

Annual Report

for

2008

Nova Scotia Real Estate Commission



2009

Annual General Meeting

March 18, 2009

Nova Scotia Real Estate Commission

Notice of Annual General Meeting

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

Wednesday, March 18, 2009
1:00 - 2:30 PM

Agenda

Chairman – Mary MacDonald

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

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Our Commissioners

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

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

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

Name	Term	Appointment	Location	Brokerage
Elizabeth Irwin	April 30, 2010	NSAR	Halifax	Royal LePage Atlantic
Mary MacDonald	April 30, 2011	NSAR	Liverpool	Walt MacDonald Real Estate Ltd.
John MacKay	April 30, 2012	NSAR	Wolfville	MacKay Real Estate
Neil Black	April 30, 2009	Elected	Dartmouth	Re/Max Nova
Ernie Buote	April 30, 2010	Elected	Halifax	Domus Realty
Ron Stuart	April 30, 2011	Elected	Halifax	Harbourside Realty Ltd.
Howard Oakey	October 2008	Public	Bedford	
David Melvin	July 2009	Public	Dartmouth	
Donna Anderson	August 2010	Public	Sydney	
Avis Chapman	September 2011	Public	Amherst	

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



Mary MacDonald
Chairperson

Message from the Chair

Commissioners report for 2008

The Nova Scotia Real Estate Commission saw a busy year with many ongoing projects completed in 2008. It has also seen the Commission grow to meet the needs of assisting the public and the industry. The Commission created two new positions, a Communications Officer and a second Compliance Auditor. Over the past six years, the number of Industry Members in Nova Scotia increased by an average of 100 people per year, raising the total number of Industry members at the end of 2008 to 1,830. The Commission has budgeted, for the last three years, for a net decrease of Industry Members, but the numbers continued to climb. It is believed that 2009 will see a decrease and this is reflected in the budget for 2009.

One of the most significant changes in 2008 was the conversion of a number of brokerages from common law agency to designated agency. As of January 2009, approximately 25 per cent of Industry Members in Nova Scotia are practicing designated agency. I can also report that, after two years of agency education and discussion, Industry Members in Nova Scotia now have a much better understanding of agency. Another significant change in 2008 was the introduction of new Agreements of Purchase and Sale and related documents. This was a huge project and NSAR and the members involved are to be commended for their work. Nova Scotia can be proud of the excellent forms now being used by the industry.

The Commission operates on a very tight budget with a relatively small staff. This past year has seen the Commission's finances continuing to remain strong. However, on a less than positive note, there has been a significant loss on investments in the Recovery Fund. To compensate for this downturn, the renewal fees for the end of June are increasing by \$20 for all licensing categories. This is the first fee increase since 2006.

The Commission and Association Liaison Committee meetings continue to provide a forum for discussion on a

wide variety of issues and enable each organization to better understand the other's point-of-view. After last year's success with the Agency Implementation Committee, which helped roll out all of the agency changes, the two organizations have created an Industry Practices Committee for 2009 to make recommendations to both organizations.

This past year has seen a number of changes to the Board of Directors. Two Commissioners completed six years service, Howard Oakey, a public appointment, and Eldon Chaisson, an elected Commissioner. In April 2009, Neil Black, an elected Commissioner, will also complete six years of service. On behalf of the Commission and the Industry, I would like to thank all three for their work and devotion. In addition, I want to offer a warm welcome to Avis Chapman, the newest Commissioner, a public appointment, this past fall.

I wish to thank the current Commissioners and Committee members for their efforts throughout the year. Both the Commissioners and Committee members contribute hundreds of volunteer hours, which benefit 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. I also want to thank the Registrar and staff of the Nova Scotia Real Estate Commission for their ongoing efforts. The Commission's operations always run smoothly and professionally while providing information and services to both the public and Industry Members, as well as supporting the work of the Commissioners and Committees.

I strongly encourage you to attend the Annual General Meeting of the Commission, Wednesday March 18th at 1:00 PM, which will be held in the auditorium at 7 Scarfe Court. This is your opportunity to get an update on the Commission's work, to elect an Industry Member as a Commissioner and to provide feedback. I hope you take the time to participate.

Message from the Registrar

Report for 2008



Doug Dixon
Registrar

Every year brings its challenges and 2008 was no different. The implementation of agency relationship changes and new forms were finalized in the spring. Both of these initiatives were major projects for both the Commission and the Association over the last several years. I believe that Industry Members now have a much better understanding of agency relationships and obligations. The new forms have been well received, especially the new format for Agreements of Purchase and Sale.

In September 2007, the Commission held a long-term planning session for two days. One goal was for the Commission to raise the bar on how it communicates with the industry and the public at large. A decision was made to hire a Communications Officer that would bring the expertise required in-house. The Commission also examined the workload of both the Registrar and the Compliance Officer. One of the major issues was the length of time it now takes to complete investigations and discipline matters. For the Commission's first eight to nine years, simple discipline matters took three to four months to complete and complicated ones six to eight months. For the last three years, these time frames increased by two to three months. This is a result of a fifty per cent increase in the number of Industry Members, a higher volume of real estate transactions and greater public awareness of the Commission's role. The Commission decided to hire a second Compliance Auditor to provide greater staff resources. The two Compliance Auditors, in addition to their audit duties, will assist the Compliance Officer with investigations and handle some general enquiries from the public and the industry. Peggy

Kell, the Communications Officer, started in November 2008 and Sue Best, the new Compliance Auditor, started in December 2008.

The upcoming year will see many projects undertaken, such as a complete redesign of the Commission Web site, a rewrite of the Commission Policies and Procedures, the creation of an Advertising Guide and an Industry Members Handbook. The Commission will be rebranded in 2009, so expect to see a new look for all Commission publications. A public awareness project will also be implemented so that consumers are more aware of the Commission's role and the obligations of Industry Members.

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

In closing, please feel free to call the Commission office should 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 has had difficulties in their real estate dealings, please pass on the Commission's contact information if you feel the Commission can be of assistance.



Elizabeth Irwin
Royal LePage Atlantic

Licensing Committee

Chairperson's report for 2008

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

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

The Committee discussed and dealt with a number of issues over the last year. The new Broker Licensing course was introduced in 2008. The Commission would like to commend the Association for the excellent work in developing this three-week course. I am pleased to announce that the Commission and the Association won a joint award from

ARELLO, the international real estate regulatory organization, for this new course. The Salesperson Licensing Course saw significant updating by the Association, as it is now a five year old course. Also, the Association has kept the Commission up-to-date on the development of its mentor program for new salespeople. Lastly, the Commission approved Legal Update as the mandatory course for the 2009-2010 licensing cycle.

Licensing statistics at a glance on the following page provide a statistical overview of licensing. The number of new Industry Members and retention rate of existing Industry Members continued to remain high into the fall of 2008, resulting in more Industry Members. The Commission has projected a decrease of 100 Industry Members in 2009.

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

Licensing Committee

Elizabeth A. Irwin, Commissioner
Halifax

Donna Anderson, Commissioner
Sydney (Public Member)

Mike Barnard, Member
New Minas

Chasity Chennell, Member
New Glasgow

Nora Landry, Member
Dartmouth

Paula Pulling, Member
Bedford

Ron Stuart, Commissioner
Halifax

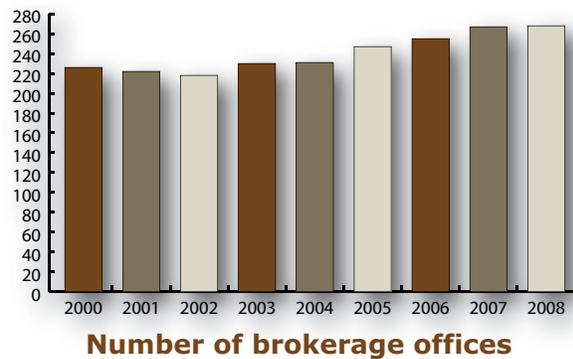
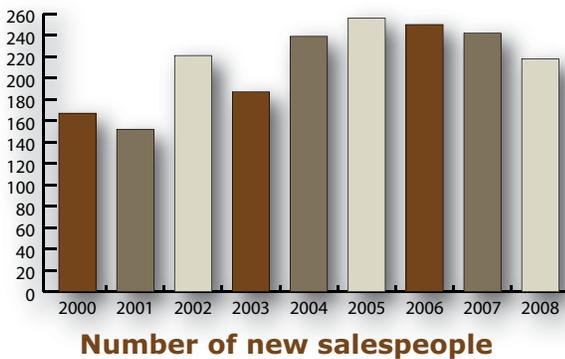
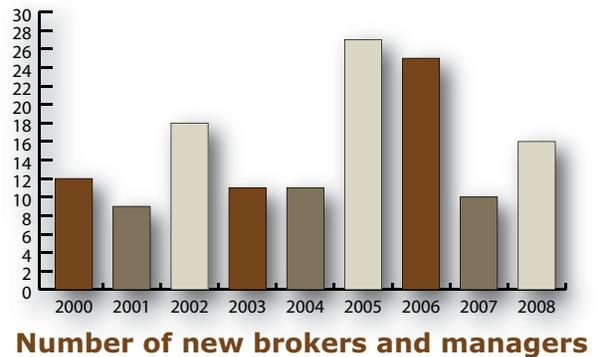
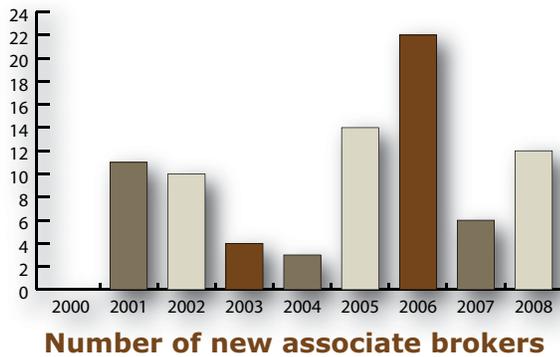
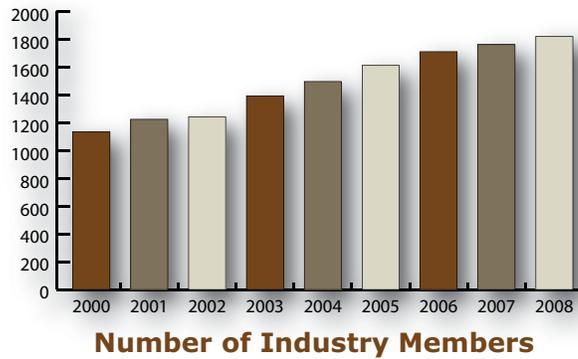
John Walker, Member
Halifax

Douglas Dixon, Registrar

Pamela Crane, Licensing Officer

Licensing statistics at a glance

The industry from 2000 to 2008





David Melvin
Livingstone & Company

Complaint Review Committee

Chairperson's report for 2008

The number of complaints in 2008 was up slightly over the last several years. The Compliance Officer's Report on the following pages contains complaint statistics, the types of complaints, and the disposition of complaints. Five cases were referred to the Discipline Committee for hearings, three cases were heard, and the remaining two are scheduled to be heard in 2009.

Poor communication continues to be a core issue of many complaints. A lack of communication prevents clients and customers from being fully informed before making a decision or taking action. Similar problems arise from inappropriate or inaccurate communications. As an Industry Member, you are required to keep your clients fully informed of all facts you are aware of, including full disclosure of all defects. While certain circumstances can require full disclosure of information, there is also some information that you cannot pass on. For example, you can only disclose certain information with the express permission of your client, like a change in marital status or a relocation to another town. Further to that, there are some parties you can't directly communicate with, like clients under contract with another brokerage.

The Complaint Review Committee met four times in 2008 to review all matters relative to complaints investigated by the Commission staff. The Committee's mandate is to review all proposed Settlement Agreements and any public requests to review the decision of the Registrar. In practice, the Committee reviews all complaints, whether they are dismissed, settled, or sent on for a Discipline Hearing.

The Committee can approve the Registrar's decision to dismiss a complaint or resolve a complaint through a Settlement Agreement. The Committee can also reverse or alter the Registrar's decision by altering the terms of the Settlement Agreement, preventing a complaint from being dismissed, or sending a matter on to the Discipline Committee.

On average, the Committee reviews 8–12 complaints at each quarterly meeting. The Committee members review a

summary of each case in advance of the meeting and then discuss each case with the Commission staff at the meeting. In unusual circumstances, or in situations new to the Commission, the Registrar may bring a case to the Committee for its opinion prior to proceeding.

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

Complaint Review Committee

David Melvin, Chairperson - Commissioner
Dartmouth

Ernie Buote, Commissioner
Halifax

Gordon Burns, Member
Dartmouth

Michael Harris, Member
Berwick

Lynn Hoffmann, Member
Kentville

Howard Oakey, Public Representative
Bedford

Charles Pace, Member
Halifax

Jim Woods, Member
New Glasgow

Peter Wyman, Member
Annapolis Royal

Douglas Dixon, Registrar

Brad Chisholm, Compliance Officer

Audits and investigations

Compliance Officer's report for 2008

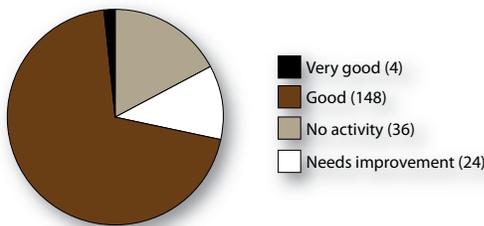


Brad Chisholm
Compliance Officer

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 2008, we conducted 130 brokerage audits and 82 trust account audits. The results of these audits are categorized as follows:

Compliance Audits 2008



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 2008, the Commission charged seven 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 2008 was comparable to that of 2007.

Some of the charges laid in 2008 resulted from 2007 investigations still ongoing at the beginning of 2008.

At the beginning of 2008, there were 19 investigations carried over from 2007. During 2008, the Commission received 43 real estate complaints from public and Industry Member sources. Of those 43 complaints received, 32 investigations were initiated.

The 19 cases carried over from 2007 were closed in 2008 and 14 of the investigations initiated in 2008 were closed by year-end leaving 18 outstanding.

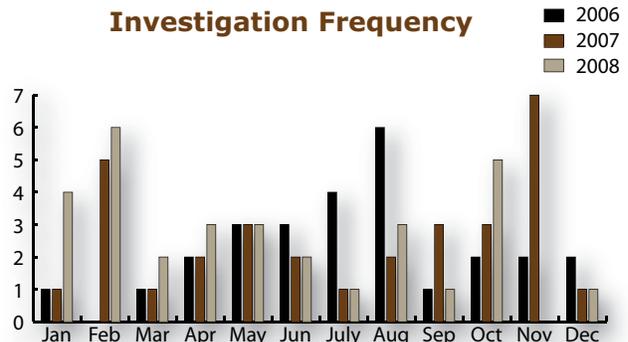
Origin

In 2008, 29 of the investigations were initiated through written public complaints and three investigations from complaints filed by Industry Members.

Frequency

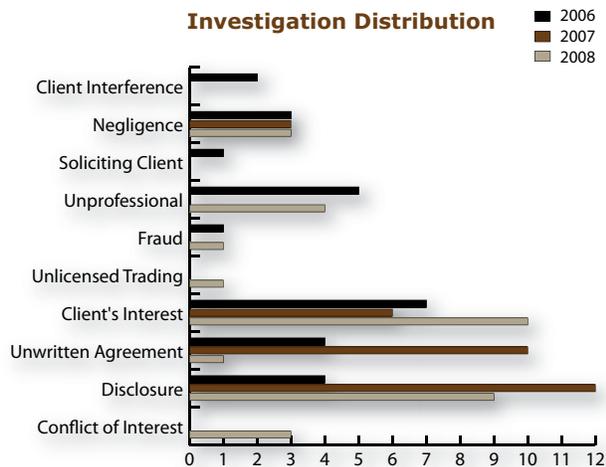
The chart below summarizes comparative figures for the total number of investigations initiated each month.

Investigation Frequency



Distribution

The chart on the following page summarizes the distribution of the 32 investigations initiated in 2008 as well as the data for 2007 and 2006.



Examples

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

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

Soliciting clients—knowingly soliciting another Industry Member’s client

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

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

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

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

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

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

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

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

Fraud—misappropriation of trust funds; falsifying a clients signature on a document

Public discredit—making derogatory remarks about another Industry Member

Commission dispute—misinforming listing clients as to commission payable

Charges

Of the 33 investigations closed in 2008, 15 resulted in formal charges. The table below outlines the penalties levied through settlement agreements for first-time offences and repeat offences.

Trade practices and you

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

Navigating multiple offers and disclosure requirements

When you enter into a listing agreement with a seller, the seller must decide whether they want the listing brokerage or designated agent to disclose multiple offers to all potential buyers. If the seller’s answer is “yes”, you need to know how and under what conditions to carry out the disclosure process. Failing to carry out proper disclosure of multiple offers can result in hefty penalties by the Commission and may invite legal action against the brokerage or designated agent by an angry buyer or seller.

To avoid such situations, you must first understand what constitutes a “competing offer”. In short, a competing offer is a written and signed offer received by the listing brokerage or designated agent. A verbal offer is not considered a competing offer and does not trigger the disclosure requirement. However, you are required to advise the seller of the verbal offer.

You also need to know which methods of disclosure are acceptable. In the case of multiple offers, time is of the essence

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

and any delays in disclosure will be viewed with suspicion. Direct contact by phone to a buyer's salesperson is acceptable. If you get a voice mailbox, you can leave a detailed message, but the Commission recommends going a step further by contacting the buyer's brokerage and informing the broker or managing associate broker of the competing offer. Similarly, faxing or e-mailing the disclosure is acceptable, but again, the Commission recommends contacting the buyer's brokerage and disclosing the competing offer to the broker or managing associate broker.

The key to handling multiple offers properly is to ensure that all reasonable efforts are taken to disclose competing offers in a timely fashion to permit buyers the opportunity to adjust their offers if so desired. If you cannot contact the other salesperson and speak to them and there is any doubt about them notifying the buyer in a reasonable amount of time, contact their office or broker or manager.

The typical multiple offer situation

Jane Smith, a salesperson, takes a new listing on the weekend; the property is in great condition and in a prime location. The sign goes up first thing Monday morning and the property listing is posted on the MLS®.



Jane is viewing properties with a buyer when she gets a call from the brokerage office. The administrator tells Jane that three offers came in that morning for her new listing. Jane calls the seller to arrange a meeting. The seller agrees to meet that evening. Jane also advises the seller that she is going to contact all three buyer salespersons to disclose there is a multiple offer situation.



Jane calls and speaks with all three buyer-salespersons. She advises each salesperson that they are one of three competing offers on the property. All three say they will call her back with their respective buyer's intentions.



At this point, Jane has satisfied all disclosure requirement.

The first two buyer-salespersons call back and tell Jane the offers they submitted will remain unchanged. The third buyer-salesperson tells her that a new offer was just faxed with revised conditions. Jane does not have to inform the first two buyer-salespersons that one of the offers was revised.

Jane cannot disclose any details about the competing offers to any of the respective buyer-salespersons. If Jane or any person employed within her brokerage is representing one of the buyers, the disclosure requirement and procedure is still the same (this applies to both common law and designated agency situations).

What happens if the seller is in the counter offer stage when another offer is received? Is the second offer considered a competing offer? Should Jane, the seller's salesperson, disclose to the first buyer (who is considering the counter offer) that another offer has been received?

The answer to both questions is "no", the second offer is not a competing offer for the purposes of this disclosure requirement and therefore Jane does not have a disclosure requirement. In this type of situation, the Commission recommends speaking to the seller to obtain instructions on whether to disclose the existence of the second offer to the first buyer.

Defects and disclosure

Complaints about non-disclosure of material defects are on the rise. The most common complaints are failure to disclose well-water quality/quantity and dysfunctional septic systems. Some of these disclosure issues have resulted in legal claims against sellers and the seller's real estate representatives.

As a seller's representative, you are required to disclose your knowledge of any material issues regarding water and septic systems to the buyer or buyer's representative. You must also ensure the seller is fully aware of his or her disclosure obligations to potential buyers.

If the seller asks you whether a particular issue should be disclosed, advise your client to seek legal advice rather than give your own opinion on the matter. The problem with giving your opinion on a material-defect issue, is if the seller follows your advice and is then sued by the buyer, you are likely be sued yourself. Your duty is to provide the seller with the right tools to make informed decision, not to convince him or her of what course to take.

As a buyer's representative, your job is to provide the buyer with the right tools to make an informed decision. You need to make sure your buyer knows what disclosures/warranties to request from a seller. They also need to know from the onset that a typical home inspection has limitations and important considerations like water tests and septic system evaluations usually aren't addressed by the inspector. You need to ensure your buyer knows exactly what options are available with respect to verifying safe drinking water, adequate water supply and a properly functioning septic system.

Transaction brokerage and when to avoid it

Occasionally, certain circumstances present themselves making transaction brokerage an unsuitable form of representation. The following examples demonstrate when transaction brokerage is not appropriate and can lead to disciplinary action.

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. A transaction brokerage relationship requires impartial and equal treatment of both buyer and seller. 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, avoid entering into a transaction brokerage relationship with them. For example, if you have an agency relationship with a builder, a developer, or a 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, i.e. your help, advice and support, which cannot be provided under transaction brokerage.

In all three of these scenarios, your options depend on the type of agency your brokerage offers. In common law agency, you need to treat the other party as a customer or refer them to another brokerage. In designated agency, you need to treat the other party like a customer or refer them to another designated agent at your brokerage or another brokerage.

Avoid unnecessary problems

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

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

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

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

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

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

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

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

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

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

Common audit issues

Compliance Auditor's report for 2008



Carolin MacDonald
Compliance Auditor

Transaction files

When Commission staff audit brokerage-transaction files, a number of issues are continually identified. They include:

Agency disclosure documentation missing

This is a reference to Working with a REALTOR® brochure (or equivalent for non-NSAR members) which must be signed by the client-customer. In situations involving transaction brokerage or customer status, you must obtain written acknowledgement of agency disclosure from both parties to the transaction.

Amendment to Agreement of Purchase and Sale improperly completed

Page 1 of this agreement must be completed and signed by the party who is initiating the amendment. The other party, the respondent, must complete and sign page 2. Both parties must initial both pages. The initials do not indicate acceptance by either party, only that the contents of both pages has been read and understood.

Agreements not properly signed, initialed, or witnessed

Self explanatory.

Changes to agreements are not clear and not properly initialed by all parties

All changes, including deleted clauses, must be initialed by all parties to the agreement to make it binding.

Agency section of Agreement of Purchase and Sale improperly completed

The agency section should clearly identify the agency-customer relationships between the parties and the respective brokerage(s). The options are single agency, transaction brokerage, or no agency.

Written clauses poorly worded

Poorly worded clauses can create disastrous consequences for clients, customers, and brokerages. Use the five Ws approach.

Amending expired Listing Agreements

An expired Listing Agreement cannot be reactivated by a subsequent amendment. If the listing has expired and the brokerage re-lists the property, a new Seller Brokerage Agreement must be prepared and executed by all parties.

Trust accounts

There has been a history of good trust-account record keeping, in general, since the Commission started in 1997. After having said that, there are a couple of issues that crop up far too often, including:

Bank service charges taken from the trust account instead of the brokerage's general account

The broker must rectify this with the financial institution immediately. The Commission does not and will not accept the explanation that the financial institution is unable or unwilling to correct this problem.

Late deposits

Deposits must be obtained no later than the date indicated on the executed Agreement of Purchase and Sale. If not, the listing brokerage needs to notify the seller in writing seeking instruction.

When a brokerage receives a deposit, it has 48 hours, excluding holidays, to deposit the funds in its trust account.

Failure of broker/managing associate broker to sign and date monthly trust account bank reconciliations when there is no activity in the trust account

Self explanatory.

Trust account interest accumulating in the trust account instead of being forwarded to the Commission

Trust account interest should not accumulate in the account; it should be automatically remitted to the Commission by the financial institution.



Discipline Committee Chairperson's report for 2008

John MacKay
MacKay Real Estate

The Discipline Committee held three hearings in 2008 resulting in two dismissals and one guilty verdict. One of the dismissals revolved around what activities are appropriate at a pre-closing viewing. The Commission will issue specific guidelines about this topic in 2009.

A case that began several years ago came to a close in 2008. In 2006, the Commission returned a guilty verdict. In July 2007, the Industry Member appealed the Panel's decision to the Supreme Court of Nova Scotia. The Supreme Court found in the Commission's favour and dismissed the appeal. In September 2008, the Industry Member then appealed to the Nova Scotia Court of Appeal. The Appellate Court confirmed the decision of the Supreme Court and dismissed the appeal. The Industry Member was ordered to pay the sanctions and hearing costs for the original hearing as well as some of the Commission's legal costs for the two appeals, totalling approximately \$12,000.

There are currently two hearing matters being carried over into 2009.

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, this is the quickest and simplest way to resolve the issue, from both the Industry Member's and the Commission's point-of-view.

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

Discipline Committee

John MacKay, Chair/Commissioner—Wolfville
 Brian Hirtle, Member—Kentville
 Don Clark, Member—Dartmouth
 Mark Stein, Member—Halifax
 Clark Woods, Member—Truro
 Douglas Dixon, Registrar

Hearing Panel Pool Committee

Wayne Sanford—New Minas
 Alan Hennigar—Halifax
 Sandra Richards—Bridgewater
 Carol Alexander—Chester



John Walker
GWL Realty Advisors Inc.

This was a fairly quiet year for the Commercial Committee with the Committee meeting once in 2008.

Discussions continued on practice issues such as forms, agency disclosure, and audit procedures.

The commercial highlight of the year was the Commercial Forum held in October. A number of guest speakers were invited to present their views on the HRMbyDESIGN project. The presentations were excellent, provoking lots of lively questions and discussion. The second half of the Forum was a presentation by the Registrar on agency and disclosure issues. The Commission received very positive feedback afterwards.

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

Commercial Committee

John Walker, Chair/Commissioner—Halifax
 Neil Black, Commissioner—Dartmouth
 Eldon Chaisson, Commissioner—Dartmouth
 Bill Greenwood, Member—Halifax
 Tim Margolian, Member—Halifax
 Greg Taylor, Member—Halifax
 Roger O'Neil, Member—Halifax
 Douglas Dixon, Registrar
 Brad Chisholm, Compliance Officer

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.

Proposed amendments to the Real Estate Trading Act (RETA)

The Nova Scotia Real Estate Commission revised the Act in 2002. Over the years, a number of issues have arisen that need to be addressed. The changes to the Act are proposed for various reasons:

- Agency Task Force recommendations
- Issues arising from discipline cases
- Changes to brokerage business models
- Added clarification and details

The changes are summarized by topic below:

Conduct during an investigation

These changes will enable the investigator to:

- Enter a business and inspect and copy any pertinent records
- Require and receive cooperation from all involved parties
- Request and receive any additional information and records

Co-operation with an investigation

This change extends the investigated party's obligations beyond cooperation to prevent them from withholding, destroying, concealing or refusing to provide information or documents.

Search warrant

The search warrant enables the Commission to gather any materials relevant to an investigation that are being withheld. The Commission must apply to the courts in order to obtain a search warrant.

Suspension

This change enables the Registrar to apply to the Supreme Court to temporarily suspend an Industry Member's licence:

- The investigation cannot be completed within the 90-day window currently in the Act.
- The seriousness of the allegations merits suspending the Industry Member while under investigation.
- To force an Industry Member to cooperate with an investigation.

Discipline appeals

This change means appeals are heard by the Nova Scotia Court of Appeal and not the Nova Scotia Supreme Court, which will:

- Amend the RETA to conform with newer legislation for regulatory bodies
- Eliminate one appeal from the appeals process.
- Place the appeal in a court that specializes in the appeals process.

Commissions/remuneration

This change moves regulation of commissions/remuneration from the Act to the By-Law to enable the Commission to keep up with ever-changing business models in a timely fashion.

Stale trust funds

This change streamlines the release of stale trust funds by permitting the:

- Release funds to the appropriate party (buyer or seller) as specified in the By-laws
- Brokerage to hold the funds until the parties agree to a resolution or there is an order from the court
- Transfer stale trust funds (unclaimed for a period of at least two years) to the Commission
- Commission to use the money transferred from stale trust funds for public or charitable purposes

Freezing trust accounts

This change enables the Registrar to freeze trust accounts if there are concerns about the security of those funds.

Employment

This change enables salespeople to incorporate.

- The Act specifies that incorporation does not shield an Industry Member from actions by the Commission or from legal actions by consumers involved in real estate transactions
- The By-Law will specify the process for registering with the Commission as an incorporated entity.

Licensing of real estate marketing companies

This change would introduce regulation for real estate marketing companies requiring them to:

- Obtain a restricted license under the Act
- Obey a clearly defined set of rules as to what services they can and cannot offer clients

Make-up of the Commission

This change adds commercial representation to the Commission Board of Directors by establishing an 11th Commissioner (10th voting Commissioner) from the commercial sector and appointed by the Commercial Committee.

Complaint Review Committee

This change mandates the existence of and defines the role of the Complaint Review Committee, which until now was referred to, but not clearly defined in the Act.

Definitions

The changes will update the definitions to the Act, which result from Agency Task Force recommendations, revisions to the Act that change the definitions and changes made to the By-Law.

Commissioners' attendance

Shown below is the attendance record of the Commissioners serving on the Nova Scotia Real Estate Commission between January 1, 2008 and December 31, 2008. There were a total of five Commission meetings held. The information below shows how many meetings each of the Commissioners attended of those they were expected to attend.

Donna Anderson	4 of 5
Neil Black	5 of 5
Ernie Buote	5 of 5
Elizabeth Irwin	4 of 5
Mary MacDonald	5 of 5
John MacKay	5 of 5
David Melvin	5 of 5
Howard Oakey	3 of 4
Doug Dixon	5 of 5
John Walker*	5 of 5

In addition to the Commission meetings, all the Commissioners participated in various committee work as shown at the beginning of this report.

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

Commissioners The election process

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

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

Commissioners:

The nominees for 2009

Nominee: Gordon Burns

Brokerage: Century 21 ABC Realty Limited

Type of license: Salesperson

Years licensed: 19

Primary types of real estate practiced: Residential

Degrees or designations held: N/A

Director or executive committee experience in any organization: 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 of the Commission's Complaint Review Committee.

Nominee: Wendy Spencer

Brokerage: Exit Realty Metro

Type of license: Broker

Years licensed: 11

Primary types of real estate practiced: Brokerage management

Degrees or designations held: N/A

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

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

Nominee: Denis Dommer

Brokerage: Royal LePage Atlantic Realty

Type of license: Associate Broker

Years licensed: 26

Primary types of real estate practiced: Residential

Degrees or designations held: B.A. with Honours

Director or executive committee experience in any organization: Former president of the Ratepayers Association in Toronto, Ontario.

Finance Committee

Chairperson's report for 2008



Ernie Buote
Domus Realty

The Commission's finances continue to be very stable. The Commission budgeted conservatively for 2008 and revenues ended up coming in significantly higher with expenses essentially on budget. The only fee increase for 2009 is a \$20 increase to renewal fees, from \$205 to \$225. This fee was not increased during the last two years.

Revenue from licensing fees continued to be over budget, mainly due to a higher retention rate for salespeople and a higher number of new applicants. As in 2007, the Commission, in its 2008 budget, thought that there would be a leveling off as the market had cooled slightly, but the increase in Industry Members continued and current Industry Members have stayed on resulting in even higher numbers of Industry Members.

On the expense side, most operating items came in fairly close to budget. There were several expenditures planned for 2008 that did not take place. The expenditure of \$6,000 for the distribution of the updated Provincial Reference Manual was not spent as the update was not completed in 2008. This will take place in 2009. The Commission has also budgeted in 2009 to provide every broker with a copy of the new Broker Licensing Course materials. The Legal expenses for 2008 came in \$10,000 under budget as the Lawyers Trading In Real Estate issue did not move forward very much. It was planned for a new staff position to start early in 2008, but that did not take place until late November so that item was \$22,000 under budget. Also, the updating of the Commission's website did not take place in 2008, so the \$6,000 expenditure has been moved to 2009. There is a total of \$56,000 of expenditures from 2008 that have been postponed to 2009 and the surplus from 2008 has been carried over into 2009 to cover those items.

The biggest change to the budget for 2009 results from increased staffing at the Commission. The Board of Directors approved adding a second Compliance Auditor position and a Communications Officer. The additional Compliance Auditor was necessary for two main reasons. First, the workload of the Compliance Officer handling complaints has increased over the last several years. As a result, the re-

sponse time for completing investigations has increased significantly, going from an average of three or four months to six to nine months. Adding a second Compliance Auditor will allow the two Compliance Auditors to share the audit load and assist the Compliance Officer with investigations. The Compliance Auditors will also assist the Compliance Officer and the Registrar with general enquiries from the public and Industry Members. The Communications Officer position was created after the long range planning strategy determined that there were a number of communications functions that required professional support. Up until now, the Registrar has handled most of the communication responsibilities. The Communications Officer will be responsible for the creation of all communication pieces, such as bulletins, newsletters, annual reports, brochures, etc. and to maintain the Commission's Web site. The Communications Officer will also deal with all general advertising inquiries from Industry Members and be responsible for monitoring advertising carried out by Industry Members. This will free up time spent by the Registrar and the Compliance Officer who currently carry out these functions and allow them to move forward with new initiatives.

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. Generally, there are no significant expenses above budget, without the approval of the Commissioners. Included later in this report is the Commission's Finance Summary and notes, as well as the detailed Auditor's Report.

Finance Committee

Ernie Buote, Chair/Commissioner—Halifax
Mary MacDonald, Commissioner—Liverpool
Elizabeth Irwin, Commissioner—Halifax
Neil Black, Commissioner—Dartmouth
Doug Dixon, Registrar

Recovery Fund

Report for 2008

About the Recovery Fund

There have not been any claims made against the Recovery Fund in 2008. The fees for the Recovery Fund will remain the same for 2009, as they have been for the last five years. Recovery Fund fees were eliminated for all licence renewals where the applicant has been in a licensing category for five years. Should an applicant change from Salesperson or Associate Broker to Broker or Managing Associate Broker, they will be required to pay the Recovery Fund fee for the new category for a period of five years.

The Recovery Fund portfolio, which consists of bonds and mutual funds, has had a very difficult time in 2008. The declining investment markets had a significant impact on the value of the Recovery Fund investments. The Commission did not remove any funds this past year for any projects and in fact invested an additional \$15,000 into the Fund. The Fund's market value, as of December 31, 2008, was \$410,335, down from \$479,014. It is the Commission's intention to leave the principal amounts in the Fund, anticipating that their value will return and 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 \$54,000 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 2008 Recovery Fund Assessment. The education grants from the Commission help 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 an Industry Member. The Provincial Government has a regulation in place that 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	\$379,000
Subsidizing development of the new SLC.....	95,000
Grant towards new classroom facilities	5,000
Distribution of R.E. Encyclopedias & Supp.	27,000
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

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

Recovery Fund Committee

Ernie Buote, Chair/Commissioner—Halifax

Richard Miller, Member (NSREC Appointment)—
Halifax

Dennis Richards, Member (NSAR Appointment)—
Dartmouth

Doug Dixon, Registrar

Financial Statements of

NOVA SCOTIA REAL ESTATE COMMISSION

December 31, 2008



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Auditors' Report

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

We have audited the balance sheet of the Nova Scotia Real Estate Commission as at December 31, 2008 and the statements of revenue and expenditures and net assets, and cash flows for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at December 31, 2008 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

Chartered Accountants
Halifax, Nova Scotia
February 26, 2009

Member of
Deloitte Touche Tohmatsu

NOVA SCOTIA REAL ESTATE COMMISSION
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December 31, 2008

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NOVA SCOTIA REAL ESTATE COMMISSION

Balance Sheet

As at December 31, 2008

	<u>2008</u>	<u>2007</u>
ASSETS		
Current		
Cash and cash equivalents	\$ 588,729	\$ 524,376
Restricted cash	22,556	9,372
Accounts receivable	-	1,400
Accrued interest receivable	955	1,125
Prepaid expenses	1,969	1,511
Inventory - manuals and guides	12,511	16,621
	<u>626,720</u>	<u>554,405</u>
Recovery fund investments (Note 3) (cost - \$471,172; 2007 - \$441,199)	410,335	479,014
Capital assets (Note 4)	34,420	34,570
	<u>\$ 1,071,475</u>	<u>\$ 1,067,989</u>
LIABILITIES		
Current		
Accounts payable and accrued liabilities	\$ 50,435	\$ 38,396
Due to Nova Scotia Association of Realtors	1,375	25,411
Funds held in trust	22,556	9,372
Deferred revenue	260,649	251,182
	<u>335,015</u>	<u>324,361</u>
Deferred capital grants	12,271	21,238
	<u>347,286</u>	<u>345,599</u>
NET ASSETS		
Reserve Fund (Note 5)	145,170	111,425
Recovery Fund (Note 5) (Schedule 1)	441,530	512,909
General Fund (Note 5)	137,489	98,056
	<u>724,189</u>	<u>722,390</u>
	<u>\$ 1,071,475</u>	<u>\$ 1,067,989</u>

NOVA SCOTIA REAL ESTATE COMMISSION
Statement of Revenue and Expenditures and Net Assets
Year ended December 31, 2008

	2008	2007
Revenue		
Recovery Fund		
Assessment income	\$ 72,020	\$ 70,128
Investment income	24,675	30,448
Unrealized loss on investments classified as held-for-trading	(98,439)	(27,315)
	(1,744)	73,261
General Fund		
Administration fees	3,510	2,640
Amortization of deferred capital grant	8,967	8,967
Background checks	6,690	7,110
Brokerage manuals	1,800	3,375
Buyer/seller guides	1,639	3,235
Examination fees	30,165	28,685
Fines and penalties	18,450	20,500
IBTA interest	122,739	144,620
Investment income	18,985	16,011
Licensing fees	540,152	518,653
Reinstatement of license	15,115	13,510
Hearing cost recovery	4,936	1,205
Information course	-	3,200
	773,148	771,711
	771,404	844,972
Expenditures		
Accounting	12,300	11,944
Advertising	5,728	563
AGM and conference	3,900	678
Amortization	12,331	15,534
Bank service charges	17,202	16,822
Benefits	45,011	39,830
Buyer/seller guides	4,109	8,327
Car allowances	2,640	2,280
Computer	1,985	2,336
Conferences	33,773	25,753
Dues and subscriptions	7,382	6,278
Furniture and equipment	-	573
Hearing costs	41,922	10,979
Insurance	2,135	1,844
Legal	20,801	14,752
Miscellaneous	4,257	4,698
Office	2,949	2,717
Per diems	18,050	16,675
Photocopies	8,409	8,546
Postage and courier	8,351	10,690
Printing	331	1,628
Rent, cleaning and utilities	61,204	52,416
Salaries	343,489	309,479
SPL and BM exams	7,115	5,217
Staff training	6,378	4,953
Staff travel	17,774	22,393
Taxes	1,488	2,072
Telecommunications	13,443	12,459
Grant to education by recovery fund	54,000	58,388
Travel and meetings	9,126	6,409
Website maintenance	2,022	4,308
Long range planning	-	16,685
Agency costs	-	7,178
	769,605	705,404
Excess of revenue over expenditures	1,799	139,568
Net assets, beginning of year	722,390	518,118
Unrealized gain on investments classified as held-for-trading as at January 1, 2007	-	64,704
Net assets, end of year	\$ 724,189	\$ 722,390

NOVA SCOTIA REAL ESTATE COMMISSION

Statement of Cash Flows

Year ended December 31, 2008

	<u>2008</u>	<u>2007</u>
NET (OUTFLOW) INFLOW OF CASH RELATED TO THE FOLLOWING ACTIVITIES		
Operating		
Excess of revenue over expenditures	\$ 1,799	\$ 139,568
Items not affecting cash		
Amortization of capital assets	12,331	15,534
Amortization of deferred capital grant	(8,967)	(8,967)
Unrealized loss on investments classified as held-for-trading	98,439	27,315
Changes in non-cash operating working capital items	15,876	68,709
	<u>119,478</u>	<u>242,159</u>
Investing		
Purchases of investments (net)	(29,760)	(4,318)
Purchase of capital assets	(12,181)	(5,749)
	<u>(41,941)</u>	<u>(10,067)</u>
NET CASH AND CASH EQUIVALENTS INFLOW	77,537	232,092
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	533,748	301,656
CASH AND CASH EQUIVALENTS, END OF YEAR	\$ 611,285	\$ 533,748

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2008

1. DESCRIPTION OF BUSINESS

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

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

2. CHANGES IN ACCOUNTING POLICIES

In December 2006, the Canadian Institute of Chartered Accountants (“CICA”) issued Section 3862, Financial Instruments – Disclosures; Section 3863, Financial Instruments – Presentation; and Section 1535, Capital Disclosures. All three Sections were to be applicable to financial statements relating to fiscal years beginning on or after October 1, 2007. Section 3862 on financial instruments disclosures, require the disclosure of information about: a) the significance of financial instruments for the entity’s financial position and performance and b) the nature and extent of risks arising from financial instruments to which the entity is exposed during the period and at the balance sheet date, and how the entity manages those risks. Section 3863 on the presentation of financial instruments is unchanged from the presentation requirements included in Section 3861. In September 2008 the CICA decided that not-for-profit entities would have the option continuing to follow Section 3861 rather than adopting Section 3862 and 3863. The Commission has elected to use this exemption and applies the requirements of Section 3861.

Capital disclosures

The Commission adopted the recommendations of CICA Handbook Section 1535, *Capital Disclosures*. This Section requires the disclosure of information about externally imposed capital requirements. The required disclosures are included in Notes 5 and 6. The adoption of this Section had no material impact on the financial statements.

3. ACCOUNTING POLICIES

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

Cash and cash equivalents

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

NOVA SCOTIA REAL ESTATE COMMISSION
Notes to the Financial Statements
December 31, 2008

3. ACCOUNTING POLICIES (continued)

Financial instruments

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

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

Held for trading

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

Other liabilities

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

Transaction costs

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

Capital assets

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

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

Investments

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

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2008

3. ACCOUNTING POLICIES (continued)

Amortization of grants from Recovery Fund

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

Use of estimates

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

Revenue recognition

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

4. CAPITAL ASSETS

	2008			2007
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computers	\$ 25,821	\$ 15,742	\$ 10,079	\$ 11,003
Furniture and equipment	76,920	63,999	12,921	17,035
Software	20,785	13,683	7,102	804
Leasehold improvements	14,092	9,774	4,318	5,728
	\$ 137,618	\$ 103,198	\$ 34,420	\$ 34,570

5. NET ASSETS

	General Fund	Recovery Fund	Reserve Fund	2008	2007
Balance, beginning of year	\$ 98,056	\$ 512,909	\$ 111,425	\$ 722,390	\$ 518,118
Excess (deficiency) of revenue over expenditures	125,818	(127,764)	3,745	1,799	139,568
Unrealized gain on investments classified as held-for-trading as at January 1, 2007	-	-	-	-	64,704
Transfer from General Fund	(86,385)	56,385	30,000	-	-
Balance, end of year	\$ 137,489	\$ 441,530	\$ 145,170	\$ 724,189	\$ 722,390

NOVA SCOTIA REAL ESTATE COMMISSION

Notes to the Financial Statements

December 31, 2008

6. NET ASSETS (continued)

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

The Recovery Fund balance, end of year, includes accumulated unrealized losses on investments of \$60,837.

7. 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 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.

7. SHARED EXPENSES

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

8. FINANCIAL INSTRUMENTS

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

Investments are recorded at fair value.

9. COMMITMENT

During the year, the Commission entered into a lease agreement for office equipment that expires March 31, 2012.

Future lease payments aggregate \$22,441 and include the following amounts payable over the next four years:

2009	4,488
2010	4,488
2011	4,488
2012	1,122

NOVA SCOTIA REAL ESTATE COMMISSION

Schedule of Recovery Fund Transactions

Year ended December 31, 2008

	<u>2008</u>	<u>2007</u>
Net assets beginning balance	\$ 512,909	\$ 443,650
Unrealized gain on investments classified as held-for-trading, as at January 1, 2008	-	64,704
Revenue	(1,744)	73,261
Grant to Education Fund	(54,000)	(58,388)
Transfers to Recovery Fund	56,385	59,810
Transfer to Commission - administration	(72,020)	(70,128)
Ending net assets	\$ 441,530	\$ 512,909

Financial summary 2008-2009

Source of Funds		2008	2008	2009
Budget		Budget	Actual	Budget
Item	Notes			
Administration Fees		2,500	3,510	2,800
Assessment-Recov Fund	1	66,000	72,020	68,000
Background Check Fees		6,000	6,690	6,300
Branch Office Fees	1	11,070	13,218	11,570
Broker Fees-New	1	3,000	5,400	2,100
Broker Fees-Renewal	1	41,615	42,128	44,383
Brokerage Audit Fees	1	59,000	61,175	59,000
Brokerage Fees-New	1	2,400	3,000	3,000
Brokerage Fees-Renewal	1	41,615	41,922	44,383
Brokerage Manuals		1,600	1,800	1,200
Buyer-Seller Booklets		2,000	1,639	2,500
Exam Fees		27,000	28,725	27,000
Exam Review Fees		1,200	1,440	1,200
Fines/Penalties	2	12,000	18,450	30,000
Hearing Cost Recovery		12,500	4,936	35,000
Interest-IBTA	3	120,000	122,739	100,000
Interest Income-General	4	10,000	18,985	6,000
Interest-Recovery Fund	5	20,000	24,675	0
Managing AB Fees-New	1	1,650	1,375	1,650
Managing AB Fees-Renewal	1	8,200	8,508	9,357
Reinstatement of License		12,000	15,115	14,000
Salesperson/AB Fees-New	1	52,900	51,520	50,600
Salesperson/AB Fees-Renewal	1	307,500	311,907	324,243
Deferred Capitol Grant		6,000	8,967	6,000
Unused funds transferred from 2008	6			56,000
Revenue Totals		\$827,750	\$869,844	\$906,286

Overall, revenue and expenses for 2008 came in better than budget. Revenues were higher than expected due to licensing fees, both new and renewal, being over budget and interest income was also much higher than budgeted.

On the Expense side, most expenses came in at or below budget. The 2009 Budget includes a \$20 fee increase for renewals.

See the financial notes on the following page.

Use of Funds		2008	2008	2009
Budget		Budget	Actual	Budget
Item	Notes			
Accounting		11,000	12,300	14,000
Advertising	7	1,000	5,728	5,000
AGM & Conference		3,500	3,900	1,000
Background Checks		1,500	1,476	1,300
Bad Debts		0	75	0
Bank Charges		4,500	4,532	4,800
Investment Account Fees		12,000	12,661	12,000
Benefits - Government	8	22,000	22,195	27,000
Benefits - Health and Fitness	8	12,000	10,371	13,500
Benefits - RRSP Contribution	8	15,125	12,445	15,000
Car Allowance		2,640	2,640	2,640
Computer - Hardware and Software		5,000	1,663	3,500
Computer - Technical Support	9	1,500	322	6,000
Conferences (Out of Prov)	10	29,000	33,773	35,285
Cost of Brokerage Man Sold		500	409	500
Cost of Buyer-Seller Booklets		8,000	3,700	5,000
Depreciation		12,000	12,331	12,000
Dues, Subscriptions & Publications		6,500	7,382	7,500
Facility Rental		1,200	44	1,200
Furniture & Equipment		400	0	400
Hearing Costs	11	5,000	41,922	25,000
Insurance/Directors Liability		1,000	839	900
Insurance/Property		1,700	1,296	1,400
Legal	12	30,000	20,801	20,000
Maintenance		100	0	100
Miscellaneous		4,000	2,706	3,500
Office		2,000	2,949	2,500
Per Diem / Honorarium	13	19,800	18,050	27,300
Photocopies	14	7,000	8,409	9,000
Postage and Courier	14	12,000	8,351	12,000
Printing	14	2,500	331	3,000
Provincial Reference Manuals	15	15,000	0	15,000
Public Awareness Program	16	10,000	0	10,000
Recovery Fund - Investment		15,000	15,000	15,000
Rent, Cleaning, Utilities	17	60,000	61,204	59,000
Reserve - General Operations		30,000	30,000	30,000
Salaries	18	325,000	332,766	396,895
Salary Review		0	3,108	0
Salary and Benefits - New Position	19	30,000	7,615	0
SPL & B/M Exams		5,500	7,115	5,500
Staff Training	20	7,000	6,378	9,000
Staff Travel		22,000	17,774	22,000
Taxes		2,800	1,488	1,500
Telecommunications		13,000	13,443	14,000
Transfer to Education		25,000	54,000	25,000
Travel, Meetings-Com&Committees		12,000	9,126	11,000
Website Maintenance	21	8,000	2,022	8,000
Expenditure Totals		\$814,765	\$814,641	\$894,220
NET		12,985	55,203	12,066

Revenues – Schedule A

1. Licensing fees—The figures used for the 2009 Budget for new and renewals are conservative and allow for a decrease of 100 Industry Members. The last six years have seen an increase every year, but it is expected this will change in 2009 as the real estate market has flattened out or slipped over the last three years. All renewal fees are increased by \$20.
2. Fines and penalties—This past year saw several significant actions that resulted in large fines. There are two actions that are expected to result in large numbers in 2009 as well.
3. Interest bearing trust accounts—Interest bearing trust accounts came in slightly over budget. With the uncertain investment market, the interest rate is expected to remain low and the figure used in the 2009 budget is conservative.
4. Interest on general investments—This category came in much higher than budgeted due to good money management and investing operating cash in short-term investments. The 2009 budget figure is conservative.
5. Interest on Recovery Fund—The bond portion of the Recovery Fund investments outperformed the 2008 budget. The stock portion of the investments lost significant value, see the Financial Auditor's statements for more information. The Commission intends to leave the stock investments in the Fund with the expectation that the value will return when the market recovers.
6. Unused funds transferred from 2008—There are several large expenditures that were planned for 2008, but that will not happen until 2009. The funds for these expenditures were available in 2008 and are being carried over to 2009. They include the Provincial Reference Manuals, the Public Awareness campaign and the upgrading of the Web site.

Expenditures – Schedule B

7. Advertising—The 2008 figure is high due to the cost of advertising two new staff positions. The figure in the 2009 budget allows for projects by the new Communications Officer.
8. Benefits—All three categories of benefits increase as a result of hiring two new staff positions.
9. Computer—Technical Support – The 2009 Budget includes \$5,000 to overhaul and update the Commission's database.
10. Conferences (Out of Province)—The 2008 Actual did not include the cost of Commissioner going to the Spring ARELLO Conference or a Public Member going to the NAR Conference. The 2009 Budget does include these expenses.

11. Hearing Costs—The 2008 Actual includes the costs of three hearings and an appeal to the Nova Scotia Court of Appeal. It also includes some of the costs for preparation for a hearing to take place in 2009. There was a significant legal bill for a discipline matter from several years ago that had never been invoiced.
12. Legal—The “Lawyers Trading in Real Estate Issue” did not go to trial in 2008. This is expected to take place in 2009. Also, the Commission will likely need ongoing legal assistance in the changes to the Act.
13. Per Diem—In previous years the Commission has paid Per Diems for Commission BODs meetings, Licensing and Complaint Review meetings and a monthly Per Diem for the Chair. The 2009 Budget includes Per Diems for all Committee meetings and for Commissioners attending conferences. The term Per Diem is being changed to Honorarium, which more accurately reflects what it is.
14. Photocopies, postage, couriers, and printing—These categories are all increased in 2009 as a result of two new staff positions.
15. Provincial Reference Manuals—This expense did not take place in 2008, due to delays updating of the Provincial Reference Manual. It has been moved to 2009 and also includes supplying all licensed Brokers with a copy of the new Broker Licensing Course materials.
16. Public Awareness—There were no expenditures in 2008. With the addition of the Communications Officer this initiative should move forward.
17. Rent, cleaning, and utilities—The 2008 Actual is higher than budgeted for two reasons: NSAR invoiced the Commission for a Common Area Charge (CAC) adjustment for 2007, which then affected the CAC for 2008.
18. Salaries—The salary category is increased in 2009 for two reasons. The creation of two new staff positions, although it will lead to only one additional salary for most of 2009 as one of the Commission's staff is out for ten months of 2009 on maternity leave. The remainder of the increase is related to cost-of-living increases and salary adjustments. The 2008 Actuals were higher than budgeted due to an overlapping pay period at year end.
19. Salary and benefits—New position – The 2008 budgeted amount allowed for the hiring of a communications position that did not start until late 2008.
20. Staff training—This category has been increased in 2009 to support one new staff position.
21. Web site maintenance—The 2008 Budget allowed for an overhaul of the Web site. This was not completed and it has been moved to 2009.

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 the Auditorium of 7 Scarfe Court, Burnside, Nova Scotia, on Wednesday March 18th, 2009 at 1:00 PM.

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

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

AT THE SAID MEETING OR SUCH ADJOURNMENT THEREOF.

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

DATED THE _____ DAY OF _____ 2009.

Signature of Eligible Voting Industry Member

Printed Name of Eligible Voting Industry Member

Brokerage

NOTE: 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 17th, 2009. You are encouraged to fax your proxy in order to streamline the registration process.

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

Nova Scotia Real Estate Commission



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