

# DISCIPLINARY NEWS



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## THE COMPLAINT PROCESS

The Nova Scotia Real Estate Commission (the Commission) is responsible for the administration of the Real Estate Trading Act and the Bylaw, which includes receiving complaints about brokerages and licensees, investigating complaints and taking disciplinary action when necessary.

While two licensees may be charged with the same violation, the penalties may be different, as the Commission assesses each case individually as each investigation is distinct and often complicated in its own way.

Each case also goes through several levels of procedure. When a complaint is made that warrants a full investigation, the following steps are taken:

1. The Registrar initiates an investigation. He may also do so on his own should he determine it necessary for consumer protection purposes.
2. The respondent licensee and their broker (if applicable) are notified that an investigation has been initiated and sent a copy of the complaint (if applicable) as well as directions on how to reply.
3. The Commission's Compliance Investigator requests statements and supporting evidence from all parties directly involved. Other parties involved with the case, including other licensees, may also be contacted for statements or information, if required.
4. Upon its completion, the investigation report is turned over to the Registrar for their evaluation and decision.
5. The full investigation file including the Registrar's decision is reviewed by the Complaints Review Committee (CRC), who may accept, reject or make recommendations to amend the decision to:
  - a. recommend no charges;
  - b. recommend charges through a settlement agreement. If the licensee accepts the proposed settlement agreement, they must satisfy the imposed penalty. If the licensee does not agree with the proposed settlement agreement, the matter is referred to the Discipline Committee.
  - c. refer the matter directly to the Discipline Committee.

When a case is referred to the Discipline Committee, a panel is appointed and a formal hearing will make a final decision on the matter.

# WHAT IS THE COMPLAINTS REVIEW COMMITTEE?

The Complaints Review Committee (CRC) is made up of licensees and public volunteers from across the province. The role of the CRC is to:

- Review all of the Registrar's complaint decisions
- Accept, reject or make recommendations to amend the decisions
- Make recommendations to the Commission Board of Directors on conduct, trade practices and standards of business practice
- Hear requests for review of the Registrar's decision to dismiss a complaint

## BROKERAGE INSPECTIONS

Every year, the Commission's Compliance Inspectors conduct trust account inspections for each brokerage in Nova Scotia. In addition to trust inspections, each brokerage is subject to a full brokerage inspection every three years which includes a review of the brokerage transaction files and trust record keeping.

The Commission may increase the frequency of inspections for a specific brokerage if necessary. Inspection results fall into one of three categories: 'very good', 'good', and 'needs improvement'. Any brokerage that receives three consecutive 'needs improvement' rating is subject to a \$500 fine and the penalty increases if the brokerage receives a fourth or fifth consecutive 'needs improvement' ratings.

## FINES & PENALTIES

### FIFTH CONSECUTIVE NEEDS IMPROVEMENT RATING FOR TRUST RECORD KEEPING

**Duane Simmons, former broker of RE/MAX Advantage**, had his broker licence restricted to associate broker. Simmons is required to re-take the broker licensing course, pass the broker exam and receive approval from the Registrar, should he wish to regain a broker licence.

### FOURTH CONSECUTIVE NEEDS IMPROVEMENT RATING FOR TRANSACTION FILE REVIEW; THIRD CONSECUTIVE NEEDS IMPROVEMENT RATING FOR TRUST RECORD KEEPING

**Matthew Honsberger, former broker of Royal LePage Atlantic**, and currently licensed as managing associate broker, was fined \$2,000 for receiving a fourth 'needs improvement' rating for transaction file review. He was also fined \$500 for receiving a third 'needs improvement' for trust account record keeping.

### FOURTH CONSECUTIVE NEEDS IMPROVEMENT RATING FOR TRANSACTION FILE REVIEW

**Francis Fares, Broker at Atlantis Realty Ltd.**, was fined \$1,000 for a fourth consecutive 'needs improvement' rating for transaction file review.