

# nova scotia real estate COMMISSION



## ANNUAL REPORT 2011

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# Nova Scotia Real Estate Commission

## Notice of Annual General Meeting

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Empire Theatres • 145 Shubie Drive • Dartmouth • Nova Scotia

Wednesday, March 21, 2011  
3:00 - 4:30 PM

### Agenda

Chairperson – 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. 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
9. 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



John Walker  
Licensing Committee  
Commercial Committee



Linda Smardon  
Licensing Committee



Ashley Thomas  
Discipline Committee

Name	Term	Appointment	Location	Brokerage	Attendance*
Robert Wambolt	April 2014	NSAR	St. Peters	Re/Max Park Place Inc.	5/5
Dennis Richards	April 2013	NSAR	Dartmouth	Century 21 Trident	5/5
John MacKay	April 2012	NSAR	Wolfville	MacKay Real Estate	5/5
Gordon Burns	April 2012	Elected	Dartmouth	Century 21 ABC Realty Ltd.	4/5
Paul Doucet	April 2013	Elected	Halifax	Prudential Property Specialists	5/5
Linda Smardon	April 2014	Elected	Halifax	Exit Realty Citadel	4/4
John Walker	May 2014	Commercial	Halifax	20 Vic Management Inc.	4/5
David Melvin	December 2012	Public	Dartmouth	Livingston & Company	5/5
Donna Anderson	August 2013	Public	Sydney	Province of Nova Scotia	4/5
Ashley Thomas	September 2014	Public	Kentville	Waterbury Newton	1/1

\*The attendance record of the Commissioners serving on the Nova Scotia Real Estate Commission between January 1, 2011 and December 31, 2011. 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.



**David Melvin**  
Chairperson

# Message from the Chair

## Commissioners report for 2011

The past year was one of change for the Commission. We have had changes in leadership, changes in staff, and changes to our Act.

Avis Chapman, one of the three appointments to the Board of Directors by the Province of Nova Scotia completed her term with us. She brought years of experience to the table both from her past work in the real estate industry in Florida and in the Toronto business community. Her successor, Ashley Thomas, brings her experience both as a lawyer with, and as the Chief Administrative Officer of, the firm of Waterbury Newton. I would like to take this opportunity to thank Avis for her distinguished service, and to welcome Ashley to the Board.

The past year also saw the departure of Doug Dixon, the Registrar of the Commission for the past 14 years. The Commission thanks him for his years of service and wishes him well as he embarks on new opportunities. While such a change can pose challenges, the Board moved quickly to ensure continuity, appointing Brad Chisholm, our Compliance Manager, Acting Registrar. The Board of Directors then proceeded to determine the best way to fill the position of Registrar. After canvassing the recruitment options, and assessing the possibility of filling the vacancy internally, the Board of Directors, with the help of an outside consultant, provided Brad Chisholm the opportunity to be evaluated for the position of Registrar on a permanent basis.

These changes also saw the recruitment of Courtney Clayton as a new Compliance Auditor. Courtney brings a diploma and degree in business administration and six years of industry experience to the role and is a valued addition to the team.

Long awaited amendments to the Real Estate Trading Act received Royal Assent on May 19, 2011. These amendments not only addressed regulatory issues that were identified over the past several years, and housekeeping updates of wording found in the Act, but also provided industry members with the statutory authority to incorporate their practice so as to enjoy the resulting tax planning opportunities that come with such an arrangement. With the help of corporate legal counsel, the Commission crafted the by-law around this with the objective of keeping the process simple, while at the same time ensuring that compliance with the Act and the Commission's role as regulator were maintained.

The industry enjoys the privilege of self-regulation, but that privilege is self-funded. As such, staff and the Board of Directors view their role as ensuring the Commission meets the high standard of its regulatory duty to both consumers and the industry, while remaining equally vigilant when it comes to the costs associated with performing this role. Through the hard work of staff and the Board of Directors, this coming year's budget has no fee increase.

I close by noting that this is my final report as Chair, and as a member of the Commission's Board of Directors, as my appointment by the province ends in December 2012. I would like to thank my Board of Directors colleagues, past and present, and staff for their commitment and dedication to the Commission. Both play an integral role in the success of this organization, and I am proud to have been a part of it.

# Message from the Acting Registrar

## Report for 2011



**Brad Chisholm**  
Acting Registrar

2011 proved an extraordinary year of change for the Nova Scotia Real Estate Commission.

It began with implementing a number of recommendations outlined in the 2010 operational review. The recommendations included, but were not limited to, a physical redesign of the office space, a realignment of staff positions and a strategic planning process. There were legislative changes to the Real Estate Trading Act, and there was a change in senior staff at the Commission with the departure of the Registrar Doug Dixon and myself taking on the role of Acting Registrar.

As a result of the Commission's strategic planning, a number of directives were implemented, including an improved working relationship with the NSAR, improved communication with the real estate industry and improved operational effectiveness.

Changes to the Real Estate Trading Act paved the way for the Commission to permit industry members to form ap-

proved sales corporations. Another significant change to the Act was the addition of a new commissioner position to represent the commercial sector on the Board of Directors.

One project the Commission originally planned to implement in 2011, but was tactically delayed, was the establishment of an online-licensing system. In discussions with the Nova Scotia Association of REALTORS®, it was determined that they too could benefit operationally from having an access portal to the system, and so the two organizations have partnered for that purpose. The new roll out schedule includes piloting the system with a select number of brokerages during the 2012/2013 licensing cycle and a full implementation in time for 2013/2014 licensing cycle.

In closing, I would like to commend the Commission staff for their unwavering dedication and professionalism over the past year. I look forward to working with them, the Commission Board of Directors, the NSAR and the many other real estate industry stakeholders in the coming year.

*The Nova Scotia Real Estate Commission is the regulator  
of the real estate industry, whose goal is to ensure  
consumer confidence through the administration of the  
Real Estate Trading Act and the Commission Bylaw*

Strategic planning sessions  
January 27-28, 2011



**Donna Anderson**  
Public Member

# Licensing Committee

## Chairperson's report for 2011

The Licensing Committee is mandated to review and make recommendations on all licensing issues including decisions of the Registrar, requests from industry members and licensing education. The most common requests from industry relate to exemptions to licensing requirements.

The Committee meets quarterly, as well as when a time sensitive licensing issue arises. Members of the industry and the Nova Scotia Real Estate Commission are represented on the Licensing Committee. Commissioner Avis Chapman completed her term this past year and was replaced by Commissioner Linda Smardon. I'd like to thank Avis for her dedicated service and welcome Linda to the Committee. All remaining committee members continue their service into 2012.

NSAR's Director of Education is now sitting on the Committee as a non-voting member and this has enhanced the flow of information between the education and licensing functions at NSAR and the Commission.

The Licensing Committee plays a vital role in the fulfillment of the mandate of the Nova Scotia Real Estate Commission and I want to take this opportunity to thank all members for their continued service.

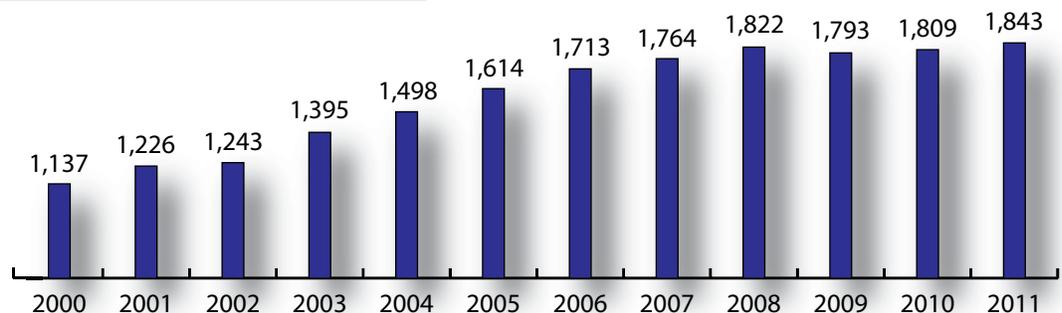
Industry totals	2010	2011	Change
Offices	280	278	-2
industry members	1809	1843	+34
Brokers	211	213	+2
Managing associate brokers	52	51	-1
Associate brokers	83	89	+6
Salespeople	1463	1490	+27

New applicants/ license class	2010	2011	Change
Salespeople	204	185	-19
Brokers/managing associate brokers	26	17	-9
Associate brokers	9	12	+3

### Committee Members

- Donna Anderson, Commissioner, Sydney (Public)
- Elizabeth Irwin, Member, Halifax
- Linda Smardon, Commissioner, Halifax
- Mike Barnard, Member, New Minas
- Mary MacDonald, Member, Liverpool
- Crystal Yeo, Member, Dartmouth
- Nora Landry, Member, Dartmouth
- Paula Pulling, Member, Bedford
- Ron Stuart, Member, Halifax
- John Walker, Member, Halifax
- Pamela Crane, Licensing Officer

**Number of industry members 2000-2011**



# Complaint Review Committee

## Chairperson's report for 2011



**Gordon Burns**  
Century 21 ABC Realty Ltd.

The Complaint Review Committee met four times in 2011 and dealt with a total of 38 investigations.

The most common problem areas identified in Complaint Review involved a failure to practice agency properly, a reliance on verbal agreements, and poor record keeping, including documents not being executed properly. It is also fair to say that many issues seem to arise out of a simple lack of communication between industry members and consumers.

The Complaint Review Committee continually makes recommendations to the Board of Directors and Licensing Committee regarding trends or issues that require attention. Once issues have been identified, the Board of Directors along with the Licensing Committee may then develop or update the Commission Bylaws or may authorize the development of specific education courses. Examples of this action would be agency issues and form completion as topics of current concern.

As mentioned earlier, the Complaint Review Committee met four times in 2011, however, it is worth noting that the Committee also lengthened the meeting duration and as a result, the review process has been accelerated. Mindful that the Committee reviews all of the Registrar's complaint decisions thoroughly, it is the goal of the Committee to move the process along as quickly as possible within the bounds of due process.

It goes without saying that the Complaint Review Committee requires a great deal of concentrated effort on the part of its members in reading and digesting what can be

lengthy and involved documentation of each case. Committee members all recognize the importance of their work and its ultimate affect on the public and industry members involved.

I would personally like to thank the committee members for their tireless efforts over the past year. Through the work of this committee, the industry is constantly improving its standards on all levels.

### Committee Members

Gordon Burns, Commissioner, Dartmouth

Debbie Benn, Member, Port Hastings

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

Carolin MacDonald, Compliance Investigator



**John MacKay**  
MacKay Real Estate

# Discipline Committee

## Chairperson's report for 2011

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 Nova Scotia Court of Appeals and further to the Supreme Court of Nova Scotia, should they wish to and if there are grounds to do so.

One discipline case was referred to hearing in 2011. The industry member subject to the discipline proceeding rejected the proposed settlement agreement. The industry member was found guilty of the charges and ordered to pay fines totalling \$1,000 and hearing costs of \$5,605.26.

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

### Committee Members

John MacKay, Commissioner, Wolfville  
Carol Alexander, Member, Chester  
Debbie Benn, Member, Port Hastings  
Avis Chapman, Public Representative, 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  
Brad Chisholm, Acting Registrar

# Commercial Committee

## Chairperson report for 2011



**John Walker**  
20 Vic Management Inc.

I am very proud to report that 2011 was a special year for the commercial component of our industry, in that, the Real Estate Trading Act ratified and created a permanent commercial position on the Commission Board of Directors. Something I have actively worked towards since my appointment to the Commission in 2004. In addition, I would like to take this opportunity to thank my fellow Commissioners in their support in creating this permanent position.

Over the past year there were no significant issues and therefore the Commercial Committee did not meet. Again this year, a well attended Commercial Forum was held in December with three interesting subjects:

Bonnie Prior introduced and outlined what CIE or Commercial Information Exchange was attempting to achieve. There will be more to come as Bonnie builds this program.

Hodges Hamm provided an outline of a potential Commercial Designation Licensing Program and its benefits to all real estate practitioners, who are interested in working on the commercial side of our industry.

I lead a panel discussion on issues and items of the day as it pertains to the commercial industry. A special thank you to Bill MacAvoy, Cushman and Wakefield, Peter Mackenzie,

CBRE, Wendy Heisler, CREIT and Art Savary, The Altus Group for their participation in this lively discussion.

Please feel free to send any concerns or questions that you may have in regards to the commercial real estate industry.

### *The Value We Offer the Industry*

*Standards of business practice*

*Education*

*Information*

*Licensing process*

*Stability for industry and consumers*

*Regulated, level playing field*

*Advice*

*Rules and regulations*

*Discipline*

*Mediation*

*Quality of working standards*

*Guidelines*

*Independent voice to deal with disputes*

*Framework for accountability*

*Level of expertise in the industry*

Strategic planning sessions

January 27-28, 2011

#### **Committee Members**

John Walker, 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

Brad Chisholm, Acting Registrar



**Paul Doucet**  
Prudential Property  
Specialists

# Finance Committee

## Chairperson's report for 2011

### 2011 Results

Despite the many changes at the Commission throughout 2011, its financial position remained very stable. This continues to be attributed to a high retention rate for renewals of existing industry members, helping offset the continuing impact of low interest rates on our interest bearing trust account revenue.

There were additional expenses to contend with during the year, including the former Registrar's departure, an office redesign and a broadened operational review process. The Commission carried out a much needed expansion through redesign of office space. This cost effective option accommodated our increased space requirements without having to relocate to a larger and more expensive premises. Having the Commission office remain located within close proximity to the Nova Scotia Association of REALTORS® is a true benefit of convenience to industry practitioners.

As in years prior, the Commission continues to invest in the real estate industry with a \$25,000 grant to the NSAR's education department for course development, and progressive endeavours like the anticipated online-licensing system.

The Commission continues to operate on a solid financial ground.

### 2012 Budget

It is anticipated that revenues for 2012 will remain stable due to a steady retention rate of practitioners and relative optimistic economic stability in the region. Operational expenses are expected to follow a more normal pattern than depicted in 2011, with no new major projects or initiatives planned. There will be a continued emphasis on identifying opportunities to increase efficiencies.

I am pleased to report that there are no planned fee increases for the 2012/2013 licensing cycle.

### *The Value We Offer the Public*

- Standards of business practice*
- Standards of confidence and competence*
- Recourse*
- Protection*
- System of conduct review and discipline*
- Professional support and advice*
- Link between day to day practice and statute law*

Strategic planning sessions  
January 27-28, 2011

### **Committee Members**

- Paul Doucet, Commissioner—Halifax
- David Melvin, Commissioner—Dartmouth
- John MacKay, Commissioner—Wolfville
- Brad Chisholm, Acting Registrar

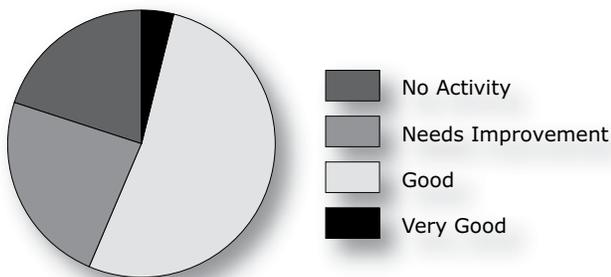
# Audits and investigations

## Compliance report for 2011

### Audits

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 2011, we conducted 117 brokerage audits and 111 trust account audits. The results of these audits are categorized as follows:

Compliance Audits 2011



In addition to the activities above, the Commission auditors completed an additional seven audits resulting from a change of broker, a brokerage closing, 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 2011, the Commission charged four brokers on these grounds. Three brokers received \$500 fines and one broker received a \$1,000 fine. 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 2011 was up from 2010. In 2010 the Commission initiated 28 investigations. In 2011, the Commission initiated 38 investigations.

Some of the charges laid in 2011 resulted from 2010 investigations still ongoing at the beginning of 2011.

At the beginning of 2011, 17 investigations from 2010 were outstanding.

Of the 17 cases carried over from 2010, all were closed in 2011 and 38 new investigations were initiated in 2011, 36 were closed by year-end, leaving 19 outstanding.

One investigation that was referred to the Discipline Committee in 2010 resulted in a hearing in May of 2011.

### Most common Bylaw charges in 2011

In 2011, the most commonly occurring Bylaw charges involved Bylaw 702, Article 2 and Bylaw 702, Article 11.

#### Bylaw 702, Article 2

*The industry member shall protect and promote the interests of their client. This primary obligation does not relieve the industry member of the responsibility of dealing fairly with all other parties to the transaction.*

Circumstances of possible Article 2 violations:

- Clients and customers attending inspections and viewings without representation
- Not soliciting a multiple offer situation
- Recommending striking the lawyer review clause
- Recommending striking the property inspection clause
- Entering into transaction brokerage inappropriately

#### Bylaw 702, Article 11

*The industry member shall ensure that agreements regarding real estate transactions are in writing in clear and understandable language, expressing the specific terms, conditions, obligations and commitments of the parties to the agreement. A copy of each final agreement shall be furnished to each party upon*

*their signing or initialling, and shall be dealt with in accordance with the instructions of the parties involved.*

Circumstances of possible Article 11 violations:

- Verbal agreements and verbal amendments
- Vague clause writing
- Not obtaining signatures and initials
- Not recording the number of pages on an Agreement of Purchase and Sale

## One charged under Act Section 22

In 2011, the Commission charged one broker with violating Act Section 22. This charge is particularly noteworthy, because Section 22 deals with unprofessional conduct and it is considered the most serious charge that can be laid against an industry member.

### Act Section 22

*Unprofessional conduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonorable, is unprofessional conduct within the meaning of this Act if it is*

- (a) *harmful to the best interests of the public, licensed persons or the Commission;*
- (b) *fraudulent;*

The Commission found the broker in violation of Act Section 22 for forging a client signature on a real estate document. As befitting the serious nature of this violation, the broker received a fine and a 30-day licence suspension.

When an industry member's licence is suspended, they are required to cease all trading activities, including advertising. The broker continued to advertise and was charged under Act Section 25, 1 (c), for failing to comply with the terms of the licence suspension and received an additional 30-day suspension.

## The bar is raised

In the 2009/2010 licensing cycle, the broker's mandatory course was "Raising the Bar." This course was intended to inform the participants on what resources are available to

them, as well as address the most common administration and supervision problems experienced in real estate brokerages. Raising the Bar was implemented because of the diverse broker-education background of industry members with broker designations. The goal of this course was to clearly communicate the Commission's expectations of broker-level industry members.

This enabled the Commission to raise the standards of practice in the industry, as well as bring to a halt many of the excuses made when issues arise.

The bar has been raised since the 2009/2010 licensing cycle ended on June 30th, 2010. Since that time, a review of broker supervision has become a part of the complaint and investigation process. When evaluating an investigation into an industry member's conduct, the question of whether the industry member was adequately supervised is raised. If it is apparent that supervision was lacking and lead to the circumstances that resulted in a violation of the Act or the Bylaw, the broker and the industry member may be charged.

## About settlement agreements

The first option for most industry members facing disciplinary action is a settlement agreement. In the majority of cases, the Registrar offers the industry member a proposed settlement agreement which outlines the alleged violations and corresponding penalty. The Registrar's decision and proposed settlement agreement are subject to the approval of the Complaint Review Committee.

If the Complaint Review Committee accepts the settlement agreement, the industry member must satisfy the penalty imposed.

If the Complaint Review Committee rejects the settlement agreement it may recommend alterations to the agreement or it may recommend that the matter be dealt with through a formal hearing. As one broker learned in 2011, industry members who reject a settlement agreement may find themselves facing more or harsher penalties at a formal hearing.

Offence	Penalty (first offence)	Penalty (repeat offence)
Unprofessional conduct	\$500 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
Vague clause writing	\$400 fine and reprimand	\$500 - 1,000 fine

## Recovery Fund

Report for 2011

### About the Recovery Fund

There were no claims against the Recovery Fund in 2011. The fees for the Recovery Fund will remain the same for 2012, as they have been for the last eight 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's asset allocation was adjusted last fall with the objective of creating better risk adjusted rates of return. Alternative investment strategies were added to the portfolio in lieu of equities to better enable the portfolio to both manage risk and improve return regardless of whether the market trends are positive or negative. The return in the portfolio in 2011 was -1.76% or -\$9,444.00. The portfolio returns were impaired by largely negative rates of return for most stock markets globally and the sovereign debt crisis in Europe. Year to date 2012, the rate of return for the fund is +3.82% or \$20,209.00.

Typically, the Recovery Fund has provided a grant to NSAR's Education Department. This year a grant of \$25,000 was given. 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.

## Commissioner by acclamation

one nominee in 2012

The Commission received one nomination for the 2012 Commissioner election. As a result, nominee Gordon Burns, is elected Commissioner by acclamation effective May 1, 2012.

**Nominee:** Gordon Burns

**Brokerage:** Century 21 ABC Realty Limited

**Type of license:** Salesperson

**Years licensed:** 22

**Real estate practiced:** Residential

**Degrees or designations:** N/A

**Director or executive committee experience:** NSREC Commissioner, former director and president of NSAR, former vice president of the Halifax/Dartmouth Real Estate Board, former president of the Nova Scotia Restaurant and Food Service Association (1985).

**Other experience:** Part owner of National Real Estate Service Franchise (1991-1995). Member of many NSAR and CREA committees and task forces and member and Chair of the Commission's Complaint Review Committee.

Congratulations, Gordon Burns, from the Commissioners, committee members, and staff.

### Committee Members

Paul Doucet, Chair/Commissioner—Halifax

David Melvin, Commissioner—Dartmouth

John MacKay, Commissioner—Wolfville

Brad Chisholm, Acting Registrar

*Financial Statements of*

**NOVA SCOTIA REAL ESTATE COMMISSION**

*December 31, 2011*

## 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, 2011, 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 requirements and plan and perform the 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, 2011, 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 5, 2012

**NOVA SCOTIA REAL ESTATE COMMISSION**  
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**December 31, 2011**

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# NOVA SCOTIA REAL ESTATE COMMISSION

## Balance Sheet

As at December 31, 2011

	2011	2010
<b>ASSETS</b>		
Current		
Cash and cash equivalents	\$ 847,411	\$ 641,331
Restricted cash	48,273	24,796
Accounts receivable	8,856	14,419
Accrued interest receivable	1,015	1,015
Prepaid expenses	2,812	11,448
Inventory - manuals and guides	1,860	3,629
	<b>910,227</b>	696,638
Recovery Fund investments (cost - 2011 - \$138,562; 2010 - \$499,468)	132,562	529,081
Capital assets (Note 3)	39,343	30,678
	<b>\$ 1,082,132</b>	<b>\$ 1,256,397</b>
<b>LIABILITIES</b>		
Current		
Accounts payable and accrued liabilities	\$ 49,061	\$ 74,189
Due to Nova Scotia Association of Realtors	2,046	2,611
Funds held in trust	48,273	24,796
Deferred revenue	348,638	346,111
	<b>448,018</b>	447,707
<b>NET ASSETS</b>		
Reserve Fund (Note 4)	65,435	171,766
Recovery Fund (Note 4) (Schedule 1)	528,380	537,823
General Fund (Note 4)	40,299	99,101
	<b>634,114</b>	808,690
	<b>\$ 1,082,132</b>	<b>\$ 1,256,397</b>

**NOVA SCOTIA REAL ESTATE COMMISSION**  
**Statement of Revenue and Expenses and Net Assets**  
**Year ended December 31, 2011**

	2011	2010
Revenue		
Recovery Fund		
Assessment income	\$ 64,535	\$ 68,615
Investment income	42,657	17,672
Unrealized (loss) gain on investments classified as held-for-trading	(35,613)	35,460
	<b>71,579</b>	<b>121,747</b>
General Fund		
Administration fees	2,300	2,450
Amortization of deferred capital grant	-	3,304
Background checks	6,580	7,210
Brokerage manuals	1,425	2,175
Buyer/seller guides	465	1,034
Examination fees	25,870	30,015
Fines and penalties	30,000	27,800
Hearing cost recovery	5,605	49,519
IBTA interest	14,688	9,896
Investment income	4,851	8,922
Licensing fees	737,149	681,685
Reinstatement of license	17,740	20,170
	<b>846,673</b>	<b>844,180</b>
	<b>918,252</b>	<b>965,927</b>
Expenses		
Accounting	12,000	14,000
Advertising	1,696	209
AGM and conference	2,261	3,735
Amortization	15,058	12,568
Bad debts	12,019	-
Bank service charges	26,353	19,753
Benefits	64,132	59,043
Buyer/seller guides	1,769	2,878
Car allowances	2,261	2,640
Computer	3,911	9,472
Conferences	19,982	26,512
Dues and subscriptions	4,869	8,964
Grant to education by Recovery Fund	25,000	25,000
Hearing costs	5,450	5,015
Hearing workshop	10,418	-
Insurance	2,014	1,989
Investigation	5,346	-
Legal	23,524	12,034
Long range strategic planning	96,482	25,300
Miscellaneous	4,345	2,429
Office	4,375	2,890
Directors fees	31,050	26,860
Photocopies	10,318	10,606
Postage and courier	7,044	9,148
Printing	1,564	2,034
Public awareness program	-	2,475
Rent, cleaning and utilities	68,800	58,311
Salaries	567,111	445,088
SPL and BM exams	6,472	6,560
Staff training	4,728	6,544
Staff travel	16,721	18,816
Telecommunications	13,785	12,631
Travel and meetings	19,559	14,904
Website maintenance	2,411	2,162
	<b>1,092,828</b>	<b>850,570</b>
Excess (deficiency) of revenue over expenses	(174,576)	115,357
Net assets, beginning of year	808,690	693,333
Net assets, end of year	\$ 634,114	\$ 808,690

# NOVA SCOTIA REAL ESTATE COMMISSION

## Statement of Cash Flows

Year ended December 31, 2011

	2011	2010
<b>NET INFLOW OF CASH RELATED TO THE FOLLOWING ACTIVITIES</b>		
Operating Activities		
Excess (deficiency) of revenue over expenditures	\$ (174,576)	\$ 115,357
Items not affecting cash		
Amortization of capital assets	15,058	12,568
Unrealized loss (gain) on investments classified as held-for-trading	35,613	(35,460)
Changes in non-cash operating working capital items	16,279	102,190
	<b>(107,626)</b>	<b>194,655</b>
Investing Activities		
Purchases of Recovery Fund investments (net)	360,906	(11,762)
Purchase of capital assets	(23,723)	(16,612)
Increase in restricted cash	(23,477)	(1,924)
	<b>313,706</b>	<b>(30,298)</b>
<b>NET CHANGE IN CASH AND CASH EQUIVALENTS</b>	<b>206,080</b>	<b>164,357</b>
<b>CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR</b>	<b>641,331</b>	<b>480,278</b>
<b>CASH AND CASH EQUIVALENTS, END OF YEAR</b>	<b>\$ 847,411</b>	<b>\$ 644,635</b>
Cash and cash equivalents are comprised of:		
Cash - Recovery Fund	\$ 395,818	\$ 8,742
- Other	412,324	482,272
Short-term investments	39,269	150,317
	<b>\$ 847,411</b>	<b>\$ 641,331</b>

# NOVA SCOTIA REAL ESTATE COMMISSION

## Notes to the Financial Statements

December 31, 2011

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### 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 of 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, 2011

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### 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, 2011

### 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. The Commission 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

	2011			2010
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computers	\$ 41,548	\$ (30,277)	\$ 11,271	\$ 14,444
Furniture and equipment	73,304	(50,131)	23,173	7,920
Software	23,567	(18,774)	4,793	6,804
Leasehold improvements	14,092	(13,986)	106	1,510
	<b>\$ 152,511</b>	<b>\$ (113,168)</b>	<b>\$ 39,343</b>	<b>\$ 30,678</b>

### 4. NET ASSETS

	General Fund	Recovery Fund	Reserve Fund	2011	2010
Balance, beginning of year	\$ 99,101	\$ 537,823	\$ 171,766	\$ 808,690	\$ 693,333
(Deficiency) excess of					
revenue over expenditures	(156,289)	(17,956)	(331)	(174,576)	115,357
Transfer from (to) General Fund	97,487	8,513	(106,000)	-	-
Balance, end of year	<b>\$ 40,299</b>	<b>\$ 528,380</b>	<b>\$ 65,435</b>	<b>\$ 634,114</b>	<b>\$ 808,690</b>

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 loss on investments of \$6,000.

# NOVA SCOTIA REAL ESTATE COMMISSION

## Notes to the Financial Statements

December 31, 2011

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### 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 postage machine, 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, 2011.

#### *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, 2011

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### 8. CAPITAL MANAGEMENT

The Commission's objective when managing capital is 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

In 2010, 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

During the year, the Commission entered into a new lease agreement for office space that expires April 30, 2016 and has monthly lease payments of \$6,473.

**NOVA SCOTIA REAL ESTATE COMMISSION      SCHEDULE 1**  
**Schedule of Recovery Fund Transactions**  
**Year ended December 31, 2011**

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	<u>2011</u>	<u>2010</u>
Net assets, beginning of year	\$ 537,823	\$ 497,560
Revenue	71,579	121,747
Grant to Education Fund	(25,000)	(25,000)
Transfers to Recovery Fund	8,513	12,131
Transfer to Commission - administration	(64,535)	(68,615)
Net assets, end of year	<b>\$ 528,380</b>	<b>\$ 537,823</b>

# Financial summary 2011-2012

Source of Funds				
Budget Item	Notes	2011 Budget	2011 Actual	2012 Budget
Administration Fees		4,000	2,697	2,500
Assessment-Recovery Fund		70,000	64,535	64,000
Background Check Fees		7,000	6,580	6,300
Branch Office Fees		17,280	17,820	17,500
Broker Fees-New		4,200	4,200	3,600
Broker Fees-Renewal	1	56,055	56,595	56,700
Brokerage Audit Fees	1	100,000	107,767	105,000
Brokerage Fees-New		2,400	3,300	2,400
Brokerage Fees-Renewal	1	56,985	58,200	57,450
Brokerage Manuals		1,500	1,425	750
Buyer-Seller Booklets		1,100	465	500
Exam Fees		28,000	25,870	24,000
Fines/Penalties	2	20,000	30,000	20,000
Hearing Cost Recovery		5,000	5,605	5,000
Interest-IBTA	3	12,000	14,688	12,000
Interest Income-General		7,500	4,851	5,000
Interest-Recovery Fund	3	30,000	42,657	0
Investigation cost recovery		0	0	2,000
Managing AB Fees-New		2,100	600	1,500
Managing AB Fees-Renewal	1	12,960	12,960	13,230
Reinstatement of License		16,000	17,740	16,000
Salesperson/AB Fees-New		60,000	56,400	60,000
Salesperson/AB Fees-Renewal	1	410,940	419,310	416,050
Deferred Capitol Grant	4	3,000	0	0
Recovery Fund	5	0	-35,613	0
Recovery Fund-Grants to Education		0	0	0
Unused funds transferred from previous year	6	75,000	0	0
Revenue Totals		\$1,003,020	\$918,652	\$891,480

Revenues were close to budget with respect to all licensing categories, indicating a stable retention of brokers/associate brokers and salespersons. Fines came in higher than expected, a trend that is expected to continue at least in the short term as the Commission continues to hold more brokers responsible for supervising the activities of their salespeople/associate brokers.

Expenses were higher in a number of categories largely due to the operational review and strategic planning carried out during 2011. Although higher than budgeted expenses were incurred, the result of the process increased efficiency and enabled the Commission to remain at its current office location, thereby avoiding the higher cost alternatives of relocating to larger office space. Another higher than budgeted expense occurred in the salaries category as a result of the former Registrar's resignation in May.

Use of Funds				
Budget Item	Notes	2011 Budget	2011 Actual	2012 Budget
Accounting		16,000	12,000	16,000
Advertising		1,500	1,696	1,500
AGM & Conference		2,000	2,261	2,000
Background Checks		1,500	1,346	1,500
Bad Debts	7	0	12,019	0
Bank Charges	8	7,500	10,801	9,500
Investment Account Fees		13,000	16,783	14,000
Benefits - Government		32,000	31,425	32,000
Benefits - Health and Fitness		15,000	14,463	17,500
Benefits - RRSP Contribution		16,500	18,243	16,500
Car Allowance	9	3,000	2,261	0
Computer - Hardware and Software		3,000	1,012	2,000
Computer - Technical Support		4,000	2,899	1,500
Conferences (Out of Prov)		22,156	19,982	10,750
Cost of Brokerage Man Sold		550	480	500
Cost of Buyer-Seller Booklets		4,000	1,288	3,000
Depreciation	10	10,500	15,058	20,364
Dues, Subscriptions & Publications		8,500	4,869	5,000
Facility Rental		1,000	0	0
Furniture & Equipment		1,000	632	1,000
Hearing Costs		5,000	5,450	5,000
Director's Fees		36,050	31,050	21,750
Insurance/Directors Liability		623	623	623
Insurance/Property		1,400	1,390	1,500
Investigation Expenses	11	0	5,346	2,000
Legal	12	12,000	23,524	15,000
Maintenance		100	288	100
Miscellaneous		4,500	2,543	2,000
Office		2,500	3,455	3,200
Photocopies		11,000	10,318	10,000
Postage and Courier		10,500	7,044	9,000
Printing		3,000	1,564	2,000
Provincial Reference Manuals		0	0	0
Public Awareness Program	13	8,000	0	0
Recovery Fund - Investment	14	0	0	0
Rent, Cleaning, Utilities	15	65,000	68,780	78,000
Reserve - General Operations	16	15,000	0	0
Salaries	17	468,000	560,268	468,000
Salary and Benefits - Temporary		0	0	4,500
Salary Review	18	0	6,842	0
SPL & B/M Exams		6,500	6,472	6,500
Staff Training		10,000	4,727	10,000
Staff Travel		20,000	16,721	18,000
Taxes		0	0	0
Telecommunications		14,000	13,785	14,000
Transfer to Education		25,000	25,000	25,000
Travel & Meetings-Comm/Committees	19	13,500	19,559	15,000
Website Maintenance		3,000	2410	8,000
Hearing Workshop		10,400	10418	0
Review Audit	20	45,000	22,977	0
Operational Review	21	62,800	73,505	0
Expenditure Totals		\$1,015,579	1,093,577	\$873,787
NET		-\$12,559	-174,925	\$17,693

## Source of Funds

1. Licensing Renewal & Audit Fees – The Projected amounts for Renewal Fees in all categories came in close to Budget for 2011. There are no contemplated licensing fee increases for the 2012 budget.
2. Fines & Penalties – Fines were up in 2011 and it is expected that the higher amount will continue with stricter audit compliance standards and higher responsibility put on brokers to adequately supervise the activities of their salespeople/associate brokers.
3. Interest – IBTA & Recovery Fund – Interest and investments continue to be conservative. It is not expected that interest rates will increase significantly in 2012.
4. 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. It is now fully amortized.
5. Recovery Fund – Unrealized loss attributed to poor investment market.
6. Unused Funds – Transfer from an investment fund to offset anticipated expenses of the operational review and the review audit. It is a transfer between assets, not revenue, and so it was decided not to reflect this item in the actual results category. The practice of asset transfers reflected in the revenue category has been discontinued.

## Use of Funds

7. Bad Debts – This amount pertains to a fine and corresponding hearing costs associated with a 2010 discipline hearing decision. The industry member failed to pay and so a judgment has been filed.
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 – This expense and corresponding account category has been discontinued as of 2012.

10. Depreciation – Depreciation was higher than budgeted due to purchase of computer equipment and the accelerated depreciation associated with it.
11. Investigation Costs – This is a new category to track direct costs associated with the investigation process.
12. Legal – Legal expenses were significantly higher due to a number of factors including investigation issues requiring legal opinions and legal work carried out to prepare new bylaws to coincide with recent Real Estate Trading Act changes.
13. Public Awareness Program – This was not undertaken in 2011 due to other projects ongoing.
14. Recovery Fund - Investment – Due to the decline of IBTA revenue this investment was not made in 2011 and no contributions are planned for 2012.
15. Rent, Cleaning and Utilities – The increase in this expense resulted from leasehold improvements carried out during 2011. The full affect will be reflected in the 2012 budget.
16. Reserve – General Operations – Due to additional expenses incurred during 2011 there are no provisions in the 2012 budget for a contribution to the reserve.
17. Salaries – The 2011 expense included an unbudgeted payment to the former Registrar upon his resignation.
18. Salary Review – An unbudgeted salary review was carried out by an independent consultant.
19. Travel & Meetings – This expense was higher as a result of additional committee meetings that were required to accommodate the operational review and strategic planning processes
20. Review Audit – The actual cost of the review audit was substantially less than budgeted.
21. Operational Review – The Commission approved Operational Review that began in 2010 was expanded in scope during 2011 and as a result the associated expense was higher than originally budgeted.

# Got a question? Contact us

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The Nova Scotia Real Estate Commission is the regulator of the real estate industry, whose goal is to ensure consumer confidence through the administration of the Real Estate Trading Act and the Commission Bylaw.