



Lawyers' Insurance
Association of Nova Scotia

ANNUAL REPORT 2008



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Mission Statement

The Lawyers' Insurance Association of Nova Scotia is established and operated pursuant to the *Legal Profession Act* and Regulations, as part of the Nova Scotia Barristers' Society's public protection mandate.

LIANS conducts the mandatory professional liability insurance program for the benefit of the practising insured members.

Report from the Chair of the Board



W. DALE DUNLOP,
Chair

W. Dale Dunlop joined the Board in 1999. He was appointed chair in 2006. Dale is a partner with Walker Dunlop.

Two events in 2008 and early 2009 have created some rather unique and challenging times for the Board of LIANS. The first was the global economic meltdown with consequent loss of value for many investment portfolios and pension funds. The second event, which actually occurred in early April, 2009, was the unanticipated departure of our longtime Director of Insurance, Deborah Rozee.

With respect to the first, I am glad to report that both the LIANS and CLIA investment portfolios have survived the economic turmoil relatively unscathed. The investment philosophy of both bodies has been very conservative, with a primary mandate of preserving capital as opposed to growth with accompanying risk. Both funds are heavily invested in secure bonds which have actually appreciated as equities have eroded. Lawyers insured by LIANS have no reason to fear for the stability of the fund. It is on solid financial ground.

With respect to the second event, it is fair to say that Deborah Rozee was the bedrock of LIANS for many years and oversaw its growth from a fledgling institution, with many early challenges to the cost-effective and well-run organization it is today. A search committee has been struck and it is anticipated that a new Director of Insurance will be in place as soon as practicable. In the meantime LIANS is in the very capable hands of Geraldine O'Shea, who has been appointed interim director.

With respect to the levy, significant levy credits have been issued to members since 1997, through the return

of surplus from both CLIA and LIANS. Levy credits of \$950.00 will be applied to the full private practice levy this year. As a result, the levy paid by members is significantly less than the true cost of claims, which for the coming year is \$1850.00.

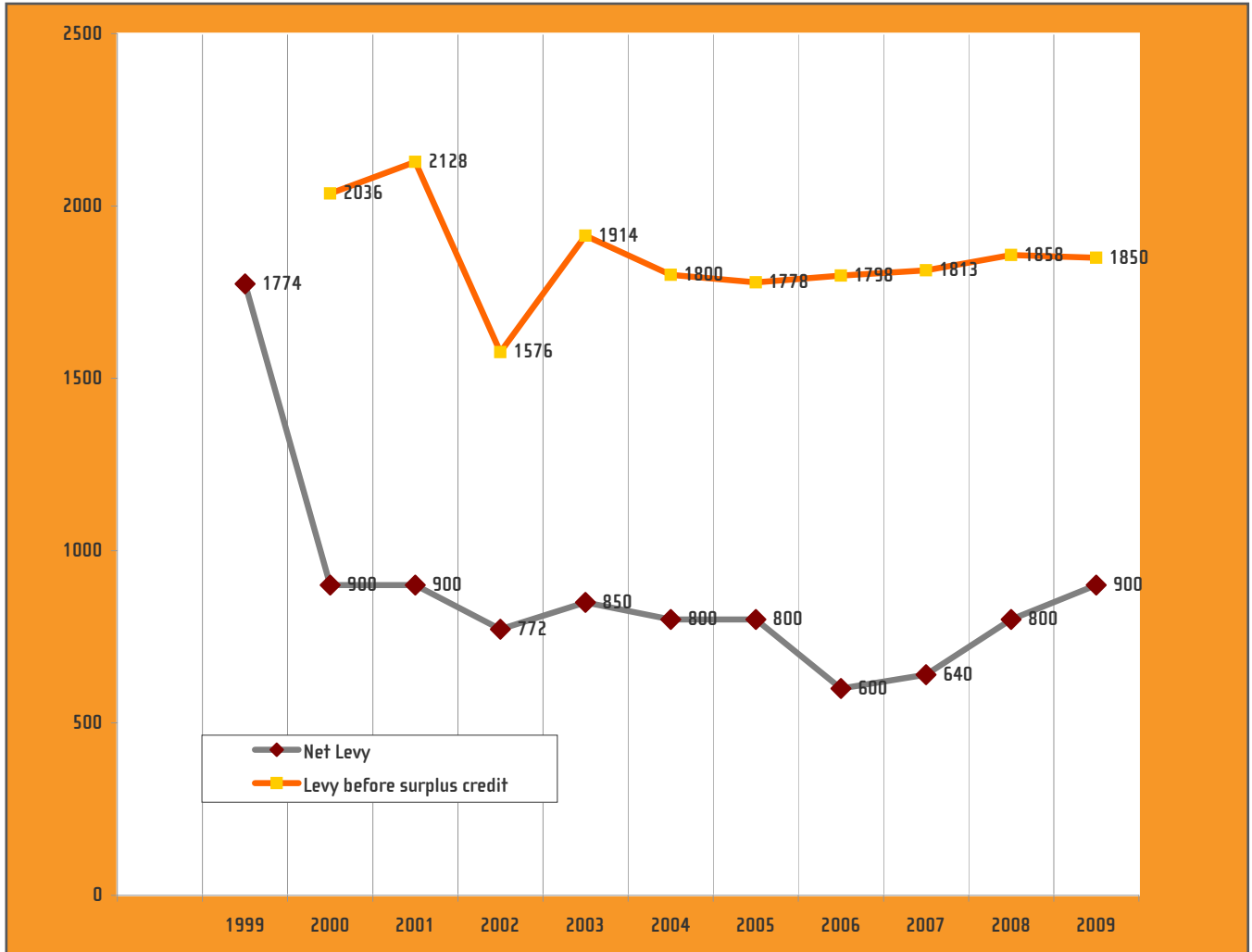
The increase is primarily due to the Board's decision a year ago to move our minimum surplus from \$4 million to \$5 million, which has been done in two steps. The second reason is an increase in the CLIA premium, which is built into the levy.

In closing, my sincere thanks go out to the Board members, who provide unselfish service and a collegial atmosphere at both the Board and committee level. On behalf of all Board Members, I would also like to sincerely thank our staff, who are primarily responsible for maintaining a lid on costs while providing professional, courteous and effective responses on behalf of any members who find themselves on the wrong end of a lawsuit.

A summary of the past year's financial highlights, taken from the audited financial statements of LIANS, is found on page 10.

W. Dale Dunlop, Chair

Insurance Levy — 10-year history



“It is very important that members be aware that the actual amount charged is well below the true cost of providing insurance, which our actuaries tell us is \$1850 for the upcoming year.”

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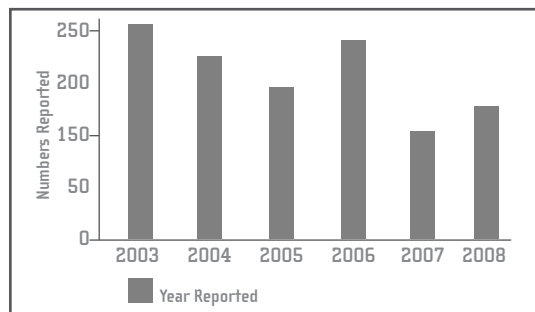


GERRI O'SHEA
Acting Director

Geraldine O'Shea joined LIANS in 2002 as Claims Counsel and was appointed A/Director in April, 2009.

Claims Management

The claims experience in 2008 continued to be relatively favourable. The number of new claims reported in 2008 increased from 153 in 2007 to 183 in 2008. This number is still well below the 242 new claims reported in the year 2006. However, based on reporting to date, we expect the number of new claims to rise again in 2009.



Claims costs have also increased proportionately in 2008 due to the increased number of claims processed.

Claims Reported Per 100 Lawyers (1999 - 2008)

99	00	01	02	03	04	05	06	07	08
15	16	14	19	16	14	12	14	10	11

The *Cost of Claims by Area of Law* chart illustrates the breakdown of claims costs by areas of law and the percentage of total claims costs, including both damages and defence costs, according to area. The direct comparison between the costs by area of law in 2007 and 2008 is set out.

Cost Of Claims By Area Of Law

Area of Law	1998–2007	2007	2008
Real Estate	47%	50%	69%
Civil Litigation	13%	15%	9%
Commercial	11%	6%	3%
Matrimonial & Family	5%	6%	2%
All Other	3%	3%	2%
Estate Planning & Administration	4%	14%	4%
Corporate	13%	3%	7%
Employment/Labour	3%	0%	0%
Administrative/Boards/Tribunal	1%	0%	0%
Criminal	—	3%	4%
	100%	100%	100%

As the chart above illustrates, claims costs arising from the practice area of real estate increased significantly. This was largely due to the severity of a couple of larger claims, although the number of claims in this area also increased. Some of the claims in real property were either directly or indirectly attributable to the changes resulting from the new Land Registration system. However, such claims have not caused an increase in severity of the damage claims in real property.

While the number of claims in the areas of civil litigation and estate planning/wills increased slightly in 2008, the severity of the claims decreased, resulting in the overall decrease in costs attributed to those

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areas, relative to the total costs of all claims. The number of corporate claims remained stable from 2007, but the costs of claims in this area showed a rise in 2008.

LIANS claims experience in 2008 did not indicate a particular trend or point to one problem that caused claims or potential claims to arise. Missed limitations, including statutory limitation periods in other provinces where the cause of action occurred, continue to result in claims. Other causes, including the failures of office systems, unsupervised delegation, poor communication with clients or others, and general oversight have resulted in claims in all areas of law. The Risk and Practice Management Program, through Deborah Gillis QC, the RPM Advisor, is available to offer confidential assistance to all members to help improve specific or general areas of practice management, and help members recognize and avoid the risks that may lead to potential claims.

Risk and Practice Management

Members are increasingly looking to the Risk and Practice Management Program and its Advisor as their single point of contact for access to Risk and Practice Management resources.

The program continues to educate lawyers on practice risks and to provide them with resources and tools that will help them minimize their claims exposure.

In 2008, educational sessions were delivered by the Risk and Practice Management Advisor to many of the County Bars, at the Bar Admission Skills Course, the RELANS conference, the Society's Annual Meeting as well as at Lunch & Law meetings and CBA sponsored sessions. Our risk management messages were also delivered "in house" to new associates of individual law firms.

Fraud that specifically targets lawyers continues to be a concern to LIANS. Lawyers and their trust accounts are prime targets for fraud, often perpetrated via the Internet. We continue to educate members on indicia of fraud and provide advice on how to avoid being victimized. This year, part of the education included developing and circulating a brochure that summarized common characteristics of attempted frauds seen in Nova Scotia and across North America, together with tips for lawyers and their staff to help them avoid being duped by often very elaborate schemes.

In November 2008, a client ID regulation came into effect for Nova Scotia lawyers. This regulation was based



**DEBORAH
GILLIS QC**
Risk & Practice
Management
Advisor

Deborah Gillis joined LIANS in November 2005, bringing with her, 26 years experience in private practice.

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on the Model Client ID Rule adopted by the Federation of Law Societies of Canada and intended to assist in the prevention of money laundering and other potentially fraudulent activities. With the new regulation, lawyers are required to identify and/or verify the identity of all clients. The Risk and Practice Management Advisor responds to our lawyers' inquiries relating to this regulation and the implementation of it in their offices.

This year a Succession Planning package was developed for, and presented to lawyers to assist them in their retirement planning. Succession planning is vital for our lawyers; resources provided by us will help them establish a seamless transition into retirement and/or protect their practice and their clients' interests, in the event of their illness, death or other unexpected absence from their practice. The Risk and Practice Management Program will continue to assist lawyers in this important area. Having a succession plan in place is good practice and serves to reduce the risk that may otherwise arise during a transition period.

Regular articles written by the Risk and Practice Management Advisor continue to be published in the *Society Record*. As well, relevant risk and practice management texts are reviewed and ordered for use by lawyers through the Nova Scotia Barristers' Library.

In 2009, the Risk and Practice Management Program will strive to ensure that our lawyers continue to receive top quality tools and resources that will help them manage their practices and minimize their risks.

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Lawyers Assistance Program

The Nova Scotia Lawyers' Assistance Program continues to "help lawyers reach their full potential" and again, we have seen a strong increase in calls for assistance and another increasingly busy year.

Our total referrals to professional assistance from calls to the NSLAP toll-free line reached 190 by December 31, 2008. This again represents a significant increase from previous years, and reflects continuing success of various initiatives to promote use of the Program by members, their staff and dependent family members.

Blanche Keats continues to provide capable and confidential service as our NSLAP Advisor and "the voice at the end of the line." Blanche answers calls placed to the NSLAP toll-free line (1-866-299-1299), provides information about the Program and available services, completes the assessment and referral process for counselling and appropriate peer support, and provides confidential reporting and assistance to the LAP Committee. Blanche also manages the relationship between NSLAP and our roster of qualified therapists and counsellors throughout the province, to ensure that competent and confidential professional assistance remains available to members throughout Nova Scotia wherever it is needed.

NSLAP continues to provide confidential assessment and referral to professional counselling services and appropriate peer support for all lawyers, their staff (including articling clerks and students), and their dependent family members.

Primary areas of concern for which members seek assistance continue to be:

- marriage breakdown / family issues
- adolescents / children / parents
- depression / grief counselling
- anxiety / stress / work-life balance
- alcohol and drug dependency

In continuing the strategic direction for development of the Program outlined in the March 2007 Report, "Helping Lawyers Reach Their Full Potential: Future Direction for Lawyers' Assistance in Nova Scotia," the NSLAP Committee has worked closely with the LIANS Board and the Barristers' Society Executive and Council to review and confirm the structure and necessary funding for NSLAP, to ensure we have the resources to meet growing demand. We are grateful for their unwavering support.

We continue to promote and advertise the services available from NSLAP through presentations and promotional activities to various legal groups across the province, including sponsorship of health and wellness events at the NSBS Annual Meeting, presentations to the Bar Admission Course, Law Firms, County Bar Associations and written articles in the Society Record.

We remain hard at work on a number of existing and new initiatives as we move through 2009, including a strategic review of our Peer Volunteer Support Program, enhanced communications (including website, print and presentation materials), implementation of a 'Health &



SEAN FOREMAN
Chair, LAP
Committee

Sean Foreman is Chair of the Lawyers Assistance Program. Sean is a partner with Wickwire Holm.

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Wellness' Toolkit and expanded promotion by participation in various conferences and meetings.

NSLAP remains fortunate to be supported by a dedicated group of Peer Volunteers and Committee Members, NSLAP Advisor and last but certainly not least, staff support and administration. As Chair, I remain fortunate to work with such a committed and passionate group of volunteers who exemplify the phrase "Lawyers Helping Lawyers."

Remember, ALL communication with NSLAP is confidential. If you have any questions about NSLAP services

or feel you need support, do not hesitate to call 1-866-299-1299 and speak with Blanche Keats. Your contact with NSLAP will never be disclosed to LIANS or the Bar Society.

Finally, let your staff and your family know about NSLAP and the services available to them. Together, we can ensure that we do our best to achieve a vibrant and healthy legal profession across Nova Scotia.

Respectfully,
Sean Foreman,
Chair, LAP Committee



LAP Committee members:
(back l-r) Craig Berryman, Cheryl Canning, Sean Foreman, Chair, and Nancy Rideout
(front l-r) Jennifer Glennie and Deborah Rozee, Director, LIANS

Summary of Financial Highlights

Notes to the Summary of Financial Highlights

LIANS' financial position remained stable at the end of 2008.

Once again this year, surplus was distributed to insured members through a subsidy to the levy charged for the mandatory insurance policy. The distribution of surplus resulted at year end in a planned deficiency of revenue over expenditure of \$775,000

During 2008, LIANS received a return of surplus subscribers' equity from CLIA of \$590,000. This return of subscribers' equity is in accordance with the rules of the reciprocal and reflects the non-profit nature of CLIA.

Total claims and expenses this year decreased by \$78,000 from \$1,390,000 in 2007 to 1,312,000 in 2008. This decrease is largely due to a smaller increase in provisions for unpaid claims and expenses than in the previous year.

The reserve at the year end was \$8,464,000. This represents a decrease of \$775,000 from the 2007 year-end reserve of \$9,239,000.

LAWYERS' INSURANCE ASSOCIATION OF NOVA SCOTIA Summary of Financial Highlights From December 31, 2008 Audited Financial Highlights (000's)

STATEMENT OF FINANCIAL POSITION AS AT DECEMBER 31, 2008

	December 31 2008	December 31 2007
Cash	\$ 979	\$ 1,259
Accounts receivable	32	217
Levy receivable	347	296
Prepays	273	265
Investments	13,390	13,477
Fixed assets	16	17
	<u>\$ 15,037</u>	<u>\$ 15,531</u>
Accounts payable and accrued liabilities	\$ 98	\$ 130
Unearned Levy	621	504
Provision for unpaid claims and expenses	5,854	5,658
Professional liability insurance reserve	8,464	9,239
	<u>\$ 15,037</u>	<u>\$ 15,531</u>

STATEMENT OF REVENUE, EXPENDITURE AND RESERVE PERIOD ENDED DECEMBER 31, 2008

	December 31 2008	December 31 2007
Revenue	\$ 1,294	\$ 1,506
Insurance premiums	(533)	(460)
Net revenue	<u>761</u>	<u>1,046</u>
Claims and expenses		
Payments	1,110	1,085
Stop loss group deductible and limit (reimbursements)	6	(133)
	<u>1,116</u>	<u>952</u>
Increase in provisions for unpaid claims and expenses	196	438
Total claims and expenses	<u>1,312</u>	<u>1,390</u>
Administration	814	878
Deficiency of revenue over expenditure before under-noted	(1,365)	(1,222)
Return of C.L.I.A. surplus subscriber's equity	590	250
(Deficiency) excess of revenue over expenditure	(775)	(972)
Reserve, beginning of year	9,239	9,514
Adjustment for unrealized gain on investments held for trading as at January 1, 2007	-	697
Reserve, end of year	<u>\$ 8,464</u>	<u>\$ 9,239</u>

2008 Board, Committees and Staff

BOARD OF DIRECTORS

W. Dale Dunlop, *Chair*
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Michael R. Brooker QC
Robert K. Dickson QC
Gail Rudderham Chernin QC
John Kulik QC
Nancy I. Murray QC
Cheryl Canning
Stephen D. Piggott
Darrel I. Pink
Michael K. Power QC
STAFF: Deborah Rozee

STAFF

Deborah Rozee, LL.B.
Director [resigned April 6, 2009]
Gerri O'Shea, LL.B.
Claims Counsel and Acting Director
Christine Smith
Executive Assistant to the Director
Deborah E. Gillis QC
Risk & Practice Management Advisor
Patricia Neild, LL.B.
Claims Counsel
Jennifer Curran
Secretary

COMMITTEES

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Nancy I. Murray QC
John Kulik QC
STAFF: Deborah Rozee

Claims Review Committee

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Michael R. Brooker QC
W. Dale Dunlop
John W. Traves QC
Maurice G. McGillivray QC
Stephen D. Piggott
Cheryl Canning
STAFF: Gerri O'Shea
Patricia Neild

Investment Committee

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W. Dale Dunlop
Gail Rudderham Chernin QC
Nancy I. Murray QC
STAFF: Deborah Rozee

Lawyers Assistance Program

Sean M. Foreman, *Chair*
Cheryl Canning
Jennifer Glennie
Nancy G. Rideout
Craig R. Berryman
Terri A. Lipton
STAFF: Deborah Rozee



What is LAP?

Who

Available to members of Nova Scotia's legal profession, their staff and families

What

Provides assistance with stress, burnout or other emotional problems; gambling, alcohol or chemical addiction; family or other personal problems

Where

Anywhere in Nova Scotia

When

24 hours a day

How

1 866 299 1299

Completely confidential

There is no cost to use LAP. If you are referred to a private counsellor through LAP, the cost of five sessions will be covered by LAP. Billing will be through the LAP Advisor to ensure confidentiality is maintained.



You don't have to face this alone.

Someone is available 24 hours a day, everyday
— the NS Lawyers Assistance Program Advisor.

COMPLETELY CONFIDENTIAL ASSISTANCE

1-866-299-1299

Information | Counselling | Support



