokerage.

Customer status

In a no agency relationship, the designated agent represents either the buyer or the seller in a single agency relationship. The party that is not represented is the customer, for whom the Industry Member performs customer services.

If a buyer or seller chooses customer status, the Industry Member does not represent the customer. The Industry Member is not the customer's agent and does not owe the customer fiduciary duties. The Industry Member will not provide the customer any services that require the exercise of discretion or judgment, the giving of confidential advice or advocating on the customer's behalf.

The services an Industry Member can provide to a customer are:

- exercise reasonable skill and care
- not negligently provide false or misleading information
- present all offers and counter offers in a timely fashion
- convey all information that the customer wants to have communicated to the client in a timely fashion
- keep the customer informed regarding the progress of the transaction
- hold all monies in trust with respect to the transaction in accordance with the Act and By-Law
- comply with the Act and By-Law
- Industry Members must ensure any person who is considering customer status is fully aware of their option to choose another brokerage to represent them rather than agreeing to customer status.

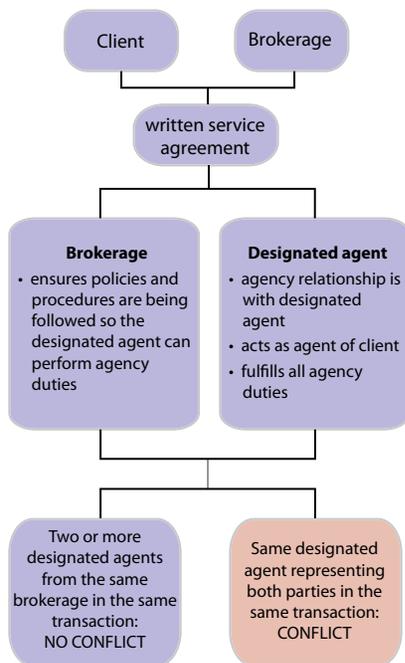
Designated “Agency Relationships” section in the APS

About designated agency

In a designated agency brokerage, representation is by the designated agent(s) specified in the Brokerage Agreement, not all Industry Members engaged by the brokerage (common law). In a designated agency situation, a seller and a buyer can receive the benefit of agency representation, complete with the undivided loyalty, advice and advocacy of their respective Industry Members, while the brokerage remains impartial.

The Industry Member that writes the offer completes the Agency Relationship section of the Agreement of Purchase and Sale for both parties. The following examples demonstrate the four possible ways to complete the Agency section based on the relationships the buyer and seller hold with the brokerage(s). If the agency relationship status of the seller is unknown, i.e. whether the seller is a client or a customer, contact the brokerage advertising the listing and ask.

Industry Members who form a selling or buying team are considered one designated agent. If a team represents both parties to a transaction, complete the transaction brokerage section of the APS.



Simple Agency

The seller is represented by one brokerage or designated agent and the buyer is represented by another brokerage or another designated agent.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:
- (a) The Seller does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Mary MacDonald BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Jane Doe BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with _____ BROKERAGE and _____ BROKERAGE REPRESENTATIVE

Seller Customer

The buyer is represented by the designated agent or team and the seller is a customer.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:
- (a) The Seller does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Jane Doe BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Jane Doe BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with _____ BROKERAGE and _____ BROKERAGE REPRESENTATIVE

Buyer Customer

The seller is represented by the designated agent or team and the buyer is a customer.

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:
- (a) The Seller does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Jane Doe BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with XYZ Designated Realty BROKERAGE and Jane Doe BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with _____ BROKERAGE and _____ BROKERAGE REPRESENTATIVE

Transaction Brokerage

The buyer and the seller are both represented by the designated agent (a team in this example).

AGENCY RELATIONSHIP

12. The Seller and the Buyer acknowledge having received, read and understood the brochure entitled “Working With A Real Estate Industry Member” and acknowledge and confirm as follows:
- (a) The Seller does does not have an agency relationship with _____ BROKERAGE and _____ BROKERAGE REPRESENTATIVE
- (b) The Buyer does does not have an agency relationship with _____ BROKERAGE and _____ BROKERAGE REPRESENTATIVE
- (c) The Buyer and the Seller acknowledge that upon signing this Agreement they will have consented to a Transaction Brokerage relationship with XYZ Designated Realty BROKERAGE and Mary MacDonald BROKERAGE REPRESENTATIVE and Harold MacDonald BROKERAGE REPRESENTATIVE

Common audit issues

Compliance Auditor's report for 2010



Susan Best
Compliance Auditor

An illegible contract means no contract

Occasionally during transaction-file audits, the Compliance Auditors view a transaction file that has been faxed so many times it is rendered illegible. For a contract to be considered a legal and binding document, it must be readable. For situations where a contract is faxed so many times it can no longer be read, the Commission strongly recommends keeping an additional reading copy of the contract in the transaction file.

Common Law and Designated Agency forms

All brokerages in Nova Scotia operate under one of two types of agency: common-law agency or designated agency. The Compliance Auditors have noted several instances where the wrong Brokerage Agreements were used (designated agency forms used at a common-law agency brokerage and vice versa). When completing forms, please ensure you select the form that applies to the type of agency practiced at your brokerage.

Disclosure of real estate license

When an Industry Member buys or sells a property, they must disclose that they are licensed by the Commission on the real estate agreement. Industry Members can state that they are a licensed salesperson, a licensed broker, or a licensed Industry Member. Industry Members cannot use the term licensed REALTOR® because being a REALTOR® means you are a member of the Nova Scotia Association of REALTORS® (NSAR). NSAR does not grant licenses and you can be licensed to sell real estate without being a member of NSAR.

If an Industry Member is purchasing a property, they must also state their reason for purchasing the property on the real estate agreement. An Industry Member who has an interest in a property greater than five per cent, or are an immediate relative of the buyer/seller, this relationship with the Industry Member must be disclosed in the real estate agreement.

Representation documentation must match the APS

When an Industry Member completes agency clause 13 in the Agreement of Purchase and Sale, Part I, the supporting documentation must match the relationship specified. For example, if section 13(a) is ticked "does", the file must contain a Seller Brokerage Agreement. If 13(a) and (b) is blank, and 13(c) is completed, there must be a corresponding, executed, Transaction Brokerage Agreement in the file.

Working with a REALTOR®/ Real Estate Industry Member brochures

It is mandatory for all real estate transaction files to contain a signed Working with a REALTOR®/ Real Estate Industry Member brochure for clients and customers of the brokerage. The old (blue) Working with a Real Estate Agent brochures are not acceptable and will not be accepted by the Commission when reviewing a transaction file. The Working with a Real Estate Industry Member and Working with a Commercial Real Estate Industry Member brochures are available for download at the following link:

www.nsrec.ns.ca/content.php?doc=57

Witnessing/dating faxed real estate agreements

Real estate agreements that are signed and faxed to the Brokerage without a witness may not, under any circumstances, be witnessed after the fact. Additionally, if a client/customer does not date the real estate agreements prior to faxing them back, the date may not be inserted after the fact unless the inserted date is initialed by all parties to the transaction.



John MacKay
MacKay Real Estate

Discipline Committee

Chairperson's report for 2010

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.

If the Industry Member does not agree with a Settlement Agreement then the matter is referred to a full discipline hearing. After the Commission and witness evidence is examined and cross examined at a hearing, the Hearing Panel decides whether the Industry Member is guilty of any of the charges. If they are found guilty, there is 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.

There was one hearing held in 2010. The Industry Member was found guilty of the charges put forward. The Discipline Hearing Panel's decision was appealed to the Supreme Court of Nova Scotia, but just before the matter was to be

heard, the appeal was withdrawn and the respondent agreed to settle the matter without further appeal. The Commission was unable to collect the hearing costs awarded by the Hearing Panel in the original hearing so a judgment was placed against the individual in the fall. The person is no longer licensed and is not eligible for licensing until the judgment is paid.

The Nova Scotia Barristers' Society hosted a two-day workshop in February called Boot Camp for Decision Makers, which was attended by 195 people from over 50 Nova Scotia regulatory bodies, including a number of Commission Committee members. The topics covered were very beneficial to members of discipline and licensing hearing processes.

Discipline Newsletters are published in the spring and the fall, which summarize the numerous discipline cases that are handled either through Settlement Agreements or a Discipline Hearings. Each time the Discipline Newsletter is published the Commission receives numerous questions, requests for clarification and positive feedback. The newsletters are available on the Commission's Web site under Publications.

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

Advertising and the Act

Message from the Communications Officer



Peggy Kell
Communications Officer

Advertising Dos

When creating advertisements, ensure that you do:

- provide only truthful and verifiable information
- create ads that have only one meaning
- portray yourself and your brokerage in a tasteful and ethical manner
- review all of your advertising before it is published
- display your brokerage logo (if using) at a size that is easily legible
- check and correct your grammar and spelling
- identify yourself and your brokerage fully and completely in every ad
- have your broker approve your advertisements
- measure twice and list once

Advertising Don'ts

When creating advertisements, ensure that you don't:

- downgrade or dismiss your competitors
- promote any -incentives that are not offered at a brokerage-wide level
- provide false or misleading information
- have more than one meaning or are open to interpretation
- 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 or estimate

As an Industry Member, you are required to comply with the advertising standards defined in the Real Estate Trading Act, the Commission By-Law, and the Competition Act. If you fail to comply with any of these standards, the consequences can range from fines for minor infractions to a civil lawsuit for major offences. Ensuring your advertising complies with the standards protects you, the reputation of your brokerage, and the image of the real estate industry.

Identification for brokerage and representative—the complete name of the employing brokerage and the complete name of the Industry Member must appear clearly and obviously on every advertisement, regardless of the medium (periodicals, trade publications, Internet classifieds, etc.). On brokerage and Industry Member Web sites, the complete brokerage name must appear on each page of the Web site. Failure to comply with brokerage and representative identification requirements can result in a fine for each instance of non-compliance.

Internet advertising—the Commission views Internet advertising to be the same as any other form of advertising and is therefore subject to the same regulations. A recent review of advertisements posted by Industry Members on Kijiji.ca revealed that 48 per cent of all Industry Members failed to comply with the standards for firm and representative identification. All Industry Members who want to advertise on the Internet must clearly identify the brokerage they are employed by and identify themselves by first and last name. It should be clearly apparent from reading the advertisement that the property advertised is listed with a licensed salesperson and brokerage. Use of a first name only or use of a “selling team” name and not a brokerage name, is not acceptable.

Accuracy—proofread all of your advertisements before you publish them. Buying a house is one of the biggest investments a person makes and as such, consumers are avid researchers. Spelling mistakes and typos denote a serious lack of care, which can turn off potential clients and customers. Inaccurate measurements on a listing cut may mean the difference between showing a house and selling a house. Your advertisements are a direct reflection of you, take the time to represent yourself well.

Commercial Committee

Chairperson's report for 2010



John Walker
GWL Realty Advisors Inc.

There were no significant issues for the commercial sector, and the Commercial Committee met once in 2010. The commercial highlight this year was a Commercial Forum held in October. A number of guest speakers were invited to speak to the question “Is Halifax Open for Business?” The speakers who offered their views were:

- Fred Morley, Greater Halifax Partnership
- John Lindsay, East Port Properties
- Mike Hanusiak, Clayton Developments
- Andy Fillmore, City of Halifax

There are currently several amendments to the Real Estate Trading Act being put forward, one of which is creating a permanent commercial position on the Commission Board of Directors. This position will be filled by Commercial Committee appointment and ratified by the Commission Board of Directors. This position will be a full voting member of the Commission and serve a three year term as with the other Commissioners.

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

Commercial Committee

John Walker, Chair/Commissioner—Halifax

Bill Greenwood, Member—Halifax

David Kerr, Member—Halifax

Tim Margolian, Member—Halifax

Bill MacAvoy, Member—Halifax

Greg Taylor, Member—Halifax

Kenneth Young, Member—Bridgewater

Douglas Dixon, Registrar

Brad Chisholm, Compliance Officer

Amendments to the Act and By-Law

Real Estate Trading Act

The Commission is working with Service Nova Scotia and Municipal Relations to update the Act in a number of areas. The last time the legislation was updated was in 2002. The proposed changes were discussed, debated and drafted into specific language for revising the Act. It is expected the proposed changes will work their way through the legislative process this March –April. Once the changes are approved by the legislature they must then be proclaimed by the Lieutenant Governor. The changes involve:

- Updating definitions
- Adding a new commercial representative position to the Commission Board of Directors
- Clearly defining the Complaint Review Committee as an entity separate and apart from the Discipline Committee
- Refining parts of the complaint and investigation processes
- Changing discipline appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeals
- Providing a new process for dealing with stale trust funds held by brokerages
- Adding the ability of the Commission to freeze trust accounts in extraordinary situations
- Allowing the incorporation of salespeople

Commission By-Law

Since the summer of 2010, the Commission has been working on major updates to the Commission By-Law. The original By-Law was created in 1995-1996 and approved by the first Commissioners in January 1997. Since then, the Commission has made annual updates, changes and additions, but has not done an overall review. This time, the Commission looked at other real estate regulator's rules across Canada and also looked at issues that were never specifically covered under the By-Law.

Three committees have been part of this process. The Commission appointed an ad hoc committee to review the Administration, General and Discipline sections. The Licensing Committee reviewed all the licensing portions of the By-Law and the Complaint Review Committee reviewed all the By-Law sections related to Conduct and Standards of Business Practice. A discussion paper showing the proposed By-Law changes, along with explanations, will be provided to all Industry Members for comment. This is expected to take place in April.

Commissioners: The nominees for 2011

Nominee: Mike Arthur

Brokerage: Royal LePage Atlantic

Type of license: Salesperson

Years licensed: 9

Primary types of real estate practiced: Residential and multifamily

Degrees or designations held:

Director or executive committee experience in any organization: Board of Directors, Dartmouth Chamber of Commerce; Board of Directors Junior Achievement Nova Scotia; Board of Directors Halifax Progress Club; Partner Atlantica Learning

Other experience: During my years in business, I have always held positions with service clubs and charities. I headed the Monte Carlo's for the Halifax Progress Club, ran fundraisers for the Chamber of Commerce, and introduced a horse racing night fundraiser. I chaired several Chamber of Commerce Committees and was an active volunteer with the "Children's Wish Foundation."

Nominee: Helen Louise Lindley

Brokerage: Rose Real Estate Limited

Type of license: Salesperson

Years licensed: 21

Primary types of real estate practiced: Residential

Degrees or designations held: Secretarial diploma

Director or executive committee experience in any organization: Current Past President Annapolis Valley Real Estate Board; Past Director NSAR; Chair, Political Action Committee (AVREB) and member of Government Regulation Committee (NSAR). Director, Victory Credit Union; Committee Member Audit/Risk Management.

Other experience: Compliance Officer FINTRAC for Rose Realty Real Estate Ltd., and Compliance Officer Privacy Act for Minas Realities.

Campaign Chair, for MLA Chuck Porter and Committee Chair for five re-elections for the Hon. Ron Russell.

Work background: Dept. of National Defense and former Maritime Telegraph and Telephone Company, Limited.

Hobbies: Enjoy Ballroom and Latin American dancing and have Bronze, Silver and Gold Medals.

Nominee: Linda Smardon

Brokerage: Exit Realty Citadel

Type of license: Broker

Years licensed: 19

Primary types of real estate practiced: Residential

Degrees or designations held:

Director or executive committee experience in any organization: NSAR: Director; Executive; President; Chair, MLS® Committee; Chair, Finance Committee; Chair, Conduct Review; Professional Standards Committee Member, Standard Forms Committee Member; Sat on various task forces.

Other experience: Coached Boys U-15 soccer; sat on Parish Council in Lake Echo; treasurer for Dartmouth Rebels Ladies Soccer Team.

Commissioner election process

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

- All Industry Members 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, is elected to a three-year term.
- Should a person not be elected after the first ballot, a second ballot is held. The same procedure is used in every ballot that follows until a person is declared elected.
- The nominee having the lowest number of votes is dropped from the next ballot.
- Any nominees having less than ten percent of the votes cast is dropped from the next ballot.
- The successful nominee will take office effective May 1, 2011 for a three-year term.



Paul Doucet
Prudential Property
Specialists

Finance Committee

Chairperson's report for 2010

2010 Results

2010 was a very stable year financially for the Commission. Licence fees increased over the last three years to replace the lost revenue from interest on trust accounts. As a result, the continued low interest rates did not impact the revenues for 2010. Revenue from licensing fees was over budget, mainly due to a higher retention rate for renewals of existing Industry Members. The number of new applicants stayed about the same as in 2009. Significant and unbudgeted revenue resulted from the collection of costs from an extensive hearing that was held in 2009.

On the expense side, most operating items came in fairly close to budget. Hearing Costs came in \$10,000 under budget because there was only one hearing and an expected appeal was cancelled. Rent, cleaning and utilities was under budget as a new lease or new accommodations were being considered when the budget was struck. As it turned out there were no changes in accommodations or the current lease in 2010. There were no funds added to the Recovery Fund in 2010 and the budgeted amount of \$20,000 was added to the Reserve Fund. In September 2010 the Commission Board of Directors approved expenditure to carry-out an operational review of the Commission as part of the discussions related to resolving the office space/location issue. The Commission also approved a \$25,000 education grant to NSAR towards course development costs.

2011 Budget

As a result of a surplus in 2010, the Commission was able to prepare a budget for 2011 that did not require an increase in licensing fees. All new and renewal fees will remain the same as in 2010. The Commission has been conservative in budgeting for new applications and renewals, allowing for a slight decrease, which it has done the last three years, but the number of Industry Numbers did not drop as anticipated those years.

For the most part expenses in 2011 will follow the same pattern as in previous years. Travel expenses out-of-province is down in 2011. Rent for 2011 will increase because the Commission is signing a new five year lease with NSAR for the last three quarters of 2011 and onward, which will include substantial leasehold improvements. Salaries show an increase for cost-of-living adjustments and allowance for a realignment of job responsibilities as part of the operational review. The 2011 expenses allow for a contract with a management company to implement the recommendations of the operational review and also a special audit to be carried out to review the financial structure of the Commission and the way it manages funds.

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.

Finance Committee

Paul Doucet, Chair/Commissioner—Halifax

David Melvin, Commissioner—Dartmouth

John MacKay, Commissioner—Wolfville

Doug Dixon, Registrar

Recovery Fund Report for 2010

About the Recovery Fund

There were no claims against the Recovery Fund in 2010. The fees for the Recovery Fund will remain the same for 2011, as they have been for the last seven years. Recovery Fund fees were eliminated for all licence renewals where the applicant stays in a licensing category for five years. Should an applicant change from Salesperson or Associate Broker to Broker or Managing Associate Broker, they are 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 2010. The huge failure in the markets around March 2009 caused the Recovery to drop in value by about \$135,000 to a low of \$394,281. By year end 2010, the Recovery Fund was back up to \$537,823. 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 a grant to NSAR's Education Department. This year a grant of \$25,000 was given, but it was not necessary to take it from the Recovery Fund investments as the Commission had an operating surplus, so the funding came from the 2010 Recovery Fund Assessment. The education grants from the Commission subsidizes course development costs, which helps keep licensing and continuing education costs reasonable for the people 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 requires 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	\$431,000
Subsidizing development of the new BLC	54,000
Subsidizing development of the new SLC.....	95,000
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.....	\$815,000

The Recovery Fund has enabled many worthwhile projects to take place and plays a very important role in supporting the advancement of professionalism, both with existing Industry Members and those entering the industry.

Recovery Fund Committee

Paul Doucet, Chair/Commissioner—Halifax
 Dennis Richards, Member (NSAR Appointment)—
 Dartmouth
 Doug Dixon, Registrar

Financial Statements of

NOVA SCOTIA REAL ESTATE COMMISSION

December 31, 2010



Deloitte & Touche LLP
1969 Upper Water Street
Suite 1500
Purdy's Wharf Tower II
Halifax NS B3J 3R7
Canada

Tel: 902-422-8541
Fax: 902-423-5820
www.deloitte.ca

Independent Auditor's Report

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

We have audited the accompanying financial statements of the Nova Scotia Real Estate Commission, which comprise the balance sheet as at December 31, 2010, and the statements of revenues and expenses and net assets, and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

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 comply with ethical requirement and plan and perform an audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Nova Scotia Real Estate Commission as at December 31, 2010, 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
March 21, 2011

Membre de / Member of Deloitte Touche Tohmatsu

NOVA SCOTIA REAL ESTATE COMMISSION

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December 31, 2010

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NOVA SCOTIA REAL ESTATE COMMISSION

Balance Sheet

As at December 31, 2010

	<u>2010</u>	<u>2009</u>
ASSETS		
Current		
Cash and cash equivalents	\$ 641,331	\$ 480,278
Restricted cash	24,796	22,872
Accounts receivable	14,419	3,070
Accrued interest receivable	1,015	1,016
Prepaid expenses	11,448	4,389
Inventory - manuals and guides	3,629	6,505
	<u>696,638</u>	<u>518,130</u>
Recovery Fund investments (cost - 2010 - \$499,468; 2009 - \$487,706)	529,081	481,859
Capital assets (Note 3)	30,678	26,634
	<u>\$ 1,256,397</u>	<u>\$ 1,026,623</u>
LIABILITIES		
Current		
Accounts payable and accrued liabilities	\$ 74,189	\$ 19,985
Due to Nova Scotia Association of Realtors	2,611	1,991
Funds held in trust	24,796	22,872
Deferred revenue	346,111	285,138
	<u>447,707</u>	<u>329,986</u>
Deferred capital grants	-	3,304
	<u>447,707</u>	<u>333,290</u>
NET ASSETS		
Reserve Fund (Note 4)	171,766	148,496
Recovery Fund (Note 4) (Schedule 1)	537,823	497,560
General Fund (Note 4)	99,101	47,277
	<u>808,690</u>	<u>693,333</u>
	<u>\$ 1,256,397</u>	<u>\$ 1,026,623</u>

NOVA SCOTIA REAL ESTATE COMMISSION
Statement of Revenue and Expenses and Net Assets
Year ended December 31, 2010

	2010	2009
Revenue		
Recovery Fund		
Assessment income	\$ 68,615	\$ 68,895
Investment income	17,672	12,585
Unrealized gain on investments classified as held-for-trading	35,460	54,990
	121,747	136,470
General Fund		
Administration fees	2,450	3,475
Amortization of deferred capital grant	3,304	8,967
Background checks	7,210	5,460
Brokerage manuals	2,175	2,100
Buyer/seller guides	1,034	1,294
Examination fees	30,015	25,905
Fines and penalties	27,800	12,000
Hearing cost recovery	49,519	11,752
IBTA interest	9,896	13,746
Investment income	8,922	8,225
Licensing fees	681,685	571,589
Reinstatement of license	20,170	13,295
	844,180	677,808
	965,927	814,278
Expenses		
Accounting	14,000	15,577
Advertising	209	550
AGM and conference	3,735	1,579
Amortization	12,568	10,164
Bank service charges	19,753	17,489
Benefits	59,043	53,018
Buyer/seller guides	2,878	6,006
Car allowances	2,640	2,640
Computer	9,472	1,764
Conferences	26,512	37,574
Dues and subscriptions	8,964	7,984
Grant to education by Recovery Fund	25,000	27,338
Hearing costs	5,015	66,520
Insurance	1,989	2,007
Legal	12,034	11,470
Long range strategic planning	25,300	-
Miscellaneous	2,429	5,163
Office	2,890	2,035
Per diems	26,860	19,050
Photocopies	10,606	9,290
Postage and courier	9,148	9,088
Printing	2,034	17,141
Provincial reference manuals	-	5,475
Public awareness program	2,475	-
Rent, cleaning and utilities	58,311	57,800
Salaries	445,088	398,557
SPL and BM exams	6,560	5,216
Staff training	6,544	8,021
Staff travel	18,816	15,553
Taxes	-	734
Telecommunications	12,631	12,902
Travel and meetings	14,904	9,995
Website maintenance	2,162	7,434
	850,570	845,134
Excess (deficiency) of revenue over expenses	115,357	(30,856)
Net assets, beginning of year	693,333	724,189
Net assets, end of year	\$ 808,690	\$ 693,333

NOVA SCOTIA REAL ESTATE COMMISSION

Statement of Cash Flows

Year ended December 31, 2010

	2010	2009
NET (OUTFLOW) INFLOW OF CASH RELATED TO THE FOLLOWING ACTIVITIES		
Operating Activities		
Excess (deficiency) of revenue over expenditures	\$ 115,357	\$ (30,856)
Items not affecting cash		
Amortization of capital assets	12,568	10,164
Amortization of deferred capital grant	(3,304)	(8,967)
Unrealized gain on investments classified as held-for-trading	(35,460)	(54,990)
Changes in non-cash operating working capital items	102,190	(4,574)
	191,351	(89,223)
Investing Activities		
Purchases of Recovery Fund investments (net)	(11,762)	(16,534)
Purchase of capital assets	(16,612)	(2,378)
Increase in restricted cash	(1,924)	(316)
	(30,298)	(19,228)
NET CHANGE IN CASH AND CASH EQUIVALENTS	161,053	(108,451)
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	480,278	588,729
CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 641,331	\$ 480,278
Cash and cash equivalents are comprised of:		
Cash	\$ 491,014	\$ 333,247
Short-term investments	150,317	147,031
	\$ 641,331	\$ 480,278

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2010

1. DESCRIPTION OF BUSINESS

The Nova Scotia Real Estate Commission (the “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 5.

2. 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 cash and short-term investments 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 and cash equivalents and restricted cash	Held for trading	Fair value
Accounts receivable and accrued interest receivable	Loans and receivables	Amortized cost
Recovery Fund investments	Held for trading	Fair value
Accounts payable and accrued liabilities and due to Nova Scotia Association of Realtors	Other financial liabilities	Amortized cost

Not-for-profit organizations may elect not to adopt the requirements of Sections 3862, *Financial Instruments – Disclosures* and 3863, *Financial Instruments – Presentation* and instead may apply the guidance in Section 3861, *Financial Instruments – Disclosure and Presentation*. The Commission has elected to use this exemption.

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 revenue.

Loan and receivables

Loans and receivables are accounted for at amortized cost using the effective interest method.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2010

2. ACCOUNTING POLICIES (continued)

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 recorded 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 were amortized to income on the same basis as the related capital assets.

Revenue recognition

The commission follows the deferral method of accounting for contributions. The Commission's revenue is derived primarily from the assessment of fees which are recognized on a monthly basis as earned. Deferred revenue represents the unearned portion of fees billed. 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.

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 include amortization of capital assets, deferred revenue, accrued liabilities and the allowance for doubtful accounts receivable. Actual results could differ from these estimates.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2010

2. ACCOUNTING POLICIES (continued)

Future accounting changes

New accounting framework

The Canadian Institute of Chartered Accountants (“CICA”) has issued a new accounting framework applicable to Canadian not-for-profit organizations. Effective for fiscal years beginning on January 1, 2012, not-for-profit organizations will have to choose between International Financial Reporting Standards and the accounting standards for not-for-profit organizations with accounting standards for private enterprises as the underlying framework, whichever suits them best. Early adoption of these standards is permitted. The Commission currently plans to adopt the new accounting standards for not-for-profit organizations for its fiscal year beginning on January 1, 2012. The date of transition to the new standards will be January 1, 2011. The impact of this transition has not yet been determined.

3. CAPITAL ASSETS

	2010			2009
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computers	\$ 40,354	\$ 25,910	\$ 14,444	\$ 6,098
Furniture and equipment	81,555	73,635	7,920	11,336
Software	23,466	16,662	6,804	6,286
Leasehold improvements	14,092	12,582	1,510	2,914
	\$ 159,467	\$ 128,789	\$ 30,678	\$ 26,634

4. NET ASSETS

	General Fund	Recovery Fund	Reserve Fund	2010	2009
Balance, beginning of year	\$ 47,277	\$ 497,560	\$ 148,496	\$ 693,333	\$ 724,189
Excess (deficiency) of revenue over expenditures	83,955	28,132	3,270	115,357	(30,856)
Transfer from General Fund	(32,131)	12,131	20,000	-	-
Balance, end of year	\$ 99,101	\$ 537,823	\$ 171,766	\$ 808,690	\$ 693,333

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 gains on investments of \$25,810.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2010

5. 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.

6. 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.

7. FINANCIAL INSTRUMENTS

Fair Value

The fair value of cash and cash equivalents, restricted cash, accounts and accrued interest receivables, due to Nova Scotia Association of Realtors, and accounts payable and accrued liabilities approximates their carrying value due to their short-term nature.

Recovery Fund 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.

Credit risk

The Commission performs a continuous evaluation of accounts receivable and records an allowance for doubtful accounts as required. Management considers there to be no significant credit risk as at December 31, 2010.

Liquidity risk

Liquidity risk is the risk that the Commission will not be able to meet its financial obligations as they become due. The Commission is exposed to liquidity risk in its ability to finance its working capital requirements and meet its cash flow needs. Given the Commission's currently available liquid resources, from both financial assets and on-going operations, as compared to its contractual obligations, management assesses the Commission's liquidity risk to be low.

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2010

8. CAPITAL MANAGEMENT

The Commission's objectives when managing capital are to maintain a capital structure that provides financial flexibility in order to preserve its ability to meet financial obligations.

In managing its capital structure, the Commission monitors performance throughout the year to ensure working capital requirements are funded from operations. The Commission will make adjustments to its capital structure to meet the objectives of the broader strategy or in response to changes in economic conditions and risk.

9. COMMITMENT

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

Future lease payments aggregate \$24,000 and include the following amounts payable over the next four years:

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, 2010

	<u>2010</u>	<u>2009</u>
Net assets, beginning of year	\$ 497,560	\$ 441,530
Revenue	121,747	136,470
Grant to Education Fund	(25,000)	(27,338)
Transfers to Recovery Fund	12,131	15,793
Transfer to Commission - administration	(68,615)	(68,895)
Net assets, end of year	\$ 537,823	\$ 497,560

Financial summary 2010-2011

Source of Funds		2010	2010	2011
Budget		Budget	Actual	Budget
Item	Notes			
Administration Fees		3,000	2,450	4,000
Assessment-Recov Fund		70,000	68,615	70,000
Background Check Fees		7,000	7,210	7,000
Branch Office Fees		16,238	19,283	17,280
Broker Fees-New		3,000	5,400	4,200
Broker Fees-Renewal	1	51,188	51,083	56,055
Brokerage Audit Fees	1	90,000	93,083	100,000
Brokerage Fees-New		2,400	3,000	2,400
Brokerage Fees-Renewal	1	51,188	52,163	56,985
Brokerage Manuals		1,500	2,175	1,500
Buyer-Seller Booklets		2,000	1,033	1,100
Exam Fees		28,000	30,015	28,000
Exam Review Fees		120	0	0
Fines/Penalties	2	20,000	27,800	20,000
Hearing Cost Recovery	3	15,000	49,519	5,000
Interest-IBTA	4	10,000	9,896	12,000
Interest Income-General		7,000	8,922	7,500
Interest-Recovery Fund	4	24,000	17,672	30,000
Managing AB Fees-New		1,500	2,430	2,100
Managing AB Fees-Renewal	1	11,003	11,273	12,960
Reinstatement of License		16,000	20,170	16,000
Salesperson/AB Fees-New		60,000	61,740	60,000
Salesperson/AB Fees-Renewal	1	372,263	382,508	410,940
Deferred Capitol Grant	5	8,967	3,028	3,000
Recovery Fund				
Recovery Fund - Grants to Education		0	0	0
Unused funds transferred from previous year	6	0	0	75,000
Revenue Totals		\$871,367	\$930,468	\$1,003,020

Revenues were significantly higher than Budget, mostly due to a significant recovery of Hearing Costs and higher than expected retention of salespeople. Expenses show as being about \$9,000 under budget, but when you remove the unbudgeted expense of \$25,300 for the Operational Review, expenses are \$34,000+ under budget.

Use of Funds		2010	2010	2011
Budget		Budget	Actual	Budget
Item	Notes			
Accounting		14,500	14,000	16,000
Advertising		5,000	209	1,500
AGM & Conference	7	4,000	3,735	2,000
Background Checks		1,100	1,606	1,500
Bad Debts		0		0
Bank Charges	8	6,500	6,886	7,500
Investment Account Fees		12,000	12,867	13,000
Benefits - Government		30,000	29,139	32,000
Benefits - Health and Fitness		14,000	14,561	15,000
Benefits - RRSP Contribution		15,000	15,343	16,500
Car Allowance	9	2,640	2,640	3,000
Computer Equipment		2,500	1,633	3,000
Computer - Technical Support	10	1,000	7,839	4,000
Conferences (Out of Prov)	11	26,000	26,512	22,156
Cost of Brokerage Man Sold		500	409	550
Cost of Buyer-Seller Booklets		4,000	2,468	4,000
Depreciation		11,000	12,568	10,500
Dues, Subs & Publications		7,700	8,964	8,500
Facility Rental		1,000	0	1,000
Furniture & Equipment	12	200	321	1,000
Hearing Costs	13	15,000	5,015	5,000
Honorariums		26,000	26,860	36,050
Insurance/Directors Liability		701	623	623
Insurance/Property		1,400	1,367	1,400
Legal		10,000	12,034	12,000
Maintenance		100	225	100
Miscellaneous		3,500	1,883	4,500
Office		2,500	2,890	2,500
Photocopies		9,500	10,606	11,000
Postage and Courier		10,000	9,148	10,500
Printing		3,000	2,034	3,000
Provincial Reference Manuals		0	0	0
Public Awareness Program		8,000	2,475	8,000
Recovery Fund - Investment	14	0	0	0
Rent, Cleaning, Utilities	15	68,000	58,311	65,000
Reserve - General Operations	16	20,000	20,000	15,000
Salaries	17	447,146	443,088	468,000
Salary and Benefits - Temp	18	0	2,000	0
Salary Review		0	0	0
SPL & B/M Exams		6,000	6,560	6,500
Staff Training		9,000	6,544	10,000
Staff Travel		18,000	18,816	20,000
Taxes		800	0	0
Telecommunications		14,000	12,631	14,000
Transfer to Education		25,000	25,000	25,000
Travel & Meetings-Comm/Committees		11,500	14,904	13,500
Website Maintenance		3,000	2,162	3,000
Hearing Workshop				10,400
Review Audit	19			45,000
Operational Review	20	0	25,300	49,000
Expenditure Totals		\$870,787	\$872,176	\$1,001,779
NET		580	58,292	1,241

Source of Funds

1. Licensing Renewal & Audit Fees – The Projected amounts for Renewal Fees in all categories came in close to Budget for 2010, with the exception of Salesperson/AB which came in \$8,000 over budget. There is no fee increase for the figures in the 2011 Budget. The reason for the revenue increase in 2011 is due to the six month delay of fee increases in the 2010 Budget, which carry over into 2011.
2. Fines & Penalties – Fines were up in 2010 and it is expected to remain that way with the implementation of the higher compliance standards.
3. Hearing Cost Recovery – This item came in significantly higher than expected due to the recovery of \$40,000 in costs.
4. Interest – IBTA & Recovery Fund – Interest and investments continue to be conservative. Interest rates are not expected to increase significantly in 2011.
5. Deferred Capitol Grant – This grant, from the Recovery Fund, was to offset the costs of some leasehold improvements, furniture and equipment when the Commission moved into the new office space nine years ago.
6. Unused Funds – It is expected there will be approximately \$75,000 in surplus funds to carry over to 2011.
11. Conferences (Out of prov.) – The 2010 figures are down from the year before as a result of reduced conference attendance.
12. Furniture & Equipment – It is anticipated that there will be some furniture and equipment purchases as part of the renovations. The total cost will be amortized over ten years.
13. Hearing Costs – There were no hearings held in 2010, but there was preparation to go to an Appeal, which was eventually cancelled. The budget for 2011 anticipates one hearing.
14. Recovery Fund - Investment – Due to the loss of IBTA revenue, this investment was not made in 2010 and no contributions are planned for 2011.
15. Rent, Cleaning and Utilities – The increase showing in 2010 was based on the assumption that rent costs would increase as the Commission took on additional space. The base rent did not change, but the CAC and HST both increased. The increased amount in 2011 reflects a renewed lease with leasehold improvements contained within the lease.
16. Reserve – General Operations – The 2010 Budget planned on \$20,000 being invested, but due to the increased expenses for 2011 it was decided to leave it at that level. The 2011 Budget recommends \$15,000, again as a result of the extra one-time expenses in 2011.

Use of Funds

7. AGM & Conference – The 2010 projected figure includes a portion of the luncheon expense and the costs of plaques for retiring Commissioners, plus a \$2,500 contribution to the Atlantic Connection held in September 2010. The 2011 Budget figures are just the costs related to the AGM because Atlantic Connection is only held every second year.
8. Bank Charges - These charges continue to increase, mostly due to the more common usage of credit cards to pay for fees and fines. This results in higher credit card processing fees.
9. Car Allowance – The car allowance for the Registrar and the Compliance Officer have not changed for several years. The 2011 Budget includes an increase of \$10 a month for the Registrar and \$20 for the Compliance Officer.
10. Computer – Technical Support – The amount over budget in 2010 is due to the replacement of the server. The increased amount in 2011 is for the programming costs associated with the setting up of our new database/online licensing system.
17. Salaries – The 2011 Budget includes an increase of 2.9% related to COL, the realignment of one position and merit. This is subject to change based on recommendations coming out of the Operational Review.
18. Salary & Benefits-Temporary – A consultant was hired for exam revisions.
19. Review Audit – An audit of the Commission's financial management and practices.
20. Operational Review – The Commission approved an Operational Review by a consultant. This was not included in the 2010 Budget. An additional contract was put in place for implementing the recommendations from the Operational Review, which is being carried out in the first quarter of 2011.

Proxy Commissioner Vote Nova Scotia Real Estate Commission

7 Scarfe Court, Dartmouth, N.S., B3B 1W4; p: 468-3511, 800-390-1015; f: 468-1016, 800-390-1016; www.nsrec.ns.ca

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 Empire Theatres, Dartmouth Crossing, on Wednesday March 30th, 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 _____ 2011.

Signature of Eligible Voting Industry Member

Printed Name of Eligible Voting Industry Member

Brokerage

NOTE: This proxy form must be presented to the Commission prior to the Annual General Meeting. Present the completed form at the registration desk for the Commission's Annual General Meeting between 12:00 PM and 1:00 PM the day of the election or fax it to the Commission Office before 4:00 PM on Tuesday, March 29th, 2011. You are encouraged to fax your proxy in order to streamline the registration process.

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

