



NOVA SCOTIA
BARRISTERS' SOCIETY



ANNUAL REPORT
2012

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COUNCIL & SOCIETY STAFF

COUNCIL

OFFICERS

Daniel M. Campbell QC
President

Timothy G.J. Daley QC
First Vice-President

René Gallant
Second Vice-President

Ronald J. Downie QC
Honorary President

Darrel I. Pink
Executive Director

DISTRICT MEMBERS

Cape Breton District

Candee J. McCarthy
Jill Perry

Central District

David Mahoney
David McNairn

Halifax District

Christa M. Brothers
Aleta C. Cromwell
William L. Mahody
Erin E. O'Brien Edmonds QC
(as of February 2012)
Michael J. Wood QC
(appointed to Nova Scotia Supreme Court October 2011)

Southwestern District

Lynn M. Connors QC
Darren MacLeod

AT LARGE MEMBERS

Gavin Giles QC
Naomi Metallic
Alonzo Wright

APPOINTED MEMBERS

Dean Kim Brooks
Schulich School of Law
Lora MacEachern
Representative of the Attorney General (to March 2012)
John Traves
Representative of the Attorney General (as of April 2012)

Public Representatives

George MacDonald
Annette Marshall
Kenneth A. Nason

SOCIETY STAFF

EXECUTIVE DIRECTOR'S OFFICE

Darrel Pink, *Executive Director*
Emma Halpern, *Equity Officer*
Shirley Shane, *Executive Assistant to the Executive Director*

ADMISSIONS & PROFESSIONAL DEVELOPMENT

Jacqueline Mullenger, *Director, Admissions & Professional Development*
Caron Ferguson-Eagan, *Professional Development Instructor*
Jennifer Pink, *Professional Development Educator*
Sarah Prowse, *Administrator, Admissions and Credentialing*

FINANCE & ADMINISTRATION

Glen Greencorn, *Director, Finance & Administration*
Pierre Benoit, *Officer, Database Management*
Marla Cranston, *Communications Officer*
Gail McCallum, *Accounting Administrator*
Lisa Neily, *Web & Publications Administrator*
Marion Ritchie, *Receptionist*
Gina Strople, *Finance & Administration Secretary*
Darlene Trenholm, *Controller*
Rebecca Zhang, *Information Technology Administrator*

LIBRARY & INFORMATION SERVICES

Barbara Campbell, *Director, Library & Information Services*
Deborah Copeman, *Librarian, Electronic Resources*
Jennifer Haimes, *Library Technician*
Susan Jones, *Information Services Librarian*
Lisa Woo Shue, *Library Clerk*

PROFESSIONAL RESPONSIBILITY

Victoria Rees
Director, Professional Responsibility
Elaine Cumming
Professional Responsibility Counsel
Donna Edmunds
Executive Assistant
Kristene Handley
Officer, Compliance
Christal Marchant
Professional Responsibility Assistant
Mhairi McInnis
Administrator, Professional Responsibility
Catherine Turcotte-Roy
Officer, Complaints & Investigations

LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA

Melanie McGrath, *Director*
Jennifer Curran, *Secretary*
Stacey Gerrard, *LIANS Counsel*
Patricia Neild, *Claims Counsel*
Cynthia Neild, *Officer, Database and Information*
Gerri O'Shea, *Claims Counsel*
Christine Smith, *Executive Assistant*

PRESIDENT'S ANNUAL REPORT



The Annual Report is the President's "State of the Society" message to the members, and I am pleased to report to you that our Society is strong and well positioned to meet the challenges facing the profession and the justice system. Those challenges include a membership that is not growing and whose members are aging, the gradual depletion of the Bar outside Halifax County, the challenges of regulating a profession that is increasingly mobile and interprovincial, the challenges to the justice system and to access to justice in times of financial constraint, and the challenges of achieving equity and diversity across the justice system.

This was a year of consolidation of important changes made through previous Councils, of continued self-assessment of our programs, and of thoughtful consideration of our future role with respect to administration of justice/access to justice. The progress that the Society has made over the last few years is nothing short of astonishing.

GOVERNANCE

A long and careful process of governance review led to the passage of amendments to the *Legal Profession Act* in 2010. We are now completing our

first year with the new, smaller Council and, in my view, the change has been a successful one. Discussion at Council meetings has been thoughtful and spirited. The dedication of Council members has been clear at each meeting, and the discussion has been wide ranging and respectful. I am proud of the way our Council has performed this year and I thank each member for their dedicated work.

Another aspect of our governance review was the review of our committee process, involving the creation of the standing terms of reference for each committee and the preparation and approval of an annual work plan. Each committee now reports to Council at the end of the year based on its work plan. This was our first year through this new cycle, and I am pleased to report that it has worked well.

PROGRAM REVIEWS

The Society has undertaken a process of review of its programs to ensure that they meet our objective of the protection of the public interest in the practice of law, that they continue to be relevant to the public and to our members, and that they are delivered in a cost-effective way. The process of review is rigorous, and has led to some difficult but important decisions. This year, the Society reviewed the Library & Information Services program and made some significant changes. Our library staff and the programs and services they provided are superb, but we reached the difficult conclusion that some of these programs were no longer necessary or appropriate. The Society is in the process of reviewing the equity programs to set priorities for the most effective use of our resources in this important work.

The program review process is important to ensure that the Society is a careful steward of the resources provided by the members, while effectively achieving the Society's objectives.

EXCELLENCE IN REGULATION

Code of Conduct

The Nova Scotia *Code of Professional Conduct*, based on the Model Code of the Federation of Law Societies of Canada, came into effect on January 1, 2012. All lawyers were required to complete an online assessment to familiarize themselves with the new provisions.

The review of the draft revisions with respect to conflicts of interest is continuing, with several matters being referred to the Federation's standing committee for further consideration.

National standards

The Society continues to work with the other law societies through the Federation to harmonize standards for professional regulation of lawyers. The Society is participating in a project to harmonize standards for admission to the profession, and another project to establish national standards for the professional responsibility and discipline process.

The Society recognizes the importance of consistency across the country in an era of liberal professional mobility.

ENHANCING LAWYERS' COMPETENCE

Mandatory Continuing Professional Development

The requirement for lawyers to engage in, and report on, continuing professional development comes into effect with the new Society year, and the structures and mechanisms were put in place this year. The Society is encouraged to see the emergence of new sources of continuing professional development, as the Schulich School of Law, the County Bar Societies, the Canadian Bar Association (Nova Scotia branch), and other providers are planning enhanced offerings.



Professional standards

Our established committees on professional standards in the real estate and family law areas continued to refine their standards, which are valuable working tools for lawyers practising in those areas. This year, the Society established a new standards committee to address matters of law office management practices. The committee has identified an ambitious work plan that will in future provide valuable guidance to members of the profession.

ADMINISTRATION OF JUSTICE

The Nova Scotia Barristers' Society has long been interested in the improvement of the administration of justice in Nova Scotia, but it was only with the amendments to the *Legal Profession Act* that this concept was declared in our legislation. At the same time, the profession is being challenged to respond to issues of access to justice.

This year, Council carefully and thoughtfully reviewed the role of the Society in these areas. This included a dedicated workshop and several debates, leading to amendments to Council's Governance Policies.

The principal area in which the Society can be effective is through enhancing accessibility of legal services. This will be an interesting and important challenge for the Society in future years – considering alternative models for the delivery of legal services, including business structure alternatives to the classic legal partnership, and encouragement of *pro bono* service.

Collaboration with justice stakeholders

An important part of the work to improve the administration of justice is the liaison relationship the Society maintains with other stakeholders. This includes regular meetings with the Department of Justice, the Courts, the Public Prosecution Service and

Nova Scotia Legal Aid. The Society acts as a facilitator of meetings among these groups, which provides a forum for discussion of common issues.

The Society also meets with stakeholders such as the L'Association des juristes d'expression française de la Nouvelle-Écosse, County Bar associations, and other groups with specific interests in the administration of justice in the province.

Access to family justice

In conjunction with the other stakeholders, the Society has identified as a priority the improvement of access to family justice services in the province. We have established with the CBA (Nova Scotia Branch) a joint committee to pursue the expansion of the Supreme Court Family Division across the province. This committee, co-chaired by our First Vice-President, Tim Daley QC, and LouAnn Chiasson QC of CBA-NS, has worked diligently with federal and provincial officials and political leaders. The issues are difficult and progress is slow, but we believe progress is being made.

In the meantime, there have been practical achievements, such as the placement of the Family Law Information Centre in an online website at www.ns-familylaw.ca. This valuable information resource, formerly available only in a paper library in the Halifax and Sydney courthouses, will now be readily accessible to people across the province.

Rural and small-town practice

Recognizing the increasing age and declining numbers of rural and small-town lawyers, the Society established a committee to investigate these phenomena. The committee was assisted by a study conducted by business students at St. Francis Xavier University, and will be bringing forward recommendations.

CONCLUSION

It is a privilege for any lawyer to act as President of his or her professional society, and I thank the members for this opportunity and for the confidence that they have placed in me. I hope I have been worthy of that confidence. I am very grateful for the support of the other table officers, and am confident that I am leaving the Society in excellent hands. I am grateful also for the support of our Council members, our Executive Director and staff, and my predecessors as President, who continue to provide support to the Society and its President.



Daniel M. Campbell QC
President

EXECUTIVE DIRECTOR'S ANNUAL REPORT



In reporting on the Society's activities as the public interest regulator of the legal profession, in recent years I have noted the challenges facing law societies across Canada and how Nova Scotia has addressed these. In its day-to-day work, the Society endeavours to remain focused on its core obligations as they have been stated in the *Legal Profession Act* and framed by Council. In essence, the Society's tasks are to:

- Ensure ethical and competent lawyers
- Maintain public confidence in our regulation
- Uphold the public interest in the administration of justice

OPERATIONS

Enhanced and efficient use of technology continues to be the Society's main vehicle for streamlining its operations. A new website came online this year and with it, we have a platform to enhance a number of our activities. We have started and will continue to use more online forms so that key regulatory information can be provided to the Society by means of the use of available forms linked directly to the Society's databases. Progress in this area may not have been as fast as we would have liked but we have seen a number of improvements, particularly in the admissions area, and we will continue to work for them across the organization.

Overall, the Society's operations were well within budget as reflected in the audited financial statements. When there is a surplus that exceeds the Society's requirements as set by policy, it is returned to practising lawyers. This occurred this past year by way of a fee credit.

The most significant operational issue for the Society this year was a relocation of offices. After 16 years in the Centennial Building on Granville Street in Halifax, the Society relocated to Cogswell Tower in Scotia Square. The move afforded an opportunity for significant purging of material and digitizing of files to save on storage costs. Most significantly, all member files have been scanned and stored electronically, making for much greater efficiency and security over our data. The Society's new offices are bright and fresh and staff has responded with enthusiasm to the new and modern environment. On-site parking and closer proximity to a transit hub have also made the location more readily accessible to volunteers, articled clerks and suppliers.

ORGANIZATIONAL REVIEW

This year included a review of Library & Information Services. Council accepted recommendations to revise the Society's library mandate, to bring it more in step with the Society's regulatory role and to eliminate activities that duplicate products and services otherwise available to the profession. Although the Society will continue to maintain a physical collection in its main library in Halifax and in satellite collections in Kentville and Sydney, it will cease to be a publisher as it has been in the past. The final edition of *Nova Scotia Law News* has been printed and the related products have been discontinued. Overall, the library budget has been reduced significantly as a result of these changes and the staff complement has been reduced from six to three.

The Society's communications activities are currently the subject of review

with a goal to ensuring that all Society communications with lawyers, the public and others are focused and operating as efficiently as possible.

LIAISON ACTIVITIES

Council Policy 18.24 specifies the requirement of the Executive Director regarding strategic alliances. It states:

Strategic Alliances

- 18.24.1 external relationships, with organizations having an interest in the practice of law and administration of justice in the province, such as County Bar Associations, AJEFNE, CBA, LIANS, senior provincial and federal justice officials, the courts, the Public Prosecution Service, Nova Scotia Legal Aid and other organizations as may be identified by the President, the Executive Director, or Council, are developed and maintained with maximum effectiveness;
- 18.24.2 opportunities for the development of new external relationships and partnerships are identified;
- 18.24.3 there are meetings between the Society and the organizations noted in article
- 18.24.1 and Council is advised how this work benefits the Society.

I am reporting on the Society's relationship with those bodies stipulated in 18.24.

Bar Organizations

There is now in place a series of regular meetings between the Society's Executive Committee and key Bar organizations, including the Canadian Bar Association, AJEFNE and LIANS. These meetings this year address matters of mutual interest including in particular, with the CBA, the Society's withdrawal from providing CLE conferences and seminars and how the CBA can broaden its offering; with AJEFNE, issues involving the francophone lawyer

community, content of Society's Skills Course, and the *Code of Professional Conduct*; and with LIANS, insurance for government lawyers. In each instance, the discussions are frank and valuable and, in my assessment, the Society has developed an effective relationship with each, which allows for any issues that need consideration to be addressed quickly. Each plays a small role in furthering the Society's strategic goals, especially regarding "enhancing lawyer competence."

County Bars

Traditionally, our relationship with County Bar Associations is maintained by visits by the Society's officers. Over the past year, First Vice-President Tim Daley QC attended the Western County Bar meeting in the fall; President Dan Campbell QC attended meetings of the Pictou and Kings County Bar; County Bars were included in the survey conducted by the Rural Practitioners Working Group and Tim, Second Vice-President René Gallant and I attended the Rural Practice Conference organized by the Lunenburg County Bar in the fall. These meetings focused on what the Society is doing and in that way, are an important means of communication with lawyers. They do not play any other significant strategic purpose.

Government

Meetings with senior provincial government officials occur in a variety of forums:

- We have an active Liaison Committee with the Department of Service Nova Scotia & Municipal Relations, which deals with the wide area of activities for which that department is responsible including land and corporate matters;
- The Department of Justice Liaison Committee has regularly scheduled meetings to pursue agenda items of mutual interest to the Society and the Department;
- The officers have met with the Hon. Ross Landry, Attorney General and Minister of Justice;
- The Minister spoke and had a

frank dialogue with Council;

- The officers met with senior representatives of the federal Department of Justice and Public Prosecution Services;
- I participated in the semi-annual meetings of the Justice Forum where criminal justice matters are considered and on May 15 met with Deputy Minister Judith Ferguson and others to discuss a broad range of justice issues;
- I met with the new Deputy Minister following her appointment and at her insistence, she attended the Society's offices to continue our discussions;
- The Society's Access to Justice Working Group and the subgroup developing the Family Law website has been extremely active (and report elsewhere to Council);
- The Society worked with the Department of Justice to plan and implement a very successful employment equity symposium involving representatives of major firms and legal employers and there is frequent contact on these matters.

Overall, our relationship with the provincial government is extremely effective and allows a vehicle for the Society to address a variety of justice issues $\frac{3}{4}$ each of which is designed to advance a strategic priority in this area.

The major issue we have ongoing with the federal government relates to expansion of the Family Division province-wide. Working jointly with the Canadian Bar Association, meetings continue to be held with stakeholders and others to advance our goal. Meetings with members of the federal Conservative caucus are being scheduled over the next couple of months in an effort to solidify support among this group with the hopes that they will pursue the matter with government leaders.

Work with government is complemented by our cooperative work with Nova Scotia Legal Aid. The officers met with the senior directors of Nova Scotia Le-

gal Aid to discuss matters of mutual interest; we work closely with the Commission to appoint two Commissioners who will bring a greater degree of diversity and different expressions to the Board; I have regular conduct with the Executive Director and other senior directors who actively participate and provide leadership to several of our access to justice initiatives. This work is crucial to advancing our strategic priority relating to improving the administration of justice.

The Courts

The Society liaises with the courts on two levels. On the strategic level, there is regular contact with the Chief Justices and Chief Judges to discuss matters of mutual interest. The officers met with the Chief Justices to discuss our efforts regarding expanding the Family Division. There are semi-annual meetings with the CJs and Justice officials, and this group has provided both leadership and direction for the Society's access to justice work and our work to improve access to family legal services and information. The President and I also recently met informally with the Chief Justices of the Supreme Court and Court of Appeal to discuss a variety of matters, which allowed matters to be considered that may not be best addressed in a meeting environment, such as gowning requirements for women in the latter stages of pregnancy and for lawyers with physical disabilities.

The other level is more operational, where our liaison committees provide a vehicle for practice issues to be considered by judges and lawyers and senior court staff. On this level, we have had mixed success in the past year.

- Our Court of Appeal Liaison Committee has had several meetings, with robust agendas looking at matters such as the protocol to be applied if a ground of appeal in a criminal matter involves the inadequacy of counsel.
- There has been a single meeting of the Supreme Court Liaison Committee (Civil), which considered delays

in the Court, scheduling challenges, delays in releasing judgements and 'case management.

- The Supreme Court Liaison Committee (Family) has had a series of productive meetings involving both lawyers appearing before that Court and members of the judiciary of the Family Division. Agendas involved discussions relating to divorce by agreement, scheduling of CFSA matters, conciliation processes and children's wish assessments. That Committee and the Court have also been involved in the development of the new Family Law information website by way of providing support and leadership from the Family Law Information Centre.
- The Provincial Court Liaison Committee has met and is advancing a number of issues, especially involving the use of videoconferencing, and has identified the collapsing Criminal docket as an issue that will be discussed later this year.
- The Family Court Liaison Committee has not met with the Court, though there have been meetings between the Court and the Family Bar in northern Nova Scotia to advance initiatives involving settlement conferences and use of family group conferencing, as a means of addressing the issues affecting families subject to CFSA proceedings are also being discussed.

IMPROVING THE ADMINISTRATION OF JUSTICE

Both liaison and program activities have been undertaken by the Society to further its requirements to work to improve the administration of justice. Council became fully engaged in clarifying the Society's policy role and developed policies earlier this year that clarify its view of what the Society needs to be doing in this area. Our particular emphasis will be in ensuring access to legal services for all Nova Scotians and, in particular, ensuring there is a focus on equity-seeking communities. We will continue to look at legal service availability in rural Nova

Scotia and what the Society can do to enhance their availability.

Working closely with the Department of Justice and others, the Society was fully engaged in the development of a new public legal information site ensuring that family law information is more readily available to Nova Scotians. The new website, at www.nsfamilylaw.ca, offers a significant amount of information that was previously available only on paper and primarily at the Family Division of the Supreme Court. By placing this information online, Nova Scotians, regardless of where they are, will have access to current information that will assist them in better understanding how the justice system operates when considering family law issues and where they can find resources that will assist them in resolving matters that affect them. This website will require ongoing maintenance and support, which will be provided by the Department of Justice. Its development benefited from the time and talent of dozens of lawyers. Their efforts are very much appreciated.

OTHER LIAISON ACTIVITIES

The Society, primarily through the Executive Committee, maintains active relationships and liaison with a number of bodies through regular meetings and other consultation. These bodies include Nova Scotia Legal Aid, the Nova Scotia Law Reform Commission and the Law Foundation of Nova Scotia. In addition through the Society's Gender Equity and Racial Equity Committees, organizations across the province that are involved in issues that fall within these committees' mandates have also been part of their ongoing work. Of particular note is the UnCommon Law4 event sponsored by the Society with the leadership of the Gender Equity Committee in Sydney in early June. This afforded an opportunity for the Society to work closely with organizations in the Cape Breton area who are involved in access to justice issues primarily impacting on women. Events such as this provide an opportunity for

the Society to both describe its ongoing work and to learn about community and other justice sector needs.

CONCLUSION

As is clear throughout the Society's Annual Report, change is a constant in this organization. Whether it is new technology, a change in physical location, or the development of new procedures, the Society staff continues to address and respond to the demands placed upon them with professionalism and integrity. I am honoured to work with such talented and committed individuals who undertake their responsibility seriously with a clear understanding of the Society's public interest obligations.

Working for a regulator means that oftentimes those subject to regulation are not pleased with our efforts. Our staff is on the frontlines of responding to lawyers' concerns about our work, especially when our efforts require them to undertake activities they may not want to do. Dealing with lawyers and the public in circumstances of conflict and stress is something that staff undertake on a daily basis. Again, they do this with professionalism and significant integrity. I think them for their devotion to their work and for the quality and experience they bring to our task.

This year has been the first one under the Society's revamped governance structure. Council has operated extremely efficiently with individual members and committees operating within a changed mandate. Without exception, the changes have proven to be beneficial for both the legal profession and the public, as they have brought greater clarity and precision to the work of the Society, while ensuring that our governance processes allow for both thorough and considered discussion of important issues affecting the public.



Darrel I. Pink
Executive Director

ADMISSIONS & CREDENTIALING

Under the Society's regulations and in accordance with the *Fair Registration Practices Act*, the responsibility for making most admissions and credentialing decisions rests with the Executive Director, who has generally delegated that responsibility to the Director of Admissions & Professional Development. Decisions about character and fitness are referred to the Credentials Committee in the first instance.

Between May 1, 2011 and April 30, 2012, staff made 336 in-house rulings. This is compared to the 2011 fiscal year when staff made 376 in-house rulings. In the previous fiscal year, before FRPA was introduced, staff made 121 rulings. The changes in the regulatory regime have increased the work of staff significantly.

What follows is a breakdown of the various types of rulings that staff make and statistics about the credentialing work carried out by the Admissions & Professional Development department.

CREDENTIALING RULINGS

TYPE OF RULING	FISCAL YEAR 2010	FISCAL YEAR 2011	FISCAL YEAR 2012
Temporary Practice Permit	24	21	13
Change of Category	45	51	58
Domestic transfers	24	30	13
Foreign transfers		7	4
Foreign legal consultants	2	1	0
Temporary mobility from outside Canada	-	6	5
Readmission following resignation	-	1	0

ARTICLING RULINGS

The articling process involves a variety of rulings starting with the approval of the articling application up to and including the application for admission. Below is a list of the types of rulings staff make and statistics for most of those rulings. We do not yet capture statistics for secondment of articles.

TYPE OF RULING	FISCAL YEAR 2010	FISCAL YEAR 2011	FISCAL YEAR 2012
Articled clerk applications	59	67	55
Articling plans		57	48
Education plans	11	20	15
Principal applications	6	11	12
Change in supervising lawyer		3	2
Extension of articles		?	29
Applications for admission	88	99	81
Secondment of articles			
Application to work outside articles		1	1

There are two ways to employ an articled clerk. An individual lawyer may have a clerk or a firm can employ clerks and assign a supervising lawyer to oversee the articling process. In the last few years, we have seen the number of firms/lawyers employing clerks decline. In the 2012 fiscal year **33** firms/lawyers employed articled clerks. This compares to **46** in the 2011 fiscal year and **41** in the 2010 fiscal year.

SKILLS COURSE

Overall, we have also seen a decrease in the number of students enrolled in the skills course, although the number of students from PEI has increased significantly in recent years.

In the last fiscal year, 62 students took the Skills Course; of those, eight were from PEI. In the 2011 fiscal year, 74 students took the Skills Course; of those, nine were from PEI. In the previous year, 61 took the course; of those, four were from PEI.

We have now completed our second year with the new Skills Course format. The in-person course is three weeks, while the legal writing, legal drafting and practice management modules are completed online. Following feedback from last year, we trained eight lawyers to be learning group facilitators who assisted us in giving feedback to students in the online modules and who also assisted in marking. The plan is to continue modifying the course this year and working with the learning group facilitators.

BAR EXAMINATION

In the last fiscal year, 60 applicants wrote the Bar Examination. In the 2011 fiscal year, 79 individuals wrote the Bar Examination as compared to 77 in the 2010 fiscal year.

In January 2012, 16 wrote the Bar Examination and one failed. The failure rate was 6.25 per cent. The pass rate was 93.75 per cent.

In July 2011, 44 wrote the Bar Examination and two failed. None were successful at the remarking of the examination. The failure rate was 1.5 per cent. The pass rate was 97.45 per cent. No one was successful at remarking.

In January 2011, 23 individuals wrote the Bar Examination; of those, five failed. One applicant was successful at remarking. The failure rate was 17.4 per cent. The pass rate was 82.6 per cent.

In July 2010, 56 individuals wrote the Bar Examination. Of those, three failed. One was successful at remarking. The failure rate on this exam was 3.6 per cent. The pass rate was 96.4 per cent.

EXAM SITTING	TOTAL REGISTERED	FAILURES
EX2012-01	16	1
EX2011-07	44	2
EX2011-01	23	5
EX2010-07	56	3

CALL TO THE BAR

In the last fiscal year, 81 lawyers were called to the Bar. The comparative numbers for the past two years are shown in the chart below. By far the majority of calls happen in June each year when the clerks complete their articles.

Of the 46 clerks called to the Bar on June 8, 2012, 32 have so far secured employment and four are continuing their education. Last year at the same time, 44 of 53 had secured employment and in the previous year, 46 of 52 had secured employment.

FISCAL YEAR OF CALL	TOTAL NUMBER CALLED	ARTICLED CLERKS	TRANSFERS
2012	81	64	17
2011	99	63	36
2010	88	65	23
2009	99	70	29

In the last fiscal year, we held two fewer monthly calls to the Bar. For many years we have run monthly calls but our experience has shown that in many months only one or two people are called, which uses a lot of resources. The Society is currently examining whether we can change this process to make better use of the available resources.

ONGOING ISSUES

The *Fair Registration Practices Act* has raised significant challenges for the Society. The policies surrounding credentialing, as well as the processes employed, underwent significant changes and continue to do so as we begin to work in this new world. As most decisions are now made by staff and are subject to internal review, an additional layer of administration and complexity has been added to the work. Every decision – from failure of a component of the Skills Course to a Bar Exam to a change of category or articling ruling – are subject to internal review, which means the Society must ask more of its volunteers and must administer the process.

Since the inception of FRPA, we have had four internal reviews. None have been successful to date. Although the reviews have not been successful, they require volunteers to review the decisions of staff and consider the file and write their own decisions. They involve substantial

work for both staff and volunteers.

In addition, the process takes substantially more time than when decisions were not subject to internal review, which adds to the applicant's waiting time.

Due to a variety of challenges, in the past year the Credentials Committee has worked with staff to recommend amendments to the regulations dealing with internal reviews of the Bar Examination and the Skills Course, and to make changes to the processes involved in both.

In the upcoming year, we will continue to streamline and improve the processes and we will look for other ways to make the work more effective.



Jacqueline Mullenger
 Director, Admissions & Professional Development

CREDENTIALS COMMITTEE

The Credentials Committee experienced a relatively quiet year compared to previous fiscal years. We had seven scheduled meetings that enabled us to tackle many of the projects set out in our Work Plan and we began to address new issues respecting the Bar Course and the future of articling.

Much of the year was directed toward addressing the projects in our Work Plan. The Credentials Committee set out to develop new policy and regulations to achieve compliance with the *Fair Registration Practices Act* (FRPA). This required amendments to the regulations governing the internal review process, rewriting Bar Exams and appealing Skills Course evaluations.

The Committee also amended regulations relating to lawyers who changed to non-practising status. The Committee also assisted Council in adopting the Addendum to the Quebec Mobility Agreement, which now provides Quebec notaries with the ability to practise law in Nova Scotia as Canadian Legal Advisors.

The Committee further approved changes involving the Bar Exam process and criteria for the Writing and Drafting Skills Course. Lastly, the Committee adopted a national policy for the accreditation of law schools and will be proposing a regulation to Council to achieve that outcome.

The Internal Review Sub-Committee, which was once again chaired by Mark Everett, enjoyed a quiet year during which only one internal review was scheduled for hearing. The matter involved a foreign transfer applicant who was seeking review of a decision of the Executive Director. The decision was upheld.

The Committee met with members of the Racial Equity Committee, who recommended that changes be considered to both the Bar Review materials and the Bar Exam to address the legal impact of Aboriginal Law on various areas of legal practice such as real estate, conveyancing, criminal law and other areas of practice. The Committee agreed that these issues merited further consideration in next year's Work Plan, when it is proposed that the Committee work with the Racial Equity Committee and staff to address possible changes.

It was brought to the attention of the Committee that issues were arising in other Canadian provinces respecting the practicality of continuing with the articling process as a means of training law students to become lawyers. The Committee will be addressing whether similar concerns exist in this province and will also closely monitor any developments in other provinces that may affect the credentialing process in Nova Scotia.

Our Work Plan in 2012–2013 will address the national harmonization of admission standards, the continued development of FRPA-related policies and regulations, and a review of articling procedures, including the education plans and the role of principals.

I wish to thank all Committee members for their dedication, hard work and participation during our meetings this year and I would like to acknowledge Cheryl Canning, who once again served as Vice-Chair, as well as staff members Jacqueline Mullenger, Jennifer Pink and Sarah Prowse for their service and assistance throughout the year.

David J. Mahoney, Chair

EQUITY OFFICE

The Society created its Equity Program in 1994 in response to a number of findings and recommendations from the Royal Commission on the Donald Marshall, Jr. Prosecution (1989-1990). The Marshall Inquiry found that racist and discriminatory attitudes existed within the province's justice system and recommended that the Society develop liaison programs with the African Nova Scotian and Mi'kmaq communities. The Society determined that an equity program could assist the legal profession in examining and overcoming some longstanding historic issues and challenges, particularly in relation to racial and gender equity within the profession.

As part of the Society's mandate to protect the public interest, the Equity Officer seeks to build equity and diversity values and principles into the policies, programs and procedures of the Society and for its members. The Society and its Equity Office also seek to ensure that both law and the practice of law reflect Nova Scotia's diverse population, including African Nova Scotian, Mi'kmaq and other racialized and linguistic communities, as well as other equity-seeking communities. Through the Equity Office, the Society has begun to actively address issues of access to justice for women and racialized and Aboriginal peoples. The Equity Office seeks to ensure that Nova Scotia's diverse communities have increased access to legal services including information, advice and the means to solve disputes themselves.

The Equity Office is also responsible for a range of programs designed to increase lawyers' understanding of issues related to cultural competence and all forms of harassment and discrimination across the diversity spectrum. The Equity Office supports the Racial Equity Committee, the Gender Equity Committee and the Access to Justice Working Group, in accordance with their mandates and provides resources for all Society departments, Council and Committees on issues of equity, diversity and discrimination

and plays a leadership and consultative role when the Society engages in community outreach.

Over the past year, the Equity Officer has also been engaged in a number of activities that support the purpose of the Society to uphold and protect the public interest in the practice of law. In keeping with section 4(2)(d)(i) of the recently amended *Legal Profession Act*, the Equity Officer continues to seek to improve the administration of justice in the province through consultation with organizations and communities who have an interest in the Society's purpose and reflect the economic, ethnic, racial, sexual and linguistic diversity of the province.

- 4 (1) The purpose of the Society is to uphold and protect the public interest in the practice of law.
- (2) In pursuing its purpose, the Society shall
- (d) seek to improve the administration of justice in the Province by
- (i) regularly consulting with organizations and communities in the Province having an interest in the Society's purpose, including, but not limited to, organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province,

The Equity Officer's activities over the past three years, beyond working closely with the Racial and Gender Equity Committees, have included:

ACCREDITATION AND INTEGRATION OF INTERNATIONALLY TRAINED LAWYERS (ITLs) IN NOVA SCOTIA

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During a focus group organized by the Equity Office in 2009, concerns of transparency and fairness in credential assessment and admission to the Bar were raised by several local Internationally Trained Lawyers (ITLs). With the assistance of the Stakeholders Group (comprised of representatives from the Office of Immigration, the Federation of Law Societies of Canada, Schulich School of Law, the Department of Labour and Advanced Education, Immigrant Settlement & Integration Services, and the Society) and more than 30 participant ITLs, the Society completed a report on the accreditation and integration process for ITLs. This report consisted of an overview of the accreditation process, highlighted some of the barriers and systemic gaps, and produced several recommendations to enhance this process for all parties concerned.

Two key issues were discovered:

1. systemic inefficiencies due to the different goals, responsibilities and relationships between the National Committee on Accreditation (NCA, the credential assessment body of the Federation of Law Societies), the Society and Schulich School of Law; and
2. current barriers encountered by ITLs, such as access to programming, support and information and access to the job market.

To address these concerns, the report proposed that the Society work closely with the NCA to enhance communication and consistency between the organizations. The Society was also recommended to work with members of the Stakeholders Group to increase access to information and the job market in Nova Scotia.

In 2010 significant steps were taken, such as changes to the Society's website to include more comprehensive information, creating clear guidelines and procedures for assessing creden-

tials and qualifications, and increased communication between the ITL population and the legal profession. To continue down this path, the Society created a comprehensive [Career Pathway](#) diagram that lists and explains all of the requirements as well as potential outcomes of the accreditation process. The pathway has been available on our website since January 2011.

We have also recently begun designing an Observership Program to help build relationships, networks and contacts and familiarize ITLs with the day-to-day work of lawyers in Nova Scotia. This will also be an opportunity for legal employers in Nova Scotia to learn about what ITLs could offer their workplaces. The ITL Observership Program will be launched as a pilot project in the fall of 2012.

ORIENTATION TO THE PRACTICE OF LAW – LEGAL EDUCATION WORKSHOPS

During the fall of 2010, the Equity Officer worked with *pro bono* law students to develop a number of Power-Point presentations that are designed to orient and introduce internationally trained lawyers to the practice of law in Canada. These workshops focus on such issues as: division of powers, constitutionalism, the role of the Crown, civility, and court procedure. In March of 2011 and again in March of 2012, these presentations were offered free of charge at the Immigrant Settlement and Integration Service as part of the Newcomers Legal Education Workshop Series.

EMPLOYMENT EQUITY QUESTIONNAIRE REPORT AND STEERING COMMITTEE

The Employment Equity Steering Committee was established in 2001 as the Nova Scotia Government adopted the *Policy on Employment Equity for Crown Law Agents*. This initiative included a plan to improve employment equity in law firms and to address the historic under-representation of African Nova

Scotian and Mi'kmaq lawyers in Nova Scotia. The Employment Equity Steering Committee membership included the Deputy Minister of Justice, the Dean of the Schulich School of Law at Dalhousie, the Executive Director of the Society and the Director of the Indigenous Black and Mi'kmaq Initiative. The Committee designed a questionnaire to collect data on representation and employment status of designated group members within firms, including Black and Mi'kmaq lawyers. The Society agreed to collect this information by sending the questionnaire to all Crown Law Agents who signed the Employment Equity Commitment and to provide a written report to the Department of Justice. For the past eight years this information has been collected and compiled, summarized in a report and placed on the Society's website.

In March 2010, Darren Ruck of Ruck Consulting was hired, with a joint funding proposal from the Provincial Department of Justice and NSBS, to provide advice on the overall structure of the employment equity initiative and to support the development of an improved data gathering process.

Ruck Consulting completed the research and report in November 2010. Since then, representatives from the DOJ, the Society and Schulich School of Law have been meeting regularly to begin to carry out the recommendations. An introductory event in January 2012 (discussed below) was designed to engage legal employers in employment equity within their workplaces, a new and improved method of collecting yearly data from students and employers, and the development of an employment equity policy to be adopted by legal workplaces throughout the province.

LEADERSHIP SYMPOSIUM ON EMPLOYMENT EQUITY

This full-day Symposium held on January 18, 2012, was part of a larger strategy adopted by the Employment Equity Steering Committee designed to renew and

strengthen a commitment to employment equity among legal workplaces in Nova Scotia. The overall purpose of the Symposium was to encourage leaders of Nova Scotia legal organizations, including law firms and government legal departments, to deepen and broaden their equity efforts, with a particular focus on African Nova Scotian and Mi'kmaq articling students and lawyers.

CULTURAL COMPETENCE

Cultural competence refers to an ability to work competently with individuals and communities from cultures, races, and backgrounds that differ from one's own. This is an important skill for lawyers who represent clients from a wide diversity of communities, backgrounds and experiences. The Equity Officer, with the support from the Racial Equity Committee, is currently working on a report and set of guidelines that set standards for cultural competence for lawyers in Nova Scotia.

The Equity Officer has also recently introduced a section on cultural competence in her presentations to the Skills Course. All articled clerks receive a brief overview of the following: What is cultural competence and why is it important for lawyers? Cultural competence is also beginning to be taught at the Schulich School of Law through an orientation to law lecture on cultural competence and this session is designed and delivered by the Racial Equity Committee.

Finally, in November 2011, Robert Wright (REC member) delivered a half-day workshop for all Society staff that has prompted departments to review their work to ensure that processes and practices are delivered in a culturally competent manner.

PRIDE MENTORSHIP PROGRAM

In March 2010, the Equity Office, in collaboration with the CBA Sexual Orientation Gender Identity section, introduced a mentorship program for les-



bian, gay, bisexual and transgendered lawyers. New matches were made in the fall of 2011 and will again be offered in the fall of 2012.

This new mentorship program was launched in conjunction with a talk at the law school and a Lunch and Law featuring LGBT legal issues and landmarks. The purpose of this mentorship program is to provide a community of support for students and new lawyers entering the profession. There are specific challenges and barriers faced by LGBT lawyers and this program will provide a forum for discussion, strategy and support that may improve the practice experience for this community of lawyers.

LGBT LAW REFORM PROJECT

Last year, the Equity Office began a project with the Nova Scotia Rainbow Action Project to jointly supervise a law reform project for a team of four *pro bono* law students. The students recently produced two final research documents.

The first is titled: *A Brief Look at Legislative Reform in Nova Scotia: Reflecting Same Sex Marriage*. It is a comprehensive review of Nova Scotia legislation that highlights terminology that describes couples and families in language that does not reflect same-sex unions and then provides suggestions for more inclusive language.

The second document is titled: *Birth Registration Regulations—Suggestions for Change and Ongoing Issues* and discusses the challenging situation that exists for a lesbian mother, who is not the birth mother, to become legally registered as the second parent. This document highlights the challenges for the non-birthing lesbian mother, proposes a solution to the language of the *Vital Statistics Act* and raises a number of ongoing issues to be considered by policy makers.

The work produced by the *pro bono*

students raises a range of legislative issues that have a direct impact on many same-sex couples and families in Nova Scotia. In 2012, we have been reviewing and revising these documents and seeking further consultation from others in the legal community. Once a final draft has been completed, the Executive has agreed to raise these issues in their liaison work with the Department of Justice.

PRIDE RECEPTION

The CBA (NS) and the Society have jointly hosted a Pride Reception event since 2003. The reception is viewed as an opportunity to celebrate diversity within the legal profession, and to show support for lesbian, gay, bisexual and transgendered lawyers in Nova Scotia and it coincides with Halifax Pride, the largest Canadian Pride celebration east of Montreal and the fourth largest in the country.

Past speakers at the event have included local lawyers and judges, as well as Justice David Corbett of the Brampton Superior Court of Justice (2008) and Kenneth Upton, a Texas-based lawyer with Lambda Legal (2009). In 2011, we welcomed Pooja Gehi, a transgendered lawyer and activist from New York who heads the litigation team for the Sylvia Rivera project. In 2012, we will welcome Robert Leckey, a Law professor from McGill University.

THE MODEL ACCOMMODATION POLICY

The model policy on accommodation was formulated after a thorough review of a variety of policies from various jurisdictions in Canada, including law societies, Bar associations, corporations and governmental agencies. The model policy was recently reviewed by the Nova Scotia Human Rights Commission and some changes were made. The policy is currently available under the Equity Program section of the NSBS website for adoption by legal workplaces. Starting in May 2012,

presentations on the model accommodation policy will be offered in legal workplaces to encourage the adoption of this policy.

THE ACCESS TO JUSTICE WORKING GROUP

In the fall of 2009, at the Joint Meeting of Chief Justices, Judges, Attorney General, NSBS Officers and others, the Society presented a briefing paper highlighting some key issues in relation to access to justice in Nova Scotia. This, along with a number of important discussions about the need to collaborate in order to effectively address these issues, led to the development of the Access to Justice Working Group, staffed by the Equity Officer.

The Access to Justice Working Group (ATJWG) was struck on July 12, 2010 and is advisory to the Joint Meeting. ATJWG supports the work of the Joint Meeting and its participants to better coordinate their individual efforts by identifying gaps and overlapping programs and services relating to the access of Nova Scotians to the justice system in general and the family law system in particular.

The ATJWG's first accomplishment was the creation and development of an Access to Justice Inventory Database, in order to provide a comprehensive understanding of the work that has already been accomplished in the area of access to justice in Nova Scotia, to identify notable gaps in programming and services, and to bring clarity to the possible future direction for access to justice initiatives.

Over the course of the past few months, the ATJWG engaged in a number of discussions about access to justice priorities. Family law was the focus of many of these discussions because, despite the fact that there are a number of programs currently in place to support family law clients, this remains an area where there is an overwhelming need for services. In response to this



need, the Equity Officer worked closely with Pam Kachafanas, the Family Lead at Court Services to develop an online family law website, which was launched in May at www.nsfamilylaw.ca. This online family law website increases access to family law information, processes and services for all Nova Scotians.

The ATJWG is also working on the development of a pilot project in Bridgewater that will support early referral to Legal Aid in Children and Family Service Act matters.

EXPANSION OF THE SUPREME (COURT FAMILY DIVISION)

This new working group, advisory to the CBA and NSBS Executive, supports the work of the Society and the CBA in advancing the expansion of the Supreme Court (Family Division) across the province by identifying and articulating the arguments and evidence in support of that position, obtaining supporting information from stakeholders, investigating and reporting on options and recommending strategies to advance the position with both the federal and provincial governments. This working group has produced a briefing paper on the issues that result from having two separate family law systems in Nova Scotia and has hosted information sessions and meetings to liaise with and seek support from individuals and community groups.

SOCIETY PUBLICATIONS

The Equity Officer works closely with the Communications Officer and the Administrator, Web & Publications to ensure that the content of the Society's website, the *Society Record* magazine and the *InForum* newsletter reflect the diversity of the province's legal profession and of the public. Input ranges from writing articles and columns and interviewing featured individuals to discussion of content and material.

GENDER EQUITY COMMITTEE INITIATIVES

THE WOMEN LAWYERS MENTORSHIP PROGRAM

In 2011, the Gender Equity Committee decided to disband the women lawyers mentorship program in its current form and instead to partner with LIANS Risk and Practice Management Program to expand this program, build on its success and provide further opportunities to network, gain knowledge about practice management issues, and receive support from the Risk and Practice Management team.

The new expanded program was launched last April and has received very positive feedback from both male and female members of the Society.

RETENTION OF WOMEN IN THE LEGAL PROFESSION IN NOVA SCOTIA

We engaged a student through Pro Bono Students Canada to research and write a report summarizing and providing an opinion on the retention of women in the practice of law. The student provided a comprehensive review of various studies and statistics on this topic. This study and other significant data gathered on the topic of the retention of women in the legal profession will be used by a team at Saint Mary's University, which is conducting a seven-year longitudinal study looking at the retention of women in the legal profession. The Gender Equity Committee has committed to supporting this team of researchers and working with the data gathered.

ACCOLADES

The Accolades column in the *Society Record*, which focuses on people in the profession who are doing work that deserves recognition, has been a great success. A column is submitted for every edition of the *Society Record*.

THE PARENTAL LEAVE SUPPORT PROGRAM

The Parental Leave Support Program supports the retention of women in the legal profession. Although more women than men are currently graduating from law school and entering the legal profession in Nova Scotia, well over half of the individuals who change their category from practising to non-practising lawyers each year are women. Women are leaving the practice of law for many reasons, one of which is the reality that it is very challenging to practise law while raising a family.

The Parental Leave Support Program is designed to support new parents – including fathers – as they balance family and professional responsibilities. The program consists of the following services:

- Up to six one-on-one parental leave coaching sessions with the Equity Officer or a trained coach from the Gender Equity Committee or the Lawyers Assistance Program;
- The opportunity to meet one on one and discuss your experience with another lawyer who has taken maternity and/or parental leave and is willing to share their experience and advice;
- A wide range of information and resources available through the NSLAP website.

Since the launch of this program, we have had three program participants who have attended sessions with volunteers from our Gender Equity Committee.

COCKTAILS AND CONVERSATIONS

In 2011, the Committee hosted the fourth Cocktails and Conversations: Your Finest Hour in Front of a Judge. This event brings together women lawyers and judges, and is very popular among female lawyers. The feedback

on this event has been overwhelmingly positive, in that it provides women an opportunity to gather and discuss issues effecting women in the legal profession. In 2012, the fifth event was held in June in Sydney, Nova Scotia.

GLASS CEILING ISSUES: THE POSTCARD CAMPAIGN

The Committee is committed to seeking information/data from members with respect to glass ceiling issues and concerns around gender discrimination and harassment in the profession. One way we have begun to do this is through a campaign requesting the stories and experiences of members on barriers that have been encountered while practising law in Nova Scotia. The initiative is titled “It will be our little secret”, because it is asking lawyers to provide their experiences anonymously. Postcards were created and have been distributed at GEC events, on request, and in the Women and the Law issue of the *Society Record*.

To date, the GEC has received 42 postcards. The Committee has also written extensively on the topic of harassment and gender-based discrimination: an article discussing these issues and highlighting some of the postcards was included in the *Society Record* and the committee publishes a monthly article series in *InForum* on topics arising from the postcards. This series of articles is also archived in the Equity Program section of the Society website.

SEXUAL ASSAULT INFORMATION BOOKLET

The GEC and Avalon Sexual Assault Centre co-supervised *pro bono* law students who researched and designed a booklet to provide information about the myths and stereotypes that exist about sexual assault. Unfortunately, sexual assault is underreported in Canada. Therefore, the purpose of this booklet is to educate victims and to encourage them to come forward. It is also important to make the criminal

justice system more sensitive to victims’ rights and needs and hopefully this booklet will be a step in that direction. This booklet is now available at Avalon Sexual Assault Centre, Department of Justice Victim Services Offices and the through the Public Prosecution Service.

UNCOMMON LAW 4: ACCESS TO JUSTICE FOR WOMEN IN NS

This year, the GEC planned a one-day workshop in Sydney for June 8, 2012, to discuss access to justice issues facing women in rural Nova Scotia. This interactive day aimed to begin to build relationships between women lawyers and women’s organizations.

CAREER DEVELOPMENT FOR WOMEN: EVENTS BASED ON YEAR OF CALL

The GEC held two career development events this year: one for women with nine or more years of call and one for women with less than nine years of call. These two events were designed to help the GEC learn more about the issues facing women lawyers and to see if there are specific projects and initiatives that would support the retention of women at different stages in their careers. The feedback from these events was extremely positive. Women indicated that they were interested in having more opportunities to get together in a supportive environment and work through challenges and share successes of their legal careers.

REPRESENTATION OF WOMEN IN THE JUDICIARY

An email was sent to female practitioners encouraging applications to the judiciary. Members of the committee also provided ongoing support and information on the application process. This email and support resulted in a number of female lawyers submitting applications.

RACIAL EQUITY COMMITTEE INITIATIVES

A REPRESENTATIVE LEGAL PROFESSION

The Racial Equity Committee (REC) continues its vital work in making efforts to increase diverse representation and perspectives on Council and in the judiciary. The Committee has continued, with the support of the Executive, to encourage the Department of Justice to reconsider the change of the Judicial Appointment Guidelines requirement from 10 to 15 years at the Bar. We also continue to educate and encourage racialized and Aboriginal members of the Bar to apply for judicial appointments and have circulated information about the new guidelines.

This work also includes educating lawyers, Council and Committees about the importance of diverse representation within the legal profession. Council, prior to 2007, was poorly representative of the diverse communities it serves, specifically a concerning lack of representation from African-Nova Scotian and Mi’kmaq members of the Bar. The REC began encouraging members of the Bar from these diverse backgrounds to apply for Council appointments. In the 2009-2011 Council, there was an increase in representation from both the African-Nova Scotian and Mi’kmaq community. Again for the years 2011-2013, the REC encouraged members of the Bar from diverse backgrounds to run in the Council election. The current Council is the most diverse Council in the Society’s history.

RACE AND THE LAW ESSAY PRIZE

The REC, with financial assistance from Stewart McKelvey, created a Race and the Law Essay prize competition open to students of the Schulich School of Law. The prize is currently in its fourth year. This year’s prize was presented to



Jalana D. Lewis at the Schulich School of Law Discretionary Awards in May 2012 and she was also honoured at a recognition event in June 2012.

COMMUNITY BUILDING

In the fall and spring, the REC continued to organize events that provide opportunities for racialized and Aboriginal members of the Bar along with students from Schulich School of Law and Internationally Trained Lawyers to get together. In June, an event was held to celebrate the call to the Bar for racialized and Aboriginal clerks and to recognize the Race and the Law Essay Prize recipient.

CULTURAL COMPETENCE TRAINING AND SUPPORT

The REC has been offering its expertise in cultural competence in a number of areas over the past year. Committee members presented to first-year law students and lawyers on a wide range of cultural competence topics. The REC also works closely with Council and staff to ensure that the Society's programs, policies and operations take a culturally competent approach.

LEGAL INFORMATION SESSIONS FOR RACIALIZED AND ABORIGINAL COMMUNITIES

The REC has also provided eight legal information sessions at the Immigrant Settlement and Integration Services (ISIS) on a wide variety of legal areas. We have, on occasion, also been able to provide ongoing summary advice to ISIS clients on an as-needed basis. This year, we held four legal information sessions at the Mi'kmaq Child Development Centre in collaboration with a number of other Aboriginal organizations in the HRM. These sessions provided legal information on a wide variety of topics. We are also working closely with WADE, an organization that serves the communities of Cherrybrook, Lake Look and the Prestons to

put together a legal information series that will benefit their clients.

ABORIGINAL LAW MATERIALS IN BAR ADMISSIONS COURSE

A subcommittee of the REC has begun working with the Credentials Committee to discuss the inclusion of Aboriginal Law content (i.e. substantive law that applies differently to Aboriginal People due to the *Indian Act*, etc.) in the Bar Examination materials package and on the Bar Examination. Specifically, the REC is proposing that the areas of law currently discussed in the materials should include sections that explain how this particular area of law applies to Aboriginal people. This collaborative work will begin in the fall of 2012.

LIAISING WITH THE PROFESSIONAL RESPONSIBILITY DEPARTMENT

A subcommittee of the REC met with Professional Development department on April 26, 2012, in order to have a general discussion on how the PR department and the REC can work together to address issues facing Aboriginal and racialized lawyers in the discipline process. Areas of collaboration were identified and will continue to be worked on.

LIAISING WITH TRIPARTITE JUSTICE COMMITTEE

The REC invited two members of the Mi'kmaq Tripartite Justice Working Group, Joan Sack and Cheryl Maloney, to come to a meeting in order to have a general discussion about how the REC and the Society can support the Mi'kmaq of Nova Scotia as they try to address justice issues in Nova Scotia. In particular, the role the REC and Society could play in the Tripartite Justice Working Group's proposal to do a "report card" on the implementation of the Marshall Report was discussed.

LIAISING WITH CBA EQUITY COMMITTEE

The REC hosted Amy Sakalauskas, Chair of the CBA Equity Committee, at one of its meetings. Ms. Sakalauskas was invited to have a general discussion on how the REC and the Equity Office can support the work of the CBA Equity Committee and *vice versa*, with a particular focus on mandatory CPD on cultural competency and the role of the CBA in providing cultural competency training.

Thanks to all Committee members for their extensive interest, dedication and involvement in each of our initiatives and in attempting to address the issues of gender equity, racism and discrimination in the legal profession.

GOVERNANCE AND NOMINATING COMMITTEE

The Governance and Nominating Committee's mandate is to ensure that the Society operates with the best principles of governance, which involves the work of Council, Society elections and the appointment of committees.

In addition to selecting a nominee for Second Vice-President, the Committee undertook a number of matters that Council approved as priorities for its work.

A complete review of the Society's election procedures and regulations was undertaken. The goal was to ensure effective timing for both nominations and the elections, to enable full participation in elections, and to address the particular requirements of the new at-large elections for Council, where lawyers from any part of the province may run. When the at-large positions at Council were created, the goal was to ensure balance on Council through an appropriate mix of skills and backgrounds, with broad representation

from various groups and communities within the Society. Revised elections regulations will be presented to Council in the new Council year.

The Committee also reviewed the policies regarding the Distinguished Service Award, approving some minor changes that will assist the subcommittee responsible for reviewing nominations in making its recommendation.

Whether the Society should grant any other awards besides the Distinguished Service Award was considered by the Committee. At this time, the Committee is not recommending any additional awards be created.

The Committee also considered the appointment process for Council and other committees. It does not propose any significant changes to the process currently being used, as long as it remains open and transparent and that lawyers seeking to become involved in the Society's activities have an oppor-

tunity to do so, considering the needs of the Society for both new and experienced committee members.

A comprehensive review of the Society's Regulations began this year. This is a redrafting exercise and is not designed to make substantive changes in the regulations. In addition, the Committee began a review of Council policies.

The Committee will also be working with Council to ensure that its evaluation process, which Council is committed to maintaining, is working effectively.

Marjorie A. Hickey QC, Chair

PROFESSIONAL RESPONSIBILITY

SUMMARY

The purpose of this report is to inform Council, lawyers and the public about the responsibilities and work of the Professional Responsibility (PR) department through 2011/2012, providing three-year comparisons where possible, and to identify trends with regard to complaint matters.

The PR department is responsible for the following regulatory and compliance matters:

- Complaints intake, mediation/resolution, dismissal and letters of advice;
- Complaints investigation;
- Prosecutions and hearings;
- Fitness to Practise Program;
- Trust account regulation breaches, Trust Audit Program, and unclaimed trust fund applications;
- Monitoring bankruptcies and judgments;
- Unauthorized practice investigations;
- Ethics education and advice;
- Custodianships and receiverships; and
- Lawyers' Fund for Client Compensation claims.

The 2011/2012 budget for PR was \$1,263,353. The actual expenses were below budget by approximately \$282,847, for a total of \$980,506.

Thirty-seven per cent of the total expenditures related to external legal and other professional services including investigations, audit, prosecutions, custodians and receivers (reduced from 47% in 2008/2009, 45% in 2009/2010, and 43% in 2010/2011); and 47% related to staff salaries and benefits (up 3% from 2009/2010 and 2010/2011).

Through efforts to streamline the complaints process and better manage public expectations:

- Written complaints without merit continue to be reduced;
- Complaints calls requiring staff

response continue to be reduced; and

- The length of time to prepare dismissal letters (including those with no lawyer response, one or two lawyer responses, as well as Letters of Advice) has decreased significantly from an average of 142 days to an average of 47 days.

The number of complex investigations has remained stable compared with last year, from an average of two per year five years ago, to eight under investigation over the past 12 months (compared with nine last year). Of these eight, four involved fraud (compared with five last year) while none included theft (compared with three last year), three involve member criminal charges and convictions (compared with one last year), and three involved issues of significant conflict of interest (same as last year).

In addition to the 'routine' work above, the PR department undertook the following initiatives:

- Implemented the new *Code of Professional Conduct* including development and delivery of training across the province, and the mandatory online assessment;
- Collaborated with SNSMR to deliver a full day Mortgage Fraud Symposium;
- Worked with the Federation of Law Societies Discipline Standards Committee to finalize and begin implementation of national benchmarks and standards, as part of a two year pilot project;
- In preparation for the office move, reviewed, culled, scanned and reduced files from 28 drawers to 11;
- Supported three PRPPC special subcommittees working on initiatives involving review of thresholds for counsels/cautions/consents to reprimand, review of processes and the role of the Review Subcommittee, and review of all hearing-related processes including development of a new proceedings management process

to reduce delays; and

- Reviewed Part 9 (professional responsibility) and Part 10 (trust accounts) of the Regulations and facilitated review of the uniform trust regulations with Atlantic Provinces.

INTRODUCTION

The Professional Responsibility department manages the Society's key public protection and regulatory risk management processes and tools. We are, in effect, responsible for ensuring that members comply with the *Legal Profession Act* and Regulations, the *Legal Ethics Handbook*, the *Nova Scotia Barristers' Society Code of Professional Conduct* and, where applicable, the *Land Registration Act*, the *Real Property Practice Standards* and the *Family Law Practice Standards*.

Sections 33 to 55 and Part 9 of the Regulations set out the authority of committees and staff with regard to complaints, investigations and hearings. These and other relevant sections of the Act are discussed in more detail in each section below.

Purpose and values

Our role with regard to compliance and public protection includes the following:

- i. Complaints intake, mediation/resolution, dismissal and Letters of Advice;
- ii. Complaints investigation;
- iii. Prosecutions and hearings;
- iv. Trust account regulation breaches, the Trust Audit Program, and unclaimed trust fund applications;
- v. The Fitness to Practise Program;
- vi. Monitoring member bankruptcies and judgments;
- vii. Unauthorized practice investigations;
- viii. Ethics education and advice;
- ix. Custodians and Receivers; and
- x. Lawyers' Fund for Client Compensation claims.

In terms of the vision and values of the Society, the Professional Responsibility department is focused on protection of the public, and excellence in regulation. These values guide all programs, services and work. Our role is also to enhance the competence of lawyers and assist them in adhering to the rules of professional conduct. A foundational principle for this department is to identify opportunities to educate, assist, monitor and guide lawyers where problems have been found or reported, and to only use 'disciplinary' measures where required in the public interest. What is referred to public hearing, and reported in the media, represents only about one per cent of the work of this department and its committees. Fairness, transparency and accountability are key to effective regulation of members in these areas.

Committees and Volunteers

The PR Department supports a number of key Society committees and volunteer functions:

- **Complaints Investigation Committee (CIC)** – meets regularly 8-10 times per year plus 3-6 special or emergency meetings; reviews staff and counsel complaint investigation reports; carries out authority with regard to compliance and public protection under Part 3 of the Act, and Part 9 of the Regulations
- **Review Subcommittee** – processes requests for review from members of the public who have had their complaints dismissed by staff; meets 6-8 times per year
- **Fitness to Practise Committee** – to receive referrals respecting a member's potential incapacity through self-reports, complaints or referral from the Complaints investigation Committee (CIC), to assess these reports and, where appropriate, take such steps as needed and agreed upon between the member and the Committee to resolve conduct concerns
- **Hearing Committee** – carries out authority under Part 3 of the Act,

and Part 9 of the Regulations with regard to compliance and public protection once complaint matters have been referred to hearing by the CIC; committee conducts 2-4 hearings per year; committee meets at least once annually for training and orientation

- **Ethics Advisory Committee** – provides ethics advice, education and guidance to members
- **Code of Conduct Working Group (formerly the Model Code Task Force)** – created to review and make recommendations for adoption of the Model Code of Conduct. In 2011/2012 became Code of Conduct Working Group
- **Professional Responsibility Policies and Procedures Committee (PRPPC)** – reviews, amends and develops operational policies and procedures for the professional responsibility process, including complaints handling and investigation, settlement and hearing procedures
- **Lawyers' Fund for Client Compensation Committee (LFCCC)** – reviews and investigates claims relating to misappropriation and conversion by members and approves or makes recommendations to Council re payment of claims, and policy and procedure

There are 99 volunteer positions on these committees, currently filled by about 75 lawyers and eight public representatives. The volunteers in the PR process generally have heavy workloads and are very involved in our peer review and public protection mandate.

Budget and financial picture

The 2011/2012 annual budget for Professional Responsibility was \$1,263,353, and the actual costs at year end are \$980,506.

Of the actual expenditures, about 21% related to investigation and the Complaints Investigation Committee's work (significantly decreased from 34% last year), and 11% related to hearings and

prosecutions (down from 13% last year and 21% the year before). A further breakdown of the actual expenditures provides the following:

- 23% related to external legal services for investigations, advice, prosecutions and other representation, e.g., responding to search warrants and applications for disclosure (down from 28% and 24% in the past two years);
- 47% related to salaries and benefits (compared with 44% last year and 43% the year before);
- 6.5% related to the costs of practice reviews and forensic audits (same as last year); and
- 6% related to the cost of receivers and custodians (down from 12% and 10% in the past two years).

The reductions in discipline costs overall are in part based on unpredictable experience year over year, and the number of matters requiring additional resources for investigation. Notably, due to the timing of completion of investigations this year, no full formal hearings were held, thereby keeping those related costs very low. In addition, however, successful efforts have continued to be made to improve cost controls by such things as:

- Negotiation of a lower rate for forensic audits, and increased use of experienced junior associates and paralegals for custodian and receiver work as well as prosecutions preparation;
- Planning and budgeting for complex investigations;
- Improved use of the computerized document and information management system;
- Increasing existing staff capacity to undertake more investigations and legal work in-house by reducing the number of complaint calls and routine unmeritorious written complaints to be processed;
- Use of Complaints Investigation Committee 'teams' to assist with investigation and direction of



- complex matters; and
- Obtaining decisions of the CIC, where appropriate, via email.

COMPLAINTS OVERVIEW AND TRENDS

Complaints

This year saw no real growth in the number of new written complaints and complaint intake calls, or in the number of major or complex investigations compared with last year. In terms of our experience with complaints over the past three years:

- **Complaint intake calls:** This year, we have seen an increase in intake calls (394) over last year but within the average range as compared with 2008/2009 (491), 2009/2010 (399), and 2010/2011 (373). In response to the 2009 and 2010 Professional Responsibility Satisfaction Surveys, we continue to streamline our intake process through the use of a dedicated voicemail system, reduce the amount of time staff spend on intake calls, and take steps to clarify our role for the public in order to better manage their expectations. The average length of time the officers spend on each complaint call is 21.37 minutes.
- **Complaints mediated/resolved:** We mediated or otherwise resolved 17% of complaints that enter the system by phone or mail this year. Many phone resolutions are achieved within a few days, while others take longer.
- **Complaints received:** To date, we have received 154 written complaints, compared with the 253 written complaints received in 2008/2009, 182 in 2009/2010, and 150 in 2010/2011. There continues to be a notable reduction in the number of complaints from financial institutions with regard to lawyers' failure to complete reports and follow up in real estate financing matters.

- **Complaints closed:** We closed 128 complaint files in 2011/2012. This number is important because it helps us track how long files are open, which is often a reflection of the complexity of complaints and investigations, but can also indicate areas where resources may be insufficient, or procedures need to be improved. We have had enormous success in implementing strategies to improve our benchmarks respecting file closure at the staff level (see below), and this year saw a marked improvement in reduction of the length of time matters were under investigation by staff and the CIC:

Average # of days complaints open

	2009 - 2010	2010 - 2011	2011 - 2012
Staff	145	100	32
CIC	491	581	231
FH	556	964	n/a

A further breakdown of complaints opened and closed by staff from May 1, 2011 to April 25, 2012:

May 1 – August 31, 2011

21 days (2010/2011 – 51)

September 1, 2011 to February 1, 2012

36 days (2010/2011 - 40)

February 2 – April 25, 2012

31 days (2010/2011 – 36)

In the past year,

- For matters outside our jurisdiction (reg. 9.2.2(a)(i)), dismissal letters were prepared within an average of **23 days** (36 complaints), compared with 26 days in 2010/2011;
- For matters where the complaint was filed for an extraneous or improper purpose (reg. 9.2.2(a)(ii)), dismissal letters were prepared within an average of **14 days** (3

complaints), compared with 95 days in 2010/2011;

- For matters where the complaint alleged facts that, if proven, would not amount to a violation of the rules of conduct (reg. 9.2.2(a)(iii)), dismissal letters were prepared within an average of **12 days** (16 complaints), compared with 46 days in 2010/2011;
- For matters where one lawyer response was required (reg. 9.2.10(a)), dismissal letters were prepared within an average of **46 days** (32 files), compared with 128 days in 2010/2011;
- For matters where a full document exchange was required between the complainant and the lawyer (reg. 9.2.12(a)), the dismissal letters were prepared within an average of **82 days** (8 complaints), compared with 150 days in 2010/2011;
- For matters where the complaint was dismissed with a staff Letter of Advice after one response from the lawyer, the letters were prepared within an average of **65 days** (2 complaints), compared with 146 days in 2010/2011; and
- For matters where the complaint was dismissed with a staff Letter of Advice after two responses from the lawyer, the letters were prepared within an average of **90 days** (4 complaints), compared with 401 days in 2010/2011.

Manner of disposition of all written complaints

	2009/2010	2010/2011	2011/2012
Resolved/Other	86 ((39%))	49 (32%)	22 (17%)
Staff Dismissals	93 (42%)	73 (47%)	95 (75%)
Staff LOA	21 (10%)	13 (8%)	6 (5%)
CIC	9 (4%)	16 (10%)	5 (4%)
FH	7 (3%)	1 or less than 1%	0

These are the three areas that form the most frequent basis of complaint, and which are ultimately dismissed by staff with or without Letters of Advice:

- xi. Delay in moving a file forward – 30 complaints (vs. 40 last year);
- xii. Client unhappy with outcome of case – 27 complaints (vs. 21 last year); and
- xiii. Poor communications – 12 complaints (vs. nine last year).

The most frequent areas of law involved in these complaints are family, criminal defence and real estate. Last year, the top three areas were real estate, family and civil litigation.

Complaints Investigation Committee

The CIC held seven regular meetings this year, as well as one Section 36(2) meeting, and made three decisions via email. This represents a reduction in the number of special meetings compared to last year from four to one.

In this reporting period, the CIC made the following decisions:

- Referred four matters to formal hearing (one scheduled for May 9, one to proceed by way of Settlement Proposal, and two referred to hearing at the April meeting);
- Issued one caution relating to very poor quality of service;
- Issued three counsels (in relation to inappropriate personal conduct in the courtroom, failure to report disciplinary findings in another jurisdiction, and poor quality of service);
- Held one s. 36(2) meeting with a lawyer as a result of the lawyer's

lack of cooperation and multiple complaints;

- Ordered three practice reviews – one resulted in referral to the Fitness to Practise Program, one in consensual temporary practice restrictions, and one is ongoing;
- Ordered one forensic/financial audit – resulted in negotiation of resolution of complaint between the lawyer and the complainant;
- Retained external counsel to provide legal opinions and/or assist with investigations in three matters; and
- Made two new referrals to the Fitness to Practise Program, and one re-referral.

Review Subcommittee

The Review Subcommittee carries out its work in accordance with Regulation 9.3. The mandate of this Subcommittee is to conduct reviews of complaints in cases where a complainant is dissatisfied with a staff dismissal made pursuant to Regulations 9.2.2, 9.2.10 or 9.2.12. The Subcommittee may either confirm the dismissal of the complaint, direct that an investigation be commenced (in cases where the complaint was dismissed without obtaining a response from the member), or direct that the investigation be completed. Complainants have thirty (30) days after receiving staff's notification that their complaint was dismissed to request a review to the Executive Director.

During this reporting period, May 1, 2011 to April 25, 2012, the Review Subcommittee met six times, and reviewed 38 files (compared with 34 in the previous two years). This represents 29%

of all complaint files closed, which is an increase from the average annual number of requests for review of about 20%. The Subcommittee upheld the decisions of staff to dismiss in 37 of 38 matters. In one matter, staff was directed to complete the investigation, and this resulted in the member being counseled by the CIC.

In terms of timeliness benchmarks, the Review Subcommittee has this year made great progress in reducing the time required to process requests for review. The average number of days from receipt by the Subcommittee of a request for review and accompanying materials to issuance of a decision is 27. The average number of days from receipt by staff of a request for review to referral to the Subcommittee and issuance of their decision, has decreased further from 35 in 2009/2010, to 33 in 2010/2011, to 27 in the past year. This is particularly impressive given the increased workload of this Subcommittee this year.

During the year, a PRPPC Subcommittee evaluated best practices with regard to similar review processes across the country, and will be making a recommendation to the PRPPC shortly for changes to the process to ensure independence.

PROFESSIONAL RESPONSIBILITY POLICIES AND PROCEDURES COMMITTEE

This committee supports Council in its governance of the Society by recommending changes to the *Legal Profession Act* ("the Act"), Regulations and policies and by developing procedures for the professional responsibility (PR) process.

Membership of the PRPPC includes current and former members of the Complaints Investigation Committee (CIC) and the Hearing Committee, Chair of the Fitness to Practise Committee, Society counsel and Society staff. A public representative also serves on this Committee and this brings a valuable perspective to our work.

In an effort to better manage the heavy workload of this Committee, two subcommittees were established to take on particular projects – the Hearing Subcommittee and the Review Subcommittee.

The Hearing Subcommittee has been tasked to consider and recommend to the PRPPC policy direction relating to the hearing process; recommend operational and administrative procedures which support the hearing process; and to consider and recommend changes to the Hearing Committee Policies and Procedures Manual. This subcommittee is currently working on detailed regulatory amendments that are intended to provide a clear pre-hearing process that will assist in expediting matters.

The Review Subcommittee is reviewing the current process by which staff dismissals of complaints are reviewed. Currently, such reviews are conducted by a subcommittee of subcommittee is not sufficiently independent of the Society, and the Review Subcommittee is considering the processes followed in other jurisdictions. The Subcommittee made recommendations to the PRPPC regarding improvements to the current process in May 2012.

In addition, a small working group met three times to review the thresholds for the issuance of counsels, cautions and consents to reprimand by the CIC, and these discussions will result in expansion of the guidance provided to the CIC in their Policies and Procedures Manual.

FITNESS TO PRACTISE COMMITTEE

The amendments to the *Legal Profession Act* that created the Fitness to Practise Program came into force in December 2010. The regulation amendments to support these changes were approved by Council in February 2011. The new program helps the Society deal more effectively with lawyers suffering from

a physical, mental or emotional incapacity who are engaged in the professional responsibility process. Referrals to the program can come through self-referral, through complaints, from the Executive Director and from the Complaints Investigation Committee.

In February 2011, Council approved the composition of the new Fitness to Practise Committee. The Committee's composition is very important, as there is a need for medical professionals as well as lawyers with experience in the fields of health care and lawyer assistance. This assists the Committee in effectively assessing member incapacity, and creating appropriate agreements with lawyers for ongoing practice or voluntary interim cessation of practice.

The Committee has now been through its first year and it has been a real learning experience, accepting the referral of four matters. One of the first referrals to the Committee was successfully completed in the fall of 2011. The Committee has referred another matter back to the Complaints Investigation Committee and is managing a third by way of an Interim Agreement. The fourth matter is a new referral which will be dealt with over the coming months.

ETHICS ADVISORY COMMITTEE

The Ethics Advisory Committee is responsible for assisting staff in considering and responding to ethical inquiries from lawyers.

The Society's Professional Responsibility department regularly receives calls from lawyers seeking guidance with regard to ethical dilemmas they have encountered and, in many cases, the input of the committee as a whole is sought and relayed to the lawyer. In 2011/2012, we received 58 ethics inquiries. This number is consistent with the 56 inquiries received in 2010/2011 but fewer than the 70 received in 2009/2010.

Inquiries from lawyers over the past year have most often focused on their duties of confidentiality, particularly regarding the future harm exception, duties to other lawyers, and questions about conflicts of interest between clients. The first part of 2012 has seen a marked increase in calls, which appears to be connected to the coming into force of the new *Code of Professional Conduct*. We are very pleased to know that lawyers are reading the *Code* and taking the time to ensure that they are meeting their ethical obligations.

The most common areas of law with regard to these inquiries are criminal defence, family law, real estate and wills and estates. Conflicts of interest arise in every area of law and we have had many calls from lawyers who request assistance in working their way through the new rules. As well, the conflicting duties and various uncertainties that surround a lawyer's duty to report a threat made by a client to harm themselves or a third party has been raised many times in recent months, and we are working hard to ensure we are able to provide lawyers with as much guidance as possible.

CODE OF CONDUCT WORKING GROUP

The Code of Conduct Working Group was established as an advisory committee to Council that was first tasked with reviewing the Federation of Law Societies' *Model Code of Professional Conduct* to identify any areas where amendments may be required to adapt to local law; to consult with lawyers and other stakeholders as appropriate, respecting adoption of the *Code*; and to make recommendations to Council respecting adoption of the *Code* in format and content, including recommendations for implementation and education. This work was completed in September 2011 when Council voted to adopt the Nova Scotia Barristers' Society's *Code of Professional Conduct* with an effective date of January 1, 2012 and the establishment of an online manda-



tory assessment for all practising lawyers, with a deadline of April 30, 2012.

The Working Group is now considering the Federation's proposed amendments to Rule 2.04 of the *Code* regarding conflicts of interest and is completing its consultation with lawyers. This committee will also be reviewing any recommendations for amendments that may come through the Federation's Standing Committee on the *Model Code of Professional Conduct*.

LAWYERS' FUND FOR CLIENT COMPENSATION

The Lawyers' Fund for Client Compensation (the "Fund") was established under Part IV of the *Legal Profession Act* to provide compensation to persons who have sustained pecuniary losses due to misappropriation or wrongful conversion of the claimants' money or property by a member of the Society or by a law corporation. The Fund is one of 'first resort,' and the payments made out of it are made on an *ex gratia* basis. The Compensation Fund Committee has authority under the Regulations to approve claims less than \$5,000, and Council receives Committee recommendations respecting payment or denial of claims over \$5,000.

The claims experience in Nova Scotia remains very favourable compared to other jurisdictions. In 2008/2009, no claims were paid by the Committee or Council. In 2009/2010, seven claims were received resulting in payment of five claims totalling \$119,636.08; two claims were denied. In 2010/2011, seven claims were received resulting in payment of five claims totalling \$64,016.95; two claims were denied.

In 2011/2012, four claims were opened amounting to \$560,360: two totalling \$345,360 were denied by Council in full (relating to a mortgage fraud scheme), one claim for \$35,000 remains outstanding (relating to conflict of interest and alleged fraud), and one

in the amount of \$180,000 (relating to investment fraud) was denied in full by Council, but the claimant has submitted new information for review.

The majority of the claims approved over the past three years have involved:

- unearned retainers – where a lawyer receives and applies for his own use retainers for legal work which is either never completed or has no value;
- misappropriation of client funds arising from lawyer impecuniosity;
- misappropriation of funds entrusted to a lawyer for purposes of investment with another client; and misappropriation arising from participation in mortgage fraud.

Canadian Lawyers' Insurance Association coverage

Pursuant to Section 58(9)(d) of the Act, in June 2005 Council approved Nova Scotia's subscription to the Canadian Lawyers' Insurance Association (CLIA), a reciprocal insurance exchange that also includes several other provinces.

Through CLIA, the Society now has access for the Compensation Fund to catastrophic claims coverage of up to \$10 million, with a self-retention level of \$100,000 per occurrence and a stop loss of \$500,000. Since obtaining insurance through CLIA, the Society has had no claims of over \$100,000.

As a CLIA participant, the Society files quarterly reports on all claims against the Lawyers' Fund for Client Compensation, including potential claims which come to the attention of the Society.

LRA Compensation Fund

The Act and Regulation 11.2.2 establish a *Land Registration Act* (LRA) Compensation Fund for the purpose of reimbursement in the event the Minister of Finance is required to pay compensation pursuant to the LRA for claims arising out of dishonesty, fraud or criminal acts in the certifying of title

by a practising lawyer.

No claims have been filed against this Fund in this or previous reporting years since inception of the Fund.

TRUST ACCOUNTS – EXCEPTIONS AND AUDIT PROGRAM

Trust Account Monitoring and Audits

All practising lawyers or firms in Nova Scotia, who held money or other property in trust, are required by Regulation 4.2.2 to file an annual Trust Account Report (TAR) within three months following their fiscal year end. The purpose of the report is to ensure lawyers are maintaining their trust accounts in accordance with Part 10 of the Regulations. Council was provided with a Trust Accounts Monitoring Report last fall.

Trust account monitoring of a lawyer's practice can arise from the review of a lawyer's annual Trust Account Report, a trust account audit through the Society's Trust Audit Program, the reporting of a judgment or bankruptcy, or as a result of conditions imposed by the Complaints Investigation Committee or an order by a Hearing Panel.

In 2008/09, 18 lawyers and/or firms filed monthly trust account reconciliations (MTRs) for monitoring, and 10 of these were able to be released from this obligation after a few months. In 2009/2010, only seven lawyers/firms had their MTRs monitored. For the 2010/2011 year, six lawyers/firms ceased having to file MTRs, but nine new lawyers and firms were required to commence filing MTRs, and the majority of these had to file MTRs for over nine months. In 2011/2012, six lawyers filed MTRs, three such files were closed, and one lawyer continues to submit monthly progress reports respecting the clearing out of old balances from the trust account.

Trust Audit Program

The Trust Audit Program is an important risk management tool for the Society, and assists with our mandate to

protect the public, and to enhance the competence of lawyers. As noted in the Annual Scope of Audit Report, the vast majority of lawyers and firms are very receptive to the audits and responsive to recommendations for improvement of their trust account management systems. The audit results inform future education programs, and the development this year of new online trust account education tools and resources for lawyers.

For the last three years, the Trust Audit Program budget has remained at \$50,000. In 2008/2009, 31 trust audits were conducted, and all 31 revealed exceptions to the trust account regulations that required further action. In 2009/2010, 45 trust audits were conducted and again, all revealed exceptions to the trust account regulations requiring follow up by lawyers/firms and staff.

In 2010/2011, 43 trust audits were conducted: 22 related to lawyers/firms in HRM, and 21 in areas outside HRM; 19 were sole practitioners, and 24 were firms or lawyers who practice with other lawyers.

In 2011/2012, 26 audits were conducted: 16 related to lawyers/ firms in HRM and 10 in areas outside HRM; 15 were sole practitioners.

The key concerns from these audits can be summarized as follows:

- 64% had between two and 525 account balances that had been inactive for at least two or more years, with a significant number being in excess of 10 years old;
- In 32% of audits, cashed certified cheques or their images were not returned with the monthly statements and held in the file, contrary to regulations 10.2.1 and 10.2.1.1;
- 54% of audits revealed that lawyers and firms failed to prepare monthly trust reconciliations on a timely basis, contrary to Reg. 10.2.2;

- 59% of audits revealed that lawyers and firms failed to obtain written confirmation of receipt of funds by electronic funds transfer, contrary to reg. 10.3.3. This concern has worsened over the past two years;
- 81% of audits revealed 90 over-drawn client trust ledger balances, contrary to Reg. 10.4.2, most under \$250 but some over \$1,000 and one as high as \$14,500. This concern has significantly worsened over the past year;
- 36% of audits revealed violations of other regulations relating to electronic wire funds transfer, including appropriate written instructions to the bank, timely confirmation of transfer, and completion of EFT requisitions; and
- 77% of audits revealed files where not all of the required information respecting the identity of clients was recorded – most frequently, the information not recorded was the clients' occupation.

In all cases above, there has been staff follow-up to confirm rectification of errors and system compliance.

Bankruptcy & Judgments

As part of the Professional Responsibility department's role to protect the public, the department also monitors other compliance-based work including lawyers' bankruptcy and judgment files. Pursuant to Regulations 4.2.8 through 4.2.12, if a lawyer or a law corporation is served with a petition in bankruptcy, makes an assignment of property for the benefit of creditors, presents a proposal in bankruptcy to creditors, or learns of a judgment order against him or her, he or she is required to report immediately to the Executive Director of the Society.

These requirements are to ensure the Society is aware of the matters that affect the solvency of lawyers and so the Society can take the necessary steps to ensure that adequate protections are in place for clients in these circum-

stances. These steps may include any combination of the following:

- the removal of the lawyer as sole signing authority and subsequent appointment of a co-signer on all trust accounts;
- filing a Trust Account Report (TAR) for the period from the date that was last covered by the previously submitted TAR and the date of the Assignment in Bankruptcy; and
- commence filing Monthly Trust Reconciliation Reports.

If there appears to be evidence of professional misconduct, conduct unbecoming, or incompetence, the bankruptcy or judgment matter may be referred to the Complaints Investigation Committee as a complaint.

In 2008/09, 16 lawyers were monitored with respect to bankruptcies and judgments. In 2009/10, 13 such lawyers were monitored. In 2010/2011, 10 lawyers were monitored, including two bankruptcies, four consumer proposals and four judgments.

Currently, 16 bankruptcy and judgment files are being monitored, including eight lawyers who owe substantial amounts to CRA and seven bankruptcies or consumer proposals.

Undistributed Trust Fund Applications

The Society provides a means each year for lawyers and firms to dispose of undistributed trust funds, through application to the Court, and payment of these funds to the Public Trustee. Lawyers must have made reasonable efforts to identify the source of funds and to return the funds to those entitled, and have held the funds for at least two years.

In 2008/09, one application was made with regard to funds held by 16 lawyers and firms, regarding total funds of \$18,624.129. In 2009/10, two applications were made on behalf of 24 lawyers and firms, respecting funds totalling \$25,351.54. In 2010/2011, two applications were made on behalf of



25 lawyers and firms, respecting funds totalling \$40,102.72. In the 2011/2012 year, only one application was made on behalf of 11 lawyers and firms respecting funds totaling \$11,799.63.

This year's application became more complex than those previously filed as the Society determined that some of the affidavits filed by lawyers and law firms included information that was confidential and possibly privileged. As a result, an application was made to seal the file and an Order in this regard was granted in February 2012. As a result of our experience with this matter, changes are being made to our process for the next application to ensure that there is no risk of disclosure of privileged information in the application.

HEARING COMMITTEE

The Hearing Committee is a fully independent committee of the Society, which carries out responsibilities assigned to it under Sections 41 to 48 of the *Legal Profession Act* and Part 9 of the Regulations made pursuant to the Act. The Committee and any hearing panel thereof have all the powers conferred by the Act and the Regulations as well as the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*. Members are appointed by Council. The Committee members for this year consisted of 24 lawyers and four public representatives. The work of the Hearing Committee is of the highest importance in terms of the Society's right to self-govern and to enhance the level of trust and respect members of the public have for the profession.

The Hearing Committee Chair is responsible for empanelling a hearing panel and appointing a Panel Chair. Hearing panels generally consist of five (5) members; however, a hearing panel does not lose jurisdiction over a matter if one of the members of the panel can no longer sit on the panel as long as there are at least three members of the panel remaining. A panel of five will be comprised of at least three (3) mem-

bers of the Society and a panel of three (3) will be comprised of at least two (2) members.

Following charges being served on a lawyer, a copy of the charges is forwarded to the Chair of the Hearing Committee, who has 14 days to hold a pre-hearing conference with the Counsel for the Society and the lawyer for the purposes of setting down the dates of the hearing and determining its length. The Chair has the authority to set the matter down if there is no agreement. A list of potential hearing panel candidates is provided to the lawyer's counsel for purposes of determining any conflicts. Hearings are normally to be set down within 90 days from the date of service; however, the trend for the past two years has been much longer, up to 180 days or more due to conflicts with dates of counsel for both parties as well as with panel members.

Hearings are open to the public. However, a hearing panel has the authority to make orders necessary to prevent public disclosure of matters disclosed at a hearing in the interest of protection of solicitor-client privilege or where the lawyer demonstrates that compelling circumstances exist to justify a temporary limitation on publication. These matters and other procedural or substantive issues are usually addressed in a pre-hearing conference call between the Chair of the hearing panel and both parties. At the formal hearing, the panel hears evidence, asks questions, makes evidentiary rules and receives submissions. The panel has the authority to ask for written submissions from counsel at any time. The panel has the authority under Section 45 of the *Legal Profession Act* to impose a penalty and/or to impose restrictions or conditions on the lawyer's practise. The panel may render an oral decision. However, a written decision must also be prepared within sixty (60) days following a full hearing and thirty (30) days following a penalty hearing.

A Resolution confirming the acceptance or rejection of a Settlement Agreement or the acceptance of an Agreed Statement of Facts is due within 30 days of the hearing. Decisions and Resolutions are filed with the Prothonotary and posted to the Society's website.

Staff are not involved in the decision-making process and are not responsible for preparing the Decision or the Resolution following the Hearing. The Professional Responsibility Administrator is responsible for assisting the Chair with communicating with committee members for panel appointments and arranging the hearing facilities.

Matters referred to hearing

During the 2008/2009 reporting period, four matters were referred to formal hearing, of which one was carried forward from the previous year. In 2009/2010, three new matters were referred to hearing, with the same matter as in 2008/2009 being carried forward. In 2010/2011, the same matter was carried forward as in previous years, and four new matters were referred to hearing. In 2011/2012, due to the timing of completion of major investigations, there were no full hearings held; rather, in relation to one matter referred to hearing in 2010/2011, heard on May 9, 2012, a hearing was held to hear arguments with regard to an issue of disclosure.

Trends

As noted under the CIC Disposition section, four new matters were recently referred to hearing, which will be scheduled for hearing within the next few months. The most prevalent areas of alleged professional misconduct, conduct unbecoming and professional incompetence precipitating referral to formal hearing in this reporting period include:

- Criminal conduct;
- Incapacity and misappropriation of funds;
- Incompetence; and

- Conflict of interest between lawyers and between lawyer and client.

Education

The Hearing Committee met for a full day of orientation and professional development on October 17, 2011. Presentations included qualifying experts, use by panels of E-Communities for receipt and circulation of hearing materials and decisions, and training in the new *Code of Professional Conduct*.

CUSTODIANSHIPS AND RECEIVERSHIPS

In accordance with the Society's mandate to protect the public, whenever a lawyer in active practice involuntarily ceases practice with little or no notice (due to ill health, death, or as a result of suspension or disbarment), if no plans have been made for transfer of the lawyer's practice to another lawyer or firm, or for a planned wind-down of the practice, then the Society will appoint a Receiver (by the CIC) or a Custodian (by the Court) to protect client interests and manage or wind-down the practice. The authority for this is found in Sections 51 and 53 of the Act. In each case, an external lawyer is retained to serve as Receiver or Custodian, and these lawyers are provided professional and administrative support, as needed, by PR Counsel and the Director of Professional Responsibility.

The costs in relation to this work have varied greatly over the years, from \$30,000 in 2003/2004, to \$154,136 in 2006/2007, to the current budget for 2012/2013 of \$98,000. Actual costs in 2011/2012 were \$64,000, and the budget is based on the average of the past 3-5 years. Costs in this area are being reduced primarily through the use of an experienced team at Burchell MacDougall consisting of a senior counsel (John Rafferty QC), an associate and a legal assistant, and by arranging for storage of as many files held by the So-

ciety as possible in one secure location.

During 2011/2012, there were 14 open receiverships and six open custodianships. Some have been open since 2003. Efforts will be made in the coming year to apply for closure of inactive receiverships and custodianships, and to appropriately disburse funds remaining in trust.

CONCLUSIONS

For 2011/2012, the Council Annual Plan directed that the new *Code of Professional Conduct* be fully implemented, and work be undertaken to develop and implement the new national discipline standards, and both of these goals were achieved. The total cost of the professional responsibility process is always a concern and steps continue to be taken to find ways to reduce costs, with great success this year.

The Professional Responsibility department continues to make significant strides in:

- reducing the number of unmeritorious written complaints;
- reducing the number of complaint calls requiring responses;
- reducing the length of time to process complaint dismissals; and
- reducing costs.

For 2012/2013, the Professional Responsibility department will continue to process the "routine" work described above, as well as:

- continue to fine-tune and enhance the new Fitness to Practise Program;
- work with the Federation's Discipline Standards Committee to implement the national discipline benchmarks as part of the two-year pilot project;
- Develop on-line trust accounts resources for practising lawyers;

- if approved by Council, implement the new proceedings management and pre-hearing conference regulations to expedite the conduct of hearings;
- Capture and re-produce ethics advice provided to lawyers, for ongoing education purposes; and
- Reduce the number of open custodian and receiver files, and dispose of funds as appropriate.

PROFESSIONAL STANDARDS

PROFESSIONAL STANDARDS COMMITTEE – FAMILY LAW

COMMITTEE'S MANDATE

The Committee deals with issues relevant to family law practice, as well as reviews and recommends to Council improvements to the Professional Standards (Family Law) in Nova Scotia.

The following issues were addressed by the Committee this year:

REVIEW OF STANDARDS

11 – Scope of Representation: This Standard is being reviewed in the context of unbundling of legal services and limited scope retainers. This work is ongoing.

13 – Adoption: The Committee developed a new Standard in this regard. Once this Standard was drafted, it was completed, communicated to practising lawyers for consultation and approved by Council. The revisions were posted in *InForum* and on the LIANS website.

14 – Human Reproduction: The Committee developed a new Standard in this regard. Once this Standard was drafted, it was completed, communicated to practising lawyers for consultation and approved by Council. The revisions were posted in *InForum* and on the LIANS website.

The Committee reviewed the *Children and Family Services Act* and undertook a consultation process with the Department of Justice and Nova Scotia Legal Aid as well as practising lawyers, to determine if standards could be identified within the areas of adult and child protection. The Committee determined there are no standards unique to these areas that could be identified and therefore, none were proposed.

Several other Standards were reviewed for minor updates and various cases were added to the commentary to the Standards. Commentary was also amended as appropriate to deal with the *Wills Act*.

The Committee reviewed all existing Standards in light of the new *Code of Professional Conduct* and is working to revise the supporting materials for the Standards where appropriate in this regard, as well as with respect to the obligation to report pursuant to the *Children and Family Services Act*.

The Committee will continue its work in identifying new standards, drafting same, adding resource materials and conducting consultation before submitting them for approval to Council in the next year. The Committee will also review the existing standards and resources with a view to improving them

and ensuring they remain a current, accurate and useful reference to family law lawyers in the province.

Thanks to the Committee members for their tireless work over this period of time. The Committee wishes to extend its thanks to staff and in particular Melanie McGrath, Director, LIANS, for her work over the last year.

Tim Daley QC, Chair

PROFESSIONAL STANDARDS COMMITTEE – LAW OFFICE MANAGEMENT

COMMITTEE'S MANDATE

The Committee supports Council in the governance of the Society for its purpose of protecting the public interest and the practice of law, by developing professional standards for the management of law offices in Nova Scotia.

This is a new Committee, which was appointed by Council in January 2012 and commenced meeting in February 2012.

The Committee is comprised of privately practising lawyers from throughout Nova Scotia and includes those from various practice circumstances, various firm sizes and all or virtually all subjects of practice concentration.

STANDARDS DEVELOPMENT

It was determined that the initial work of the Committee will focus on the fol-

lowing areas:

1. Retention/destruction of client files;
2. Maintenance and backup of lawyer/law firm electronic data;
3. Client service standards; and
4. Lawyer-law firm information management systems.

Since the adoption of these individual issues by way of an initial formal Work Plan approved by Council, the Committee has expanded its focus to include timekeeping as another practical matter.

The Committee hopes to be in a position to commence reporting on these matters by the early part of the summer of 2012 and to continue with its reporting throughout the balance of the year. Once the five proposed topics have been addressed in manners

acceptable to the Society, the Committee will turn its attention to other matters of best practice of broad interest to practising lawyers.

In conclusion, I would like to thank Raffi Balmanoukian, Bob Carter, Jim Dewar QC, Kathryn Dumke, Bruce McLaughlin, Mary Jane McGinty, Jamie MacGillivray, David Parker, Phil Star QC and Elizabeth Van Den Eynden QC. This is a diverse, knowledgeable and highly experienced group of practitioners whose efforts have been invaluable in the formulating the Committee's initial work plan and engaging in the Committee's initial forms of study and reporting. Additionally, I would like to thank Melanie McGrath and Christine Smith, both of LIANS, for their ongoing work in assisting the members of the Committee with their mandate and responsibilities.

*Respectfully submitted,
Gavin Giles QC, Chair*

PROFESSIONAL STANDARDS COMMITTEE – REAL ESTATE

COMMITTEE'S MANDATE

The Committee deals with issues relevant to real estate practice, as well as reviews and recommends to Council improvements to the Practice Standards for Real Property Transactions in Nova Scotia.

The following issues were addressed by the Committee this year:

REVIEW OF STANDARDS

The Committee created a chart to track its progress in updating the Standards that were identified for review. Specific standards were selected for review and each committee member was assigned the task of leading the review for a particular Standard. Also, research was conducted to add additional resource material to the Standards that were recently developed and presented at conferences and seminars. This material was added to the reference section of the particular Standard under review. The following Standards were reviewed:

2.1 – Parcel Identification and Legal

Description: The Committee continued its work on this Standard. The revisions to this Standard were completed, communicated to practising lawyers for consultation and approved by Council. The revisions were posted in *InForum* and on the LIANS website.

3.11 – Bankruptcy: The Committee continued its work on this Standard. The revisions to this Standard were completed, communicated to practising lawyers for consultation and approved by Council. The revisions were posted in *InForum* and on the LIANS website.

3.6 – Restrictive Covenants: This Standard is currently under review to ensure that the certifying lawyer recognizes bankruptcy issues and reflects same in the parcel register as necessary, either at the time of migration or on any bankruptcy of the registered owner. This work will continue into the next year.

Several other Standards were reviewed for minor updates.

MAKING STANDARDS MORE USER FRIENDLY

Generally, the Committee felt it was appropriate to make the Standards more user friendly by the addition of a new section to explain “how to” meet the Standard. This section would contain precedents and samples for easy reference. The Committee worked on developing comprehensive checklists for use in purchase transactions and sale transactions. These were distributed to lawyers through the LIANS electronic newsletter, *LIANSwers*.

The Committee also felt it was appropriate to add a “practice notes” section to the Standards to provide guidance with respect to the Committee’s views on best practices, which may require more work than the Standard itself. All of this work takes much time and will continue over the next year and likely into the future.

Respectfully submitted by:
Erin O’Brien Edmonds QC, Co-Chair
K.H. Anthony Robinson QC, Co-Chair

PUBLIC REPRESENTATIVES

This past year, the Public Representatives have witnessed a step change at the Nova Scotia Barristers' Society. Through regular attendance and participation in meetings of the Society, the Public Representatives have had ample opportunity to pose catalytic questions, challenge the purpose of regulatory content and contribute to the overall narrative which must be understood by members and the public alike.

We have found this work to be gratifying and the results consistent with the protection of the public interest. Perhaps most evident to us has been the professionalism of Society staff and determination by the newer and smaller governing Council to make the decisions necessary to perpetuate self-regulation of the legal profession in Nova Scotia.

The most visible evidence of change has taken three forms. First has been the positive emergence of an Annual Meeting with a revised format. The 2011 meeting was convened at the Schulich School of Law and featured greater opportunities for lawyer participation as well as an educational component. Second, a new Society website (nsbs.org) has been launched. The site is more comprehensive in content and permits user-friendly access to the substance and volume of Society work. The third obvious change has been the relocation of Society offices from the Centennial Building to bright contemporary space in the Cogswell Tower. Together, these initiatives took many extra hours of thought and planning. Our compliments to the staff for their diligence.

The Society had been incrementally increasing member fees over the last several years in light of reaching a relative plateau in overall membership numbers, while simultaneously being faced with the rising costs of regulation and the need to address a range of emerging issues. To manage this matter, the Society initiated an organizational re-

view to ensure effective and efficient use of resources and that work bears directly on its core regulatory role pursuant to the *Legal Profession Act*. There have already been some changes as a result of this ongoing review. Most notably and recently, changes were introduced to the Library & Information Services staffing levels and program. While this was a difficult decision, we note that many other law societies, universities and not-for-profit organizations have moved to adopt similar measures to constrain costs.

We applaud the January 1, 2012 implementation of the new *Code of Professional Conduct*. This is broadly consistent with the rest of Canada and will greatly facilitate the mobility of lawyers. As well, the Society has adopted a new mandatory Continuing Professional Development requirement with an effective date of June 1, 2012, together with a companion transition phase that commenced on March 1, 2012. While many details are still being finalized, the first year of the program will very much be considered a transition year. In our view, this is a sensible and balanced approach.

The Public Representatives have also been involved in Professional Responsibility Policies and Procedures Committee commissioned reviews of the Review Subcommittee and the Hearing Committee. Both were due for examination respecting their structure, composition, training and other elements of their mandate. Progress, to date, has been commendable.

Next, Council has been fully engaged in robust dialogue concerning administration of justice issues of which access to justice is a prominent subset. We note that this latter matter is receiving attention by members of Canada's highest court and some learned academics. Within the context of the Society, the access issue has led to crucial discussion on the diverse activities of the Equity Office as well as the realization that the Society perhaps needs to

explore new and different opportunities to improve access. Future work in these areas, both in terms of scope and purpose, should afford ample opportunity for creative destruction.

Lastly, the Society has just completed its first full year with a new Fitness to Practise Committee. If a member of the legal profession is deemed to be suffering from an incapacity, that member may consent to being referred to the FTP stream, with a goal of rehabilitation. The Public Representatives strongly endorse this initiative in an effort to salvage careers.

To conclude, we are of the unanimous view that the Society has undergone a paradigm shift over the course of the last year and possesses a renewed sense of passion in striving to achieve its strategic objectives within the context of its core regulatory role. The hard work of the past several years is yielding noticeable positive results.

Respectfully submitted,
George MacDonald
Annette Marshall
Ken Nason

RURAL PRACTICE WORKING GROUP

The Rural Practice Working Group reviewed retirement planning issues – including office management, file retention, succession planning, and regulatory provisions – which, while not part of our mandate, impact significantly on lawyers practising in smaller firms typical of rural areas.

Retention and storage of “foundation documents”, as required by the LPA regulations remains a big concern. Complicating factors include the lack of an identified standard/method for storing foundation documents or files, and the requirement that this information must be retained indefinitely. There is no repository for these documents, and some lawyers have no successors.

Our group is very interested in the issues surrounding proposals for a fixed limitation period for claims against lawyers in Nova Scotia.

The Working Group also considered issues regarding recruitment and retention of articled clerks. Because young lawyers represent the future of our profession, and make succession planning possible, it is important to identify the barriers to hiring articled clerks. Are the present regulations a barrier? Our group will try to identify these issues and suggest alternatives.

Our group raised the concern that, given increased property values and inflation since 1988, when the present coverage amount was set, whether the standard amount of mandatory liability coverage of \$1,000,000.00 is adequate to protect members. There were also some questions about the attributes of CLIA excess insurance, and whether it includes “tail coverage” to protect retiring lawyers.

In conjunction with the Gerald Schwartz School of Business at St. Francis Xavier University, we undertook a consulting project involving surveys for two target groups on the supply of legal services in rural areas:

- The first survey was sent out via the Society in February to about 400 lawyers practising outside Halifax Region and industrial Cape Breton.
- The second survey is being prepared to send out to law students in Nova Scotia through the auspices of the Schulich School of Law at Dalhousie University (with the assistance of Sarah Kirby, VP Student Services).

The results of both surveys will help in analyzing the demand for lawyers in rural areas.

“Challenges and Opportunities of Rural Practice in Nova Scotia” was the topic of a conference held in Bridgewater on November 3 and 4, 2011. The Group considered the possibility of encouraging a second conference to continue the work of improving communication between students and small firms.

Members of the Working Group attended the November 18 Job Fair at the Schulich School of Law, and strongly recommended a continued presence at this event in the fall of 2012, in order to improve our message that there are career opportunities for young lawyers outside the cities. Our group is asked for ideas for smart, cost-effective materials to bring to the job fair for distribution to the students, keeping in mind our modest budget.

Carole Gillies QC, Chair

NEW MEMBERS

NEW MEMBERS OF THE NOVA SCOTIA BARRISTERS' SOCIETY

The Society welcomes the following 81 new lawyers, called to the Nova Scotia Bar between May 1, 2011 and April 30, 2012:

Jennifer Diane Anderson	Jennifer Marie Kooren	Ian Richard Sinclair
Katherine Agnes Aucoin O'Blenis	Mitchell Paul LeBlanc	Jeremy Paul Smith
Andrew Ryan Baker	Catherine Jean Logan	Tracy Suzanne Smith
Lydia Katherine Billingsley	Jessica Anne MacDougall	James Reginald Cecil Snow
Alison Jane Bird	Christopher Gordon MacIntyre	Kristelle Marie Stright
Christine Dawn Black	Constance M.B. MacIsaac	Jillian Beth Strugnell
Michael Paul Blades	Lana Michelle MacLellan	Catherine Sykes
Loreatha Jane Boehner	Jillian Cecilia MacNeil	Bernard James Thibault
Donna Marie Boutilier	Michael Peter Madden	Owen Hugh Calcott Thomas
Garnet Evan Brooks	Jason Chance May	Mark Tipperman
Ian David Brown	Sandra Lee McCulloch	John Kenneth Caldwell Townsend
Lauren Ashley Cicin	Thomas Pier McEwan	Dillon Patrick Trider
Lee-Ann Verna Conrod	Patricia Ashley McFadgen	Jessica Lynn Upshaw
Joshua Ernest Paul Cormier	Scott Tyler McGirr	Jamie Andrew Vacon
Adam Douglas Crane	James Michael Peter McGonnell	Anthony Joel Whitfield
Mitchell Ryan Eliasson	Scott Patrick Millar	Peter Thomas Zed
Maritza Christina Estridge	Georgina Clare Murphy	David Andrew Zuber
Jasmine Mary Ghosn	Mercy Chalwe Mutale Motey	
Wakai Afo Glasgow	Andrew Antonious Nahas	
Colette Michelle Goodyear	Nicholas Michael Nahas	
Theresa Margaret Graham	Vanessa Grace Nicholson	
Leah Nadine Grimmer	Jacqueline Ann Martha Penney	
David Michael Halley	Benjamin Neil Perryman	
Joel Daniel Henderson	David Benjamin Pink	
Jonathan William Hooper	Lynne José Poirier	
Leanne Marie Hosfield	Jacqueline Anna Porter	
James Sinclair Janson	Benjamin John Pryde	
Lisa Marie Johnston	Cory James Hatcher Roberts	
Thomas Joseph Kayter, III	Tiffany Lee Robertson	
Sean Patrick Kelly	Julie Gabrielle Robinson	
Telaina Michelle Kallis Kelly	Michelle Joyce Rogers	
Ramanjit Kaur Khabra	Andrea Leigh Shakespeare	

IN MEMORIAM

The following lawyers and colleagues passed away between May 1, 2011 and April 30, 2012.
The Society extends condolences to their friends and families.

2011

- Kenneth J.A. Brookes, London, UK – August 10, 2011
- Julia Louise Corkum, Wentzell Lake – August 18, 2011
- Laurel R. Bauchman, Saltspring Island, BC – August 20, 2011
- Wayne Joseph Hutchison, North Sydney, NS – November 16, 2011

2012

- Walter Struan Robertson, Halifax – January 1, 2012
- Roderick Joseph Chisholm QC, Antigonish – January 21, 2012
- Senator Frederick James Dickson QC, Truro – February 9, 2012
- Gilbert Lawson Gaudet, Halifax – March 4, 2012
- Floyd Keith Horne QC, Dartmouth – March 5, 2012
- The Hon. Judge John D. Embree, Antigonish – March 26, 2012
- Margaret Anne M. Shears QC, Halifax – April 27, 2012
- Donald Gordon Peverill, Halifax – April 30, 2012

OFFICERS & MEMBERS OF COUNCIL 2011-2012

This year's Council met eight times. The following chart lists the Officers and members for 2011-2012.

OFFICERS	ATTENDANCE
Daniel M. Campbell QC, President	7
Timothy G.J. Daley QC, First Vice-President	7
René Gallant, Second Vice-President	7
Ronald J. Downie QC, Honorary President	4

MEMBER	DISTRICT/CAPACITY	MUNICIPALITY	ATTENDANCE
Dean Kimberley Brooks	Schulich School of Law – Dean		5
Christa M. Brothers	Halifax	Halifax	7
Lynn M. Connors QC	Southwestern	Kentville	6
Aleta C. Cromwell	Halifax	Halifax	8
Gavin Giles QC	At Large	Halifax	7
George MacDonald	Public Representative		6
Lora MacEachern	Representative of the Attorney General (NS)		5/6 (Resigned March 2012)
William L. Mahody	Halifax	Halifax	6
David Mahoney	Central	Truro	8
Darren MacLeod	Southwestern	Annapolis Royal	4
Annette Marshall	Public Representative		5
Candee J. McCarthy	Cape Breton	Sydney	7
David McNairn	Central	Amherst	8
Naiomi Metallic	At Large	Halifax	8
Kenneth A. Nason	Public Representative		8
Erin E. O'Brien Edmonds QC	Halifax	Halifax	4/5 (Replaced the Hon. Justice Michael J. Wood February 2012)
Jill Perry	Cape Breton	Sydney	7
John Traves QC	Representative of the Attorney General (NS)		2/2 (Replaced Lora MacEachern April 2012)
Michael J. Wood QC	Halifax	Halifax	1/1 (Appointed to Nova Scotia Supreme Court October 2011)
Alonzo Wright	At Large	Halifax	6

SOCIETY COMMITTEES

REGULATORY COMMITTEES

Complaints Investigation Committee
Credentials Committee
Hearing Committee

COUNCIL COMMITTEES

Code of Professional Conduct Committee
Continuing Professional Development Working Group
Council Evaluation Committee
Distinguished Service Award Committee
Executive Committee
Finance Committee
Fitness to Practise Committee
Gender Equity Committee
Governance and Nominating Committee
Lawyers' Fund for Client Compensation Committee
Professional Responsibility Policies & Procedures Committee
Professional Standards (Family) Committee
Professional Standards (Law Office Management) Committee
Professional Standards (Real Estate) Committee
Racial Equity Committee

LIAISON COMMITTEES

Court of Appeal Liaison Committee
Department of Justice Liaison Committee
Family Court Liaison Committee
Provincial Court Liaison Committee
Service Nova Scotia & Municipal Relations Liaison Committee
Supreme Court Liaison Committee (Civil)
Supreme Court Liaison Committee (Criminal)
Supreme Court Liaison Committee (Family)

OPERATIONAL COMMITTEES

Access to Justice Working Group
Bar Examination Screeners Subcommittee
Civil Procedure Rules Committee
Ethics Advisory Committee
Expansion of Family Division Working Group
Land Registration Act Management Committee
Lawyers Assistance Program Committee
Rural Practice Working Group

APPOINTMENTS TO OUTSIDE BODIES

Advisory Committee on Judicial Appointments – Federal
Advisory Board on Judicial Appointments – Provincial
Canadian Lawyers' Insurance Association – Advisory Board
Family Law Expert Advisory panel
Federation of Law Societies of Canada Council
Indigenous Black and Mi'kmaq Initiative – Advisory Council
Judicial Council
Law Courts Users' Committee
Law Foundation of Nova Scotia
Law Reform Commission of Nova Scotia
Lawyers' Insurance Association of Nova Scotia Board of Directors
NS Land Surveyors – Board of Examiners
Nova Scotia Legal Aid Commission
QC Appointments Advisory Committee
Small Claims Court Adjudicators Advisory Committee
Statutory Costs and Fees Committee

For a current list of committee members and terms of reference for each committee, please visit the Committees page of the Society's website: http://nsbs.org/about_us/committees.